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KGDEP Indigenous Peoples Planning Framework (IPPF)

Managing the Human-wildlife interface to sustain the flow of Agro-ecosystem Services and Prevent Illegal Wildlife Trafficking in the Kgalagadi and Ghanzi Drylands

1. Executive Summary

Botswana is a middle-income country in southern Africa with a population of 2,350,667 inhabitants as of July 2021. The country is remarkably diverse, with at least 28 different languages spoken. Within Botswana's population there are a number of groups who are considered indigenous peoples under the UNDP's Social and Environmental Standards (SES), Standard 6 criteria.¹ These include the San (known in Botswana as Basarwa), made up of some two dozen groups who currently number some 68,000, the Nama, who number 2,750, and the Balala, who number 2,350. The San, Nama and Balala have a history of hunting and gathering, but today they all have mixed economic systems that include some foraging, agriculture, livestock raising, and working for other people. In total, these groups represent approximately 3.14% of the current population of Botswana. The San, Balala, and Nama are among the most underprivileged people in the country, with a high percentage living below the poverty line.

As is the case with a large number of African states, the Botswana government does not recognize the term 'indigenous peoples,' maintaining that all citizens of the country are indigenous.² The government of Botswana does recognize what it terms 'remote area dwellers' who reside in outlying rural areas. The government has a Remote Area Development Program that is part of the Ministry of Local Government and Rural Development. Seven of the 10 district councils have remote area development and social and community development personnel. Botswana also has an Affirmative Action

¹ United Nations Development Programme (2017) *UNDP Social and Environmental Standards. Standard 6: Indigenous Peoples*. New York: United Nations Development Programme.

² See statements made by the Botswana delegation at the Permanent Forum on Indigenous Issues of the United Nations (UNPFII) (2007-2019); see also Zips-Mairitsch, Manuela (2013) *Lost Land? (Land) Rights of the San in Botswana and the Legal Concept of Indigeneity in Africa*. Berlin and Zurich: Lit Verlag and Copenhagen: International Work Group for Indigenous Affairs.

Framework (AAF) that is aimed at promoting the well-being of remote area community members.

In Ghanzi and Kgalagadi Districts, approximately 18% of the population is made up of San, Balala, and Nama who are classified by government as Remote Area Dwellers. Another 20% can be described as what the World Bank identifies as Sub-Saharan African Historically Underserved Traditional Local Communities. While Botswana does not use the term marginalized and historically disadvantaged communities like Namibia does, there are members of the population in western Botswana who, for a variety of reasons, were underserved and which did not have the same rights as others in the eyes of the government.

UNDP SES Standard 6 requires that in cases where indigenous peoples are found within project areas, an indigenous peoples' plan (IPP) must be developed with the purpose of promoting full participation of those groups in the project. The plan must mitigate the impacts from the project and must ensure equal and relevant benefits from the project alongside other participants. The Indigenous Peoples Planning Framework (IPPF) is a precursor to that plan which sets out the frameworks, issues, and requirements for IPP development during the first part of project implementation.

This IPPF has been prepared by UNDP in collaboration with the Ministry of Environment, Natural Resources, Conservation, and Tourism (MENT) for the UNDP-supported, GEF-financed project '*Managing the human-wildlife interface to sustain the flow of agro-ecosystem services and prevent illegal wildlife trafficking in the Kgalagadi and Ghanzi Drylands*'. The project is aimed at supporting wildlife conservation, reducing human-wildlife-conflict (HWC) and illegal wildlife trade (IWT), and promoting both sustainable livelihoods development and integrated land use management in two districts of Botswana: Ghanzi and Kgalagadi.

This IPPF highlights risks, identified in the UNDP Social and Environmental Screening Procedures (SESP) and the Environmental and Social Management Framework (ESMF) that are of particular relevance to indigenous peoples. It highlights risks identified in preliminary interviews with indigenous peoples in the first phase of project implementation. It also makes recommendations for further assessments and management measures, as well as for free, prior, and informed consent (FPIC) consultation procedures, monitoring, and grievance redress.

