



EDUCATION IS A HUMAN RIGHT

Bridging the gap of gender disparity and social
exclusion in schools

Rainbow Identity Association
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CREATING GREATER ACCESS TO EDUCATION



*A RAINBOW IDENTITY ASSOCIATION REPORT
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SEX, GENDER, SEXUAL ORIENTATION & GENDER IDENTITY

Can be blurred or mixed together for most of us. Also our specific individuals experience around the terms can go towards determining our status in our societies and also set up different relationships.

Key concepts and vocabulary used in this document includes:

1. **Sex:** the genetic and anatomical characteristics with people are born, typically labelled male, female or intersex.
2. **Gender:** the attitudes, feelings and behavior that a given culture associates with a person's biological sex.
3. **Gender Identity:** A persons deeply held internalized sense or psychological knowledge of their gender regardless of their biological sex assigned at birth.
4. **Cis Gender:** Those whose sex assigned at birth correspond to their gender identity.
5. **Transgender:** Those whose internalized knowledge and sense of who they are as either male or female does not match their sex assigned at birth.
6. **Gender Expression:** The manner in which one express or represents gender to others often through manner of speech and words choices, manner of dress and hairstyle and other distinctive cultural markers of gender.
7. **Gender Non-Conforming:** An umbrella term for those whose gender expression differs from stereotypical expectation of the sex they were assigned at birth. One may not identify with either traditional gender categories or identify as both genders are often called gender diverse or gender queer.
8. **Transition:** the process through which transgender person begin to live as the gender with which they identify rather than the one typically associated with their sex assigned at birth. Transition may include combination of physical social and medical;
 - ***Social and physical*** transition may include changing names, pronouns hairstyle and clothing
 - ***Medical and psychological*** may include psychotherapy, hormonal therapy and gender reaffirming surgeries.

Introduction

Botswana through its two educational reform philosophies of 1977 and 1994 envisioned a developing education system that is on par with international standards. According to Tabulawa (2009), the education system was developed to produce critical thinkers, problem solvers, and innovative learners. The system was designed to provide opportunities for all students by providing access to all, improve the standards of education, emancipate Batswana from illiteracy, and develop their capabilities to create a social transformation in their lives. Education was to be a vehicle for continuous positive change that would ultimately enable people to build a better world.

The first National Policy on Education (NPE) of 1977 was a reaction by Botswana leaders to move away from the British colonization model of learning to a more inclusive system when education was for the elite. The second policy known as the Revised National Policy on Education (RNPE) was explicit in its endeavor to prepare Batswana for the transition from a traditional agro-based economy to the industrial economy. It further addresses issues of access, equity, and the improvement of the quality of education (RNPE, 1994).

Botswana capitalized on the Millennium Goal 2 that advocated achieving universal primary education and its target was to ensure that by 2015 children everywhere, boys and girls alike would be able to complete a full course of primary schooling (Vision 2016 and Millennium Development Goals Indicators Report, 2014).

Since 2015, the government set a 5 year Education and Training Sector Strategic Plan (ETSSP: 2015-2020) to guide decision makers and planners to reform and improve education after identifying several challenges within the education system. Its intention is to match qualifications and labour market requirements in order to align education outputs with future employment needs (ETSSP, 2015-2020).

Pre-primary education was not a priority in the first national policy. However, Botswana views early childhood as an important component of the education system. The benefit of pre-primary education cannot be over-emphasized because children develop cognitively and socially (Statistics Botswana, 2013). The government has further expressed a commitment to address the rights of children from an integrated approach to early childhood development and education. There has been an implementation of the standard one orientation program, which runs for 6 weeks, and a reception class program for a year. The reception class started in 2014 and is expected to end in 2018.

In Botswana, school uniforms are compulsory in all government secondary schools and it is genderized. Weitzel (2004:13) defines a school uniform policy as a policy that states what the pupils must wear and a school dress code policy as a standard of “aesthetic appearance” stating what the pupils are not permitted to wear while at school. Uniforms as a form of dress are said to communicate a silent message to the viewer. For example, uniforms represent “power and authority; social /cultural role; rank and privilege; identification and membership; loyalty and competence” (Kaiser, 1998:355; Johnson, Schofield & Yurchisin, 2002:125; Kraft, 2003:38; Marshall, Jackson, Stanley, Kefgen & Touchie-Specht, 2004:106). Furthermore, Kaiser (1998:354) maintains that clothing is a visible base for “assigning and receiving rewards in the form of compliments and group recognition; they also promote a sense of cohesiveness as a group look emerges”. According to Brunnsma (2004:3, the use of school uniforms date as far back as the year 1222 when they were used in France, Germany and England. They were influenced by the religious groups mainly to keep fashionable (at the time) silk clothes in the classrooms. It is believed the Catholic Church first introduced school uniforms in their schools, followed by private schools and later also the government and public schools (Brunnsma & Rockquemore, 1998:53; Weitzel, 2004:18). In Botswana, one can assume the school uniform policy was adopted from the British who were the colonial rulers.

There are guiding acts and policies that are used to promote education in Botswana. Universal primary education¹ is provided in Botswana and there are school fees that are paid in junior school and secondary schools. Botswana remains one of the countries where tertiary education for a certificate, diploma and degree are still sponsored by the government to completion.

Botswana is a predominately Christian nation which means the curricula of primary, junior and secondary schools has religious education subject. This is specific to public schools and also Christian based schools teach religious education. Many teachers are trained at local institutions and as well as the local university and some from foreign institution.

Critically the general public education curriculum is not inclusive to the extent of comprehensive sexuality education, reproductive and health rights. Thus the education provided in Botswana public schools is not inclusive. In terms of gender diversity and sexual orientation the same remains true. Therefore transgender and intersex human rights are not included in the curriculum. This raises fundamental questions of, discrimination, erasure, inequality, lack of access to information and denial of acknowledgement of existence of transgender and intersex persons in our society.