Acronyms and Abbreviations

AAF	Affirmative Action Framework
ABS	Access and Benefit Sharing
ACHPR	African Commission on Human and Peoples' Rights
AG	Attorney General
AGM	Annual General Meeting

AIDS	Acquired Immune Deficiency Syndrome
APU	Anti-Poaching Unit
ARADP	Accelerated Remote Area Development Programme
AU	African Union
BCA	Botswana Court of Appeal
BCC	Botswana Council of Churches
BDF	Botswana Defense Force
BDP	Botswana Democratic Party
BFHS	Botswana Family Health Survey
BHC	Botswana High Court
BIDPA	Botswana Institute of Development Policy Analysis
BITRI	Botswana Institute for Technology, Research, and Innovation
BIUST	Botswana International University of Science and Technology
BKC	Botswana Khwedom Council
BMC	Botswana Meat Commission
BNARS	Botswana National Archives and Records Services
BNF	Botswana National Front
BO	Botswana Ombudsman
BOCONGO	Botswana Council of Non-Government Organizations
BOPA	Botswana Press Agency
BOU	Botswana Open University
BP	Bechuanaland Protectorate
BPCT	Botswana Predator Conservation Trust
BPP	Botswana Peoples Party
BPCT	Botswana Predator Conservation Trust
BPS	Botswana Police Service
BTO	Botswana Tourism Organization
BURS	Botswana Unified Revenue Service
CCB	Cheetah Conservation Botswana
CBD	Convention on Biological Diversity
CBNRM	Community Based Natural Resource Management
CBO	Community-Based Organisation
CBPP	Contagious Bovine Pleuropneumonia (lungsickness)
CCB	Cheetah Conservation Botswana
CCHA	Community Controlled Hunting Area
CDC	Central District Council
CHA	Controlled Hunting Area
CI	Conservation International
CITES	Convention on International Trade of Endangered Species of Fauna and Flora
CKGR	Central Kalahari Game Reserve
CKGRRRA	Central Kalahari Game Reserve Residents Association
CSO	Central Statistics Office
DA	District Administration

DAP	Department of Animal Production
DC	District Commissioner
DCEC	Department of Corruption and Economic Crime
DDC	District Development Council
DEA	Department of Environmental Affairs
DFID	Department for International Development (UK)
DFRR	Department of Forestry and Range Resources
DHT	District Health Team
DISS	Directorate of Intelligence and Security Services
DLUPU	District Land Use Planning Unit
DS&CD	Department of Social and Community Development
DSS	Department of Social Services
DTA	Department of Tribal Administration
DTRP	Department of Town and Regional Planning
DVS	Department of Veterinary Services
DWNP	Department of Wildlife and National Parks
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
FAO	Food and Agriculture Organization of the United Nations
FCB	Forest Conservation Botswana
FMD	Foot and Mouth Disease
FPIC	Free, Prior, and Informed Consent
FPK	First People of the Kalahari
GCC	Global Climate Change
GDC	Ghanzi District Council
GDP	Gross Domestic Product
GEF	Global Environment Facility
GIS	Geographic Information System
GOB	Government of Botswana
GOZ	Government of Zimbabwe
GPS	Global Positioning System
GRM	Grievance Redress Mechanism
GRN	Government of the Republic of Namibia
GWP	Global Wildlife Programme
HATAB	Hotel and Tourism Association of Botswana
HEC	Human-elephant conflict
HWC	Human-wildlife conflict
IBRD	International Bank for Reconstruction and Development (World Bank)
IDA	International Development Association
IGO	Intergovernmental Organization
IIED	International Institute for Environment and Development

ILO	International Labour Organization
ILUMP	Integrated Land Use and Management Plan
IMF	International Monetary Fund
INDR	International Network on Displacement and Resettlement
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services
IPP	Indigenous Peoples Plan
IPPF	Indigenous Peoples Planning Framework
ISPAAD	Integrated Support Programme for Arable Agricultural Development
IT	Information Technology
IUCN	International Union for the Conservation of Nature and Natural Resources (World Conservation Union)
IWGIA	International Work Group for Indigenous Affairs
IWRM	Integrated Water Resources Management
IWT	Illegal Wildlife Trade
JIACG	Joint Inter-Agency Coordination Group
JOC	Joint Operations Center
KCS	Kalahari Conservation Society
KDC	Kgalagadi District Council
KFO	Kuru Family of Organizations
KGDEP	Kgalagadi and Ghanzi Drylands Ecosystems Project
KRC	Kalahari Research and Conservation
KTP	Kgalagadi Transfrontier Park (Botswana, South Africa)
KWT	Kalahari Wildlands Trust
LGD	Livestock Guard Dog
LEA	Local Enterprise Agency
LUMP	Land Use Management Plan
MBE	Ministry of Basic Education
MDJS	Ministry of Defense, Justice and Security
M&E	Monitoring and Evaluation
MENT	Ministry of Environment, Natural Resources, Conservation, and Tourism
MGR	Moremi Game Reserve
MLH	Ministry of Lands and Housing
MFDP	Ministry of Finance and Development Planning
MLGRD	Ministry of Local Government and Rural Development
MLMWSS	Ministry of Land Management, Water, and Sanitation Service
MMRGTE	Ministry of Mineral Resources, Green Technology, and Energy
MNIGA	Ministry of Nationality, Immigration and Gender Affairs
MOADFS	Ministry of Agricultural Development and Food Security
MOE&SD	Ministry of Education and Skills Development
MOHW	Ministry of Health and Wellness
MOMS	Management Oriented Monitoring System