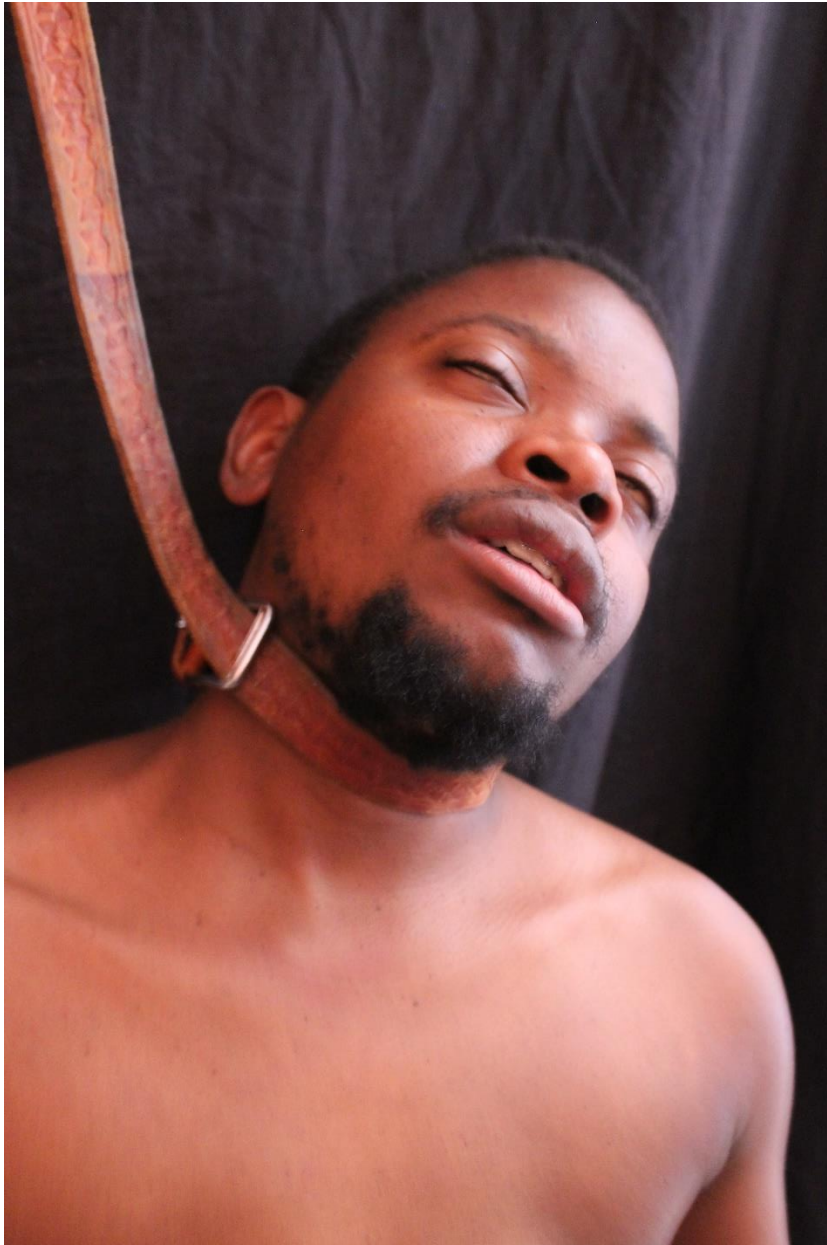
Focus of the paper

The paper explores various themes which are global challenges to inclusive education to the extent of including, gender variant, transgender and human rights. This is not limited to sexuality education which is a critical component of education but applies to all subjects. The needs assessment conducted by COC Netherlands in partnership with three organizations in Botswana (Rainbow Identity Association, Botswana Network on Ethics, Law and HIV/AIDS and Lesbians, Gays and Bisexuals of Botswana) together with other LGBTI organizations in seven countries in Africa. The study showed that in Botswana it is clear that in the past 12 months transgender and gender non-conforming experienced high level of depression, suicide attempts, violence and substance abuse.

- Suicide attempts : 23% GNC, 7% Trans men, 26% Trans women
- Dependence on alcohol: 32% GNC, 18% Trans men, 16% Trans women
- Daily use of Tabaco: 23% GNC, 17% Trans men, 20% Trans women
- Depression: 43% GNC, 58% Trans men, 55% Trans women

¹ <http://unesdoc.unesco.org/images/0023/002315/231568e.pdf>

The need for protection for transgender, gender non-conforming and intersex students is very clear, as many have experienced high level of victimization based on gender expression and identity were twice as likely as students who did not experience high level of victimization to report that they did not plan to peruse secondary education. Rather than focusing on their education many transgender, gender non-conforming and intersex students struggle for their ability to come to school and be themselves. Some students experience challenges in accessing restrooms due to their gender identity while some students are denied opportunity to participate in sports. Together with bullying and victimization those conflicts can lead to disproportionate discipline and involvement in the juvenile justice system.



Challenges that are encountered by sexual and gender minorities as a result of exclusion from the curriculum.²

1. Bullying

It is a global phenomenon that children who are diverse are bullied by their peers. This is many ways is due to lack of understanding and social and religious set ups. It also owes to the lack of policies and laws that do not protect children who are diverse. The bullying is as a result of the existing social and geographical exclusions and, which children pick from their homes and learning environment. It has been proved that bullying makes children with different sexual and gender orientation less sociable and feeling isolated at all material times. It has also been in some cases noted that it leads to suicidal or leaves gender variant, transgender and intersex children suicidal or with extreme depression.³

2. Discrimination

It has been proved that in African many countries do not talk about not promote sexuality education. It is seen as a taboo to talk openly about sexuality and diversity. Discrimination is on many levels: from the family, community, society, education and the laws. The structural discrimination ripples across and leaves those in the minority closed out of many fundamental rights. It deprives them their human rights. Most of the laws in African country are not inclusive and the spaces for diverse children and youth are limited to express themselves and also to access quality education.

3. Erasure

The lack of acknowledgment of the existence of transgender and intersex persons is a systematic erasure of their existence. It is to assume they do not exist neither are they eligible to access services like any other person. Erasure also adds to structural discrimination and inequality.

4. Inequality

Inequality of diverse children and youth is pronounced in many ways, lack of access to the right information, especially sexual education, exclusion and erasure of diversity in the curriculum, to show their lived realities and as well as to have an identity of who they are. It also limits them to the extent of how to express themselves and how to interact with other students as well as teachers. This goes beyond the learning institutions and links with the community and limits those different to be looked on as outcasts. This is the same for transgender and intersex persons. It aggravates exclusion and non-acceptance by the community.