MOPAPA	Ministry of President Affairs and Public Administration
MP	Member of Parliament
MTERST	Ministry of Tertiary Education, Research, Science, and Technology
MYSC	Ministry of Youth Empowerment, Sport, and Culture Development
NAC	National Anti-Poaching Committee
NAS	National Anti-poaching Strategy
NBSAP	National Biodiversity Strategy and Action Plan
NCONGO	Ngamiland Council of Non-Government Organizations
NCS	National Conservation Strategy
NDP	National Development Plan
NGO	Non-government organization
NJ	Natural Justice
NORAD	Norwegian Agency for Development Cooperation
NP	National Park
NPAD	National Policy on Agricultural Development (Botswana)
NSP	National Settlement Policy
NSP	National Spatial Plan
OWT	Okwa Wildlife Trust
OSISA	Open Society Initiative for Southern Africa
PA	Protected Area
PAC	Problem Animal Control
PDL	Poverty Datum Line
PIF	Project Identification Form (GEF)
PIR	Project Implementation Report (PIR)
PMU	Project Management Unit
POPP	Programme and Operations Policies and Procedures (UNDP)
PPG	Project Preparation Grant
PSC	Project Steering Committee
PSFP	Primary Schools Feeding Programme
PTB	Permaculture Trust Botswana
RAC	Remote Area Community
RADP	Remote Area Development Programme
RADO	Remote Area Development Officer, District Council
REDD+	Reduced Emissions from Deforestation and Forest Degradation in Developing Countries
SADC	Southern African Development Community
SARS-CoV-2	coronavirus (COVID 19)
SDGs	Sustainable Development Goals
SECU	Social and Environmental Compliance Unit (UNDP)
SEMP	Strategic Environmental Management Plan
SES	Social and Environmental Standards (UNDP)
SESP	Social and Environmental Screening Procedure (UNDP)
SGL	Special Game License
SI	Survival International

SIAPAC	Social Impact Assessment and Policy Analysis Corporation (Pty) Ltd.
SIDA	Swedish International Development Authority
SLM	Sustainable Land Management
SRC	San Research Centre (University of Botswana)
SRM	Stakeholder Response Mechanism (UNDP)
SSG	Special Support Group (Botswana Police)
SYNet	San Youth Network
TA	Tribal Administration
TFCA	Transfrontier Conservation Area
TGLP	Tribal Grazing Land Policy
TOR	Terms of Reference
UB	University of Botswana
UDC	Umbrella for Democratic Change
UK-DFID	United Kingdom Department for International Development
UN	United Nations
UNCERD	United Nations Committee on the Elimination of Racial Discrimination
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNESCO	United Nations Education, Scientific, and Cultural Organisation
UNICEF	United Nations Childrens Fund
UNMEG	United Nations Environmental Management Group
UNPFII	United Nations Permanent Forum on Indigenous Issues
UPR	Universal Periodic Review
USAID	U.S. Agency for International Development
VDC	Village Development Committee (community)
VET	Village Extension Team
VGFP	Vulnerable Group Feeding Programme
VIIP	Voluntary Isolated Indigenous Peoples
WC	Wildlife Crime
WFP	World Food Programme
WHO	World Health Organization
WHS	World Heritage Site
WKCC	Western Kgalagadi Conservation Corridor
WMA	Wildlife Management Area

2. Project Description

The Government of Botswana, through the Ministry of Environment, Natural Resources, Conservation and Tourism (MENT), in partnership with UNDP, is implementing a 6-year GEF-funded project titled: *Managing the human-wildlife interface to sustain the flow of agro-ecosystem services and prevent illegal wildlife trafficking in the Kgalagadi and Ghanzi Drylands* (PIMS 5590). This is a what is known as a child project under the World Bank-led Global Wildlife Programme that seeks to prevent the extinction of known

threatened species globally through activities that: a) reduce illegal wildlife trade and wildlife crime; b) protect the habitats of targeted species through improved governance and natural resource management; and, c) reduce demand for illegally-traded wildlife and wildlife products by changing consumer behavior, and supporting activities that promote alternative, nature-based livelihoods to decrease the costs to communities of living with wildlife (by mitigating human-wildlife conflict).

The Kgalagadi and Ghanzi Drylands Ecosystem Project (KGDEP, as it is known locally), operates across a vast landscape that extends from the Kgalagadi Transfrontier Park in the south-west, to the Central Kalahari Game Reserve in the north-eastern part of the study area, including the intervening Wildlife Management Areas and communal lands that link the two protected areas. The Kgalagadi Transfrontier Park is officially a part of Kgalagadi District, while the Central Kalahari is officially part of the Ghanzi District. There are also commercial (freehold) ranches in the project area, including ones in Ghanzi District and Ncojane, also in Ghanzi District, and in the Bokspits area of Kgalagadi District.

Natural resources management in this Kalahari landscape is impacted by land-use conflicts arising from the competing goals of conservation and economic development, commercial cattle ranching and subsistence livestock-keeping, and the desire of some communities to pursue traditional livelihoods. The consequent rangeland degradation and ecosystem fragmentation that has taken place threaten the future of wildlife and economic development and impact the quality of life of rural communities. Wildlife Management Areas (WMAs) have been established to secure migratory corridors so that wildlife can move safely between the Kgalagadi Transfrontier Park and the Central Kalahari Game Reserve. WMAs also support nature-based economic activities for local communities. These WMAs also support communities engaged in a variety of different activities ranging from foraging to livestock-raising and from natural resource management to exploitation of non-timber forest products.³

Due to the complex interplay of multiple factors, the effectiveness of the WMAs is being compromised, in part because of the expansion of livestock activities inside the WMAs. Wildlife is under threat from hunting beyond license limits, some degree of poaching, wildlife poisoning and illegal wildlife trade (IWT). In general, communities have yet to realize the benefits of living with wildlife because the community trusts have been inactive for 6 years due to the hunting ban. There are several reasons that the community trusts became inactive. There was little or no government or NGO investment in them during the period of the hunting ban. Those community trusts that were dependent on safari hunting as a major source of economic support declined in membership because the funds from safari clients were not forthcoming. Even after the

³ For a discussion of government policy on wildlife management areas, see Republic of Botswana (1986) *Wildlife Conservation Policy*. Government Paper No. 1 of 1986. Gaborone, Botswana: Government Printer.

restoration of hunting in March 2019, no community trusts in the project area were granted licenses. Most of the community trust areas were taken over by private safari companies during the hunting ban (2014-2019). The majority of community trusts that depended on non-consumptive ecotourism (that is, no hunting) were hard hit by the decline in the numbers of tourists as a result of the lockdown declared by the government of Botswana due to the coronavirus pandemic in March 2020. Some of the community trusts faced challenges because of internal struggles over leadership, while others saw a reduction in the numbers of trust meetings. Income levels of community trusts declined by 70-90% based on preliminary data obtained during community consultations in 2020-2021.

Competition between commercial and subsistence livestock farmers, combined with increasing land-use pressures from these and other sectors is reducing the rangeland productivity and causing an expansion of bush in some areas. People in the remote area communities are having to go farther from their settlements in order to graze their livestock and to collect wild food and medicinal plants. The lack of viable alternative livelihood opportunities fuels community frustrations. Stakeholders currently do not have some of the planning tools, institutional coordination, and operational capacities needed to manage natural resources effectively. For these reasons, balancing competing needs while optimizing environmental, social, and economic outcomes remains difficult to achieve.

The Government of Botswana seeks to address these issues through a project with four component activities: 1) Coordinating actions to combat wildlife crime/trafficking while enforcing wildlife policies and regulations at district, national and international levels; 2) Establishing incentives and systems for wildlife protection and utilization by communities in order to increase their financial returns and so help reduce human wildlife conflicts, 3) Securing livelihoods and conserving biodiversity in the Kalahari landscape; 4) Ensuring integrated landscape planning in conservation areas and introducing sustainable land management practices in communal lands to secure wildlife migratory corridors. This will increase the productivity of rangelands by reducing competition between land uses while increasing ecosystem integrity of the Kalahari ecosystem. The project also incorporates gender mainstreaming, knowledge management, monitoring and evaluation and post-project assessment.