² <https://www.glsen.org/educate/resources/curriculum> See also https://www.glsen.org/org/sites/default/files/LGBT%20inclus%20curriculum%202014_O.pdf

³ Ibid.

6. One of the greatest challenges that intersex and transgender person face on a day to day life is invasion of their privacy. This cuts across in terms of learners, boarding facilities, rest rooms and the general safety of the classroom and the learning environment.

7. Teacher training

Most of the training in Botswana is done locally and the curriculum is not inclusive of diversity in terms of sexual minorities and gender orientation. It is therefore a limiting factor to access to appropriate information, sexuality education and as well as human rights information. A teacher is a central point to dispersing information to learners and when they are not equipped to do same learners are bound not to become the best of themselves.⁴ In the Botswana case the lack of that is to also undermine the rights of gender variant, transgender and intersex persons.

The Botswana case

Botswana has an education policy which does not include gender variant, transgender and intersex education. Botswana is also a signatory of the Education For All (EFA)⁵ which promotes quality education for all. It is however not specific to gender variant, transgender and intersex persons. "Education for all with quality and equity recognise the fundamental rule of teachers and the advancement of social justice, human rights and opportunities for welfare of students in the educational system. Every educational system needs to face to challenges in providing equitable education in order to consolidate inclusion for the benefit of the community." ⁶ To the extent of diversity teachers have a wide scope of including all students with variety of needs.

While there is universal primary education in Botswana, diversity and inclusion in respect of the gender variant, transgender and intersex persons it is not a priority in terms of Botswana Revised Education Policy⁷. While there has been progress in terms of changing gender markers⁸ for a transgender person in Botswana, such critical information is out of reach to many learners who could identify with it and make it useful.

⁴ https://www.glsen.org/org/sites/default/files/LGBT%20inclus%20curriculum%202014_O.pdf

⁵ Education For All 2015 National Review by Ministry of Education Skills and Development. <http://unesdoc.unesco.org/images/0023/002315/231568e.pdf> See also <http://library.fes.de/pdf-files/bueros/botswana/04922.pdf>

⁶ <http://unesdoc.unesco.org/images/0023/002315/231568e.pdf>

⁷ <http://library.fes.de/pdf-files/bueros/botswana/04922.pdf>

⁸ <http://www.africanews.com/2017/10/05/botswana-transgender-man-wins-10-year-court-battle-for-legal-recognition/>

The Constitution of Botswana provides for fundamental rights. Non-discrimination, equality, protection by the law⁹ have been explored in different cases before the Court.¹⁰ However as far as the equality of education and freedom to access the appropriate information by learners, it has not been the case.

There are no known protocols for transgender and intersex persons in Botswana, that including access to specialized health care, and for intersex children it has been found that they are operated on to conform to gender binaries. For transgender persons there are challenges with access to medicines and mostly for transition purposes, one has to have undergone a psychiatric test to confirm gender disorder to be able to be assisted. Such instances show that there are limitations exercised by the state to the detriment of gender variant, transgender and intersex persons. Thus it is imperative that the right to equal treatment as provided by the Constitution in all areas for the advancement of an inclusive and equal society. The Children's Act¹¹ provides that all children have the right to education in Botswana. The provision does not go beyond what is prescribed of education. Notably apart from the progress made by the case on change of gender markers there has no other significant progress.

Additionally all the documents in Botswana provide only for male and female gender markers.¹² That shows that inclusive education is but far-fetched in the absence of acknowledgement and acceptance of those who are gender variant, transgender and intersex. In recent times there has been an uproar of teaching about sex and sexuality in schools, that an instructional book was recalled by the government.¹³ It is such instances that show the priorities of our country in educational issues, which sidelines critical information that students can learn from.

One of the instrumental subjects that can also be beneficial to all students is comprehensive sexuality education. Botswana is a signatory to the East and Southern African Comprehensive Sexuality Education.¹⁴ The same advocates for inclusivity and reaching to all adolescents to be empowered about sexuality and access to contraception and knowledge about different aspects of sexuality. Sexuality is described as;

“age appropriate culturally sensitive and comprehensive approach to sexuality education that includes programmes providing scientifically accurate, realistic, non-judgmental information.”¹⁵

Therefore there are gaps in education for all as it is limited. Moral and religious issues should not be a basis for exclusion.

⁹ See Part 3 of the Constitution of Botswana and especially Section 15 on non-discrimination.

¹⁰ <http://www.africanews.com/2017/10/05/botswana-transgender-man-wins-10-year-court-battle-for-legal-recognition/>

¹¹ Act No. 8 of 2009 <http://jafbase.fr/docAfrique/Botswana/Children%20act.pdf>

¹² Birth certificate, academic certificates and identity documents.

¹³ <http://www.mmegi.bw/index.php?sid=1&aid=1281&dir=2011/February/Friday25/>

¹⁴ <https://www.comprehensivesexualityeducation.org/curriculum/teacher-training-on-cse-for-east-and-southern-africa/>

¹⁵ UNESCO International Guidelines on Sexuality Education <http://familywatch.org/wp-content/uploads/sites/5/2017/10/fwipolicybriefunesco2ndREVISION.pdf>

Case study of inclusive curriculum

Malta was the first country in the world to legislate the protection of intersex and transgender through the Gender Expression Gender Identity and Sex Characteristics Act.¹⁶ Further to that it has also made strides in inclusive education for all through the Trans, Gender variant and Intersex Student Policy.¹⁷ The Policy which is subject for review after a certain period is under the guardianship of the Ministry of Education and Employment. It sets out the language that should be used specific to the parties mentioned and the use of pronouns in addressing gender variant, transgender and intersex persons. It provides that a collaborative effort between all parties involved to make the policy a success. It provides categorically that:

“Every student in the present and in the future will be provided with the necessary knowledge skills, competencies and attributes for citizenship and employability within an inclusive, safe, secure and motivating school environment that inspires and facilitates learning.”¹⁸

It is important to note that the policy incorporates safety for learners in a conducive environment. Its objectives are equal and safe environment for all learners, to promote learning of human diversity for all learners, thus to promote social awareness, acceptance and respect. It also aims to provide for a physically, emotionally and intellectually safe environment for all learners.

The policy acknowledges that even in the absence of total numbers of gender variant, transgender and intersex persons the country cannot ignore their existence and they like any learner they must be protected. It promotes inclusivity, diversity, equity and social justice.

There are other countries especially in Europe which have also adopted educational policies which are inclusive.¹⁹ While progress is steadily made in and around the world, Africa, for the purposes of this topic is left behind.

South Africa has an inclusive constitution but it does not have a separate policy on gender variant, transgender and intersex. However the Constitution provides specifically for dignity and equality for all.²⁰ The approach by Malta which is collaborative is an approach that could be adopted by other countries so that those who are in the minority feel part of the community that they are in not only as members but as participants.

¹⁶<https://tgeu.org/gender-identity-gender-expression-sex-characteristics-act-malta-2015/>

¹⁷ <https://tgeu.org/wp-content/uploads/2015/06/Malta-Education-Policy.pdf> See also <https://tgeu.org/malta-launches-education-policy-for-trans-gender-variant-and-intersex-children/>

¹⁸ n 3 above.

¹⁹ <https://en.unesco.org/news/are-education-systems-lgbti-inclusive-unesco-teams-lgbt-youth-organization-find-out> See also <http://www.iglyo.com/wp-content/uploads/2017/05/LGBTQI-Inclusive-Education-Index-leaflet-web.pdf>.

²⁰ Constitution of the Republic of South Africa 1996.

International obligations

The International Conference on Population Development (ICPD)²¹ provides that legal guardians of students must provide them with appropriate information. “The modern state as a democratic construct must ensure that all its citizens receive a good education and must not allow religious institutions to set patterns of education or conduct that are claimed to apply not only to their followers but to all citizens, whether or not they belong to the religion in question.”²²

Both the International Covenant on Civil and Political Rights (ICCPR) and Covenant on Socio Economic Rights provides for the right to best attainable health. The right in itself gives life to other rights which are essential to the topic of discussion. It encompasses the right to life, the right to health, the rights to sexual and reproductive rights and many other rights. The rights also form part of an integral education for all. Further that ‘decision makers involved in formal education should consider sexual education as an essential part of a good curriculum’²³ In European Committee of Social Rights in *INTERIGHTS v Croatia*²⁴ the Court held that

“sexual education must be provided so that young people should be provided with such education so that they could understand their sexuality in its biological and cultural dimensions which would enable them to take responsible decisions with regard to sexual and reproductive health behavior. That education must not recognise stereotypes or perpetuate prejudices regarding sexual orientation and gender diverse stereotypes.