3. Description of Indigenous Peoples

In broad terms, indigenous peoples in Botswana refer to Khoesan peoples, including the San, who belong to over 30 named, self-identified groups, along with the Nama, and the Balala. The latter groups today have learned Nama and Sekgalagadi and use these languages in daily conversations. Other groups in Botswana would fit the World Bank's criteria of Sub-Saharan African Historically Underserved Traditional Local Communities (ESS7) (World Bank 2018), such as the Herero, Mbukushu, and Yeei.

There are 14 different groups in Ghanzi and Kgalagadi who identify as indigenous people and who Batswana refers to as Basarwa while the government identifies them as Remote Area Dwellers (see Table 1). Botswana does not disaggregate its population along the lines of ethnicity, and as a result population estimates for the various groups are limited. The total population in Botswana of people who are considered to be Remote Area Dwellers in 2021 is approximately 77,000.⁴

San is a collective name for a wide range of peoples living throughout Botswana. Members of the public and some government officials refer to San peoples as Basarwa, a term that San and remote area dwellers reject. Today some San say that they prefer to use the term 'Bushmen' to refer to themselves, though they prefer individual group names, such as |Ani, G//ana, G/ui, †Hoan, †Khomani, Naro, Tshila, and !Xóǀ. They self-identify as San or Bushmen at international meetings such as the United Nations Permanent Forum on Indigenous Issues (UNPFII). All of them speak languages containing click consonants and have a history of hunting and gathering.

The San group with the highest numbers and who are the most widely distributed in the project area are the Naro, who occupy the Ghanzi Ridge and adjacent areas. Like the !Xóǀ and the †X'ao-||'aen (Makaukau), the Naro are a transboundary group, extending west into Namibia. Many Naro live on the Ghanzi Farms, which were originally established in 1898 and expanded in the 1950s and 1970s and in areas to the north and south. The Naro, Ts'aokwe, and other San on the Ghanzi Ridge have a history of farm work that goes back over 120 years. Some Naro were also resettled out of the farms in the late 1970s to East and West Hanahai and Groot Laagte in Ghanzi Wildlife Management area GHA 1. In the second decade of the new millennium (2011-2017) !Xóǀ San residing at Ranyane in Ghanzi District were involuntarily relocated to Bere in Ghanzi District, an action that was taken by the Ghanzi District Council and Central Government that went against the wishes of the people of Ranyane, and thus can be characterized as involuntary resettlement.

Efforts to resettle people at Rooibrak south of Tsau Hill in Ghanzi District were unsuccessful as sufficient water to support a community could not be obtained. Some individuals moved to Kuke on the northern edge of the Ghanzi-Northwest District boundary, particularly after the Khoemacau copper-silver project began in the first decade of the new millennium. Others moved on their own to communal areas and Wildlife Management Areas outside of the farms, notably to WMA GHA 10, and WMA GHA 11. Some of these moves were due to a reduction in the numbers of farm labour jobs over the past two decades. A few of the groups that moved out of the farms became more mobile and sought voluntary refuge in places that had few or no cattle posts or ranches, such as the north western part of Groot Laagte Wildlife Management Area (GHA1) and in the north western corner of the Central Kalahari Game Reserve to

⁴ Steven Ludick, Director, Department of Community Development, Ministry of Local Government and Rural Development, personal communications, 2018, 2020.

the south of the Kuke Fence and east of Tsau Hill, which is located on the eastern boundary of the Central Kalahari.

The !Xóǀ, the second largest San group in the area, do some work on cattle posts but by and large they reside in communities that until the 1970s were largely independent of other groups. Today, however, nearly all !Xóǀ reside in multi-ethnic communities in northern and central Kgalagadi District. Some !Xóǀ work as cattle herders (*badisa*) mainly for Bakgalagadi (including Bakgwatlheng, Babolangwe, Bangologa, Baphaleng, and Bashaga). The Bakgalagadi have a different pattern of residence and land use than do San, with home villages surrounded by fields (*masimo*) and in some cases distant cattle posts (*meraka*). San are found in Bakgalagadi communities and in all of their land use categories.

The San of the study area belong to three different language groups: (1) Khoe-Kwadi, (2) Kx'a, and (3) Tuu according to linguist Tom Güldemann.⁵ The Nama, who reside primarily in southern Kgalagadi District, speak Khoekhoe or Khoekhoegowab, a subgroup of the Khoe-Kwadi language family. Nama are also found in Namibia and South Africa and thus are a trans-boundary group. In these languages, each click consonant can combine with a number of different articulations, such as nasality, voicing, aspiration, and ejection, thus producing a large number of consonantal sounds. Nama has 20, G/ui has 52, and !Xóǀ has 80. The Xóǀ, along with Nama and Balala, are transboundary people, with the majority of Xóǀ found in the Kgalagadi District of Botswana.⁶

In addition to linguistic similarities, the San, Nama, and Balala have a number of cultural and socioeconomic similarities. These include a history of mobility, foraging, and utilization of territories ranging from roughly 200 to 5,000 km² in area. Historically, all of them resided in groups, known as bands, ranging from 25-80 persons in number. The bands are linked through blood [kinship] ties, marriage, friendship, and sharing of gifts and sometimes services. There are large marriage pools which essentially are supra-regional networks consisting of up to 500 people related to one another that stretch across larger areas. All of them have a strong sense of territorial land use and management which they define as 'ownership.' They all have knowledgeable individuals in each community who oversee land use and natural resource management. At the same time, each group has strong rules about sharing of meat, wild plants, and other resources. Many of these sharing rules for land and resources still exist today.

⁵ Tom Güldemann, personal communication, November 2020; see also Güldemann, Tom (2014) 'Khoisan' linguistic classification today. In *Beyond 'Khoisan': Historical Relations in the Kalahari Basin*. Tom Güldemann and Anne-Maria Fehn, eds. pp. 1-44. Amsterdam: John Benjamins.

⁶ Traill, Anthony (1974) *The Complete Guide to the Koon. A Report on Linguistic Fieldwork Undertaken in Botswana and South West Africa*. African Studies Institute, Witwatersrand University, Johannesburg, South Africa. Heinz, H.J. (1994) *Social Organization of the !Kǀ Bushmen*, Klaus Keuthmann, ed. Köln: Rüdiger Köppe Verlag.

The indigenous groups are all largely egalitarian socially, economically and politically, though some differences in social equality have begun to be seen. It is important to note, however, that leadership roles existed in all of these groups. The roles have become institutionalized over time, with some headmen and headwomen overseeing customary courts and serving as individuals with some influence who have the power to resolve local disputes. Individuals are guided by a strong sense of ethics and morality that is drawn from their belief systems about the ways that the world should work. They are also very aware of their environments and do what they can to ensure sustainable natural resource use, though there are cases where overuse of resources does occur, particularly when large groups of people come together for marriage ceremonies or for honoring the memory of one of their number who has passed away. All San, Nama, and Balala have beliefs in an afterlife and in a spiritual being who influences their lives, including those who practice religions such as Christianity and Islam.

The San, Nama, and Balala have a shared history of marginalization, discrimination, and what they see as unjust treatment at the hands of other groups and the nation-state of Botswana. Historically, some of the members of these groups were viewed as '*bolata*', serfs or servants who lacked the same rights as other groups. In the past they did not have the right to speak in public meetings (*dikgotla*). They sometimes did not receive pay for their labor, they experienced corporal punishment for perceived transgressions, and they were moved without their permission from one place to another. These and related issues led to a series of hearings in the 1930s in the Ngwato District of the Bechuanaland Protectorate, culminating in a declaration on the abolition of slavery in the Protectorate in 1936.⁷

Many San have experienced dispossession of their ancestral lands throughout the country. Dispossession of Nharo, Ts'aokhwe, /Ani, and other San occurred with the establishment of the Ghanzi Farms in 1898.⁸ At one point, in 1937, a Ghanzi District Commissioner, W.H. Cairns, recommended the establishment of a San settlement site at Olifonskloof, which lasted approximately a year.⁹ In the 1950s, landless people who had migrated out of the farms to Ghanzi Township were told by the Bechuanaland Protectorate administration that they had to leave Ghanzi. Some of them moved to places outside of the Ghanzi Farms. Some of their homes were destroyed by Ghanzi District officials on the recommendation of the Bechuanaland Protectorate

⁷ Joyce, J.W. (1938) Report on the Masarwa in the Bamangwato Reserve, Bechuanaland Protectorate. *League of Nations Publications VI. B.: Slavery. Annex 6:57-76*. Miers, Suzanne and Michael Crowder (1988) The Politics of Slavery in Bechuanaland: Power Struggles and the Plight of the Basarwa in the Bamangwato Reserve, 1926-1940. In *The End of Slavery in Africa*, Suzanne Miers and Richard Roberts, eds. Pp. 177-200. Madison: University of Wisconsin Press. Parsons, Neil and Michael Crowder, eds. (1988) *Monarch of All I Survey: Bechuanaland Diaries 1929-37 by Sir Charles Rey*. London: James Currey and Gaborone, Botswana: Botswana Society.