Article 16²⁵ of the Yogyakarta Principles provides that “everyone has the right to education, without discrimination on the basis of and taking into account their sexual or gender identity. States are also encouraged to,

16 (c) Ensure that education is directed to the development of respect for human rights, and of respect for each child’s parents and family members, cultural identity, language and values, in a spirit of understanding, peace, tolerance and equality, taking into account and respecting diverse sexual orientations and gender identities;

²¹ <https://www.unfpa.org/icpd>

²² <http://fwf.fwimultisite.wpengine.com/wp-content/uploads/sites/5/2017/05/special-rapporteur.pdf>

²³ UNAIDS, AIDS Epidemic update http://www.unaids.org/sites/default/files/media_asset/global-AIDS-update-2016_en.pdf

²⁴ Complaint No. 45 /2007 <https://www.reproductiverights.org/case/interights-v-croatia-european-social-charter-collective-complaints-mechanism>

²⁵ <https://yogyakartaprinciples.org/principle-16/>

16 (d) Ensure that education methods, curricula and resources serve to enhance understanding of and respect for, inter alia, diverse sexual orientations and gender identities, including the particular needs of students, their parents and family members related to these grounds.

In addition the African Charter on Human and People's Rights²⁶ and the African Youth Charter²⁷ promote the right to right to life and the right to education amongst other fundamental rights but they remain silent in terms of inclusion and diversity.

Conclusion

Botswana must create a space for learners and teachers to know more about sexuality among gender variant, transgender and intersex by way of an inclusive curriculum, not only in sexuality but in all subjects. Thus in all subjects that are taught in schools they must reflect the existence of gender variant, transgender and intersex persons. The school learning environment must foster amongst others critical thinking about human sexuality, and interpersonal relations without reducing it to the topic of biological reproduction approach.²⁸

There must be political will and collaborative efforts by all stakeholders to include all in the curriculum, wherein scientific accurate information will be provided without judgement and disregard.²⁹ Learners will also like their counterparts see themselves in the knowledge imparted to them by the teachers or instructors.

Teacher's capacity must be built so that they are alive to diversity and that are a critical component of lessening the burden of learners who are gender variant, transgender and intersex. Inclusive programmes are those that help youth understand gender identity and orientation with age appropriate and medically accurate information, and incorporating positive sexual health outcomes among teenagers, gender variant, transgender and intersex individuals. It also assists in dispelling myths and stereotypes in issues of gender diversity.³⁰ It is critical to have the right to information as well as to challenge about gender stereotypes about gender and sexuality in schools.³¹

²⁶ <http://www.humanrights.se/wp-content/uploads/2012/01/African-Charter-on-Human-and-Peoples-Rights.pdf>

²⁷ https://au.int/sites/default/files/treaties/7789-treaty-0033_-_african_youth_charter_e.pdf

²⁸ n 3 above.

²⁹ <https://en.unesco.org/news/why-comprehensive-sexuality-education-important> See also <https://en.unesco.org/news/urges-comprehensive-approach-sexuality-education> <http://unesdoc.unesco.org/images/0026/002607/260770e.pdf>

³⁰ <https://www.hrc.org/resources/a-call-to-action-lgbtq-youth-need-inclusive-sex-education>

³¹ www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Sexual_Education_2010.pdf

Beyond the curriculum there must be collaborations in the community and at ministerial level to be able to celebrate diversity in all areas of the society. Inclusive curriculum will see the gender variant, transgender and intersex feeling part of the society, expressing themselves and as well as enjoying being full citizens. It will also create a safe and conducive environment where justice, social justice, equity, the right to privacy and enjoying all human rights like other persons, will be created.



Promoting social inclusion by celebrating diversity

It is important that the leadership makes an effort to educate the whole school community about sexual orientation and gender identity and expression.