⁸ See Silberbauer, George B. (1981) *Hunter and Habitat in the Central Kalahari Desert*. Cambridge: Cambridge University Press. Pp. 9-14,

⁹ Silberbauer, op. cit., pp. 13-14.

Administration, a set of actions that continue to be discussed by people in Ghanzi District.

Tshwa San were removed from their ancestral lands in the area north of the Makgadikgadi Pans in the 1940s at the hands of the Bechuanaland Protectorate Administration and the Bamangwato Tribe and resettled south and east of the Nata River.¹⁰ San have also experienced involuntary relocation and resettlement, as seen in the case of the Central Kalahari Game Reserve in 1997, 2002, and 2005, and in the case of the village of Ranyane in Ghanzi District in 2013. These cases resulted in legal action taken against the government of Botswana which the government lost in the High Court in 2006¹¹ and which the government won in the Ranyane case in 2015.¹²

Both of these cases would have triggered UNDP SES Standard 5: Displacement and Resettlement¹³ and UNDP SES Standard 6: Indigenous Peoples¹⁴ along with the World Bank's standards on involuntary resettlement (ESS5)¹⁵ and the stipulations regarding indigenous peoples and Sub-Saharan African Historically Underserved Traditional Local Communities (ESS7).¹⁶ These issues have arisen recently in discussions in the Central Kalahari between the five CKGR communities and Botswana government ministers and members of the Ghanzi District Council.¹⁷

Indigenous populations and others in the Ghanzi and Kgalagadi Drylands project area are concerned about their rights and they want to be consulted, to get information about government and project plans, to participate in the decision-making regarding the project and its planning, implementation, monitoring, and evaluation. They also want to

¹⁰ See Botswana National Archives (BNA) files, S.198/2. In the High Court of the Bechuanaland Protectorate. *Rex versus Twai Twai and 7 Others*. See also BNA files S.303/8/1 and S.25/5

¹¹ High Court of Botswana (2006) *Case No. MISCA 52/2002 in the Matter Between Roy Sesana, First Applicant, Keiwa Setlhobogwa and 241 others, Second and Further Applicants, and the Attorney General (in his capacity as the recognized agent of the Government of the Republic of Botswana)*. Judgment coram Hon. Mr. Justice M. Dibotelo, Hon. Justice U. Dow, Hon. Mr. Justice M. P. Phumaphi. 13 December, 2006. Lobatse: High Court of Botswana.

¹² High Court of Botswana (2015) *High Court of Botswana. Case No MAHGB – 000043-4 in the matter between Heebe Karakuis and 114 others and Ghanzi District Council Respondent: Judgment. J. Rannowane, judge*. Decision on 21 October 2015. Lobatse: High Court of Botswana.

¹³ United Nations Development Programme (2020) *UNDP SES Standard 5. Displacement and Resettlement*. New York: United Nations Development Programme.

¹⁴ United Nations Development Programme (2017) *UNDP Social and Environmental Standards. Standard 6: Indigenous Peoples*. New York: United Nations Development Programme.

¹⁵ World Bank (2017) *World Bank Social and Environmental Framework*. Washington D.C. The World Bank. World Bank (2018a) *Guidance Note for Borrowers – Environment and Social Framework for IFP Operations: ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement*. Washington, DC: The World Bank.

¹⁶ World Bank (2018b) *Guidance Note – ESS7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities*. Washington, DC: The World Bank.

¹⁷ See Ghanzi District Council (2020) *Central Kalahari Game Reserve Report to Full Council to be held on the 21st – 25th Sep 2020*. Ghanzi: Ghanzi District Council and K. Ontebetse (2020) *Bushmen Resurrect Ancestral Right Fight. Sunday Standard*, 4 October 2020.

see that Free, Prior, and Informed Consent (FPIC) procedures are followed. They want to have a functioning Grievance Redress Mechanism that can be accessed easily. And last but not least, they want to ensure that they will not be displaced, relocated, or resettled as a result of government, project, or private sector decisions.

4. Summary of Substantive Rights and Legal Framework

There are a number of government institutions, policies, and programmes that are relevant to Botswana's indigenous peoples. While the Botswana constitution does not contain specific reference to indigenous peoples, it does state specifically that all of the country's citizens have basic human rights and fundamental freedoms.

Beginning in 1974, the government of Botswana engaged in development activities on behalf of those people then labeled Bushmen in a program known initially as the Bushmen Development Programme. Perhaps the most important method employed by personnel in this programme was to encourage Bushmen to speak for themselves, a process that the Bushmen Development Officer referred to as "politicization." The Bushmen, who felt that they were seriously marginalized, began calling for equal rights, particularly rights to land. Some Bushmen said that they wanted to be seen as full members of the national polity of Botswana.

While the focus initially was on Bushmen, later the target group expanded to include other groups living outside of villages. Extra Rural Dwellers, later called Remote Area Dwellers (RADs) were defined initially as follows:

They are rural citizens who (a) are poor (below the Poverty Datum Line), (b) live outside villages (or on the fringes), (c) are generally non-livestock owners, (d) depend at least partially on hunting and gathering for daily subsistence, (e) often culturally or linguistically distinct (Minute to the Permanent Secretary, Ministry of Local Government and Lands [MLGL], LG 1/3, 4 April 1977).

It was clear from this definition that there were other people besides Bushmen who were in need of assistance and who met specific criteria. The Permanent Secretary of the Ministry of Local Government and Lands (MLGL, later MLGLH) agreed with this approach and recommended to the Ministry of Finance and Development Planning that the name and target group of the program be changed officially (MLGL file LG 1/3 VII [(79), 7 July 1977). At the suggestion of then Vice President Ketumile Masire, the name given to the expanded program was the Remote Area Development Program (RADP) which came into being in 1978.

The decision to broaden the definition of Remote Area Dwellers to include "all people living outside organized village settlements was important in that it underscored the government of Botswana's commitment to a multiethnic set of policies in which all

citizens have equal rights, something stated frequently in government white papers (for example, the Tribal Grazing Land White Paper¹⁸ and national development plans.)¹⁹

The Remote Area Development Program was housed in the then Ministry of Local Government and Lands; today, it is in the Ministry of Local Government and Rural Development (MLGRD). Funds for development of Remote Area Dwellers and Remote Area Communities (RACs) were set aside under a government financial institution in the Ministry of Finance and Development Planning (MFDP) known as LG 32 (later called LG 127). Funds were also allocated to the 7 districts that had Remote Area Dwellers, including Ghanzi and Kgalagadi Districts.

Seven of Botswana's 10 districts have Remote Area Development Programme offices in which Remote Area Development Officers (RADOs) are housed. These offices are now part of the District Councils, administrative units of the Botswana government, each of which has a set of officers to address specific areas. The Remote Area Development Officers work alongside Assistant Social and Community Development Officers (S & CD officers) who were associated at one time with the Ministry of Labour and Home Affairs. In the field the RADOs had several responsibilities: ensuring that children got to schools, helping to deliver destitute rations and drought relief food, and working on district and local planning for the establishment of activities aimed at helping local people in terms of agriculture, livestock, and small businesses. In the latter case the businesses were primarily income generating projects associated with craft production but later they were expanded to include ecotourism, beekeeping and honey sales, charcoal production, and other livelihood activities.

The Remote Area Development Programme attempted to come up with a means of getting around the problem of land not being allocated to specific groups, which had been the problem facing Basarwa/San and other minorities for generations.²⁰ One way of ensuring that remote area minorities got land was to have the district land boards set aside areas for settlements. The first district where these kinds of schemes were planned was Ghanzi in western Botswana, an area where the Bushmen Development Officer had commissioned a study of the Ghanzi Basarwa be undertaken in 1975-76.²¹ Based on the recommendations of the Ghanzi Basarwa report, the Ghanzi District Council agreed to set aside a certain amount of land to accommodate those San who wished to leave the Ghanzi Farms and establish themselves in their own places. Four locations were selected: East and West Hanahai, Rooibrak (which turned out to have too

¹⁸ Republic of Botswana (1975) *National Policy on Tribal Grazing Land*. Government Paper No. 2. Gaborone: Government Printer.

¹⁹ See, for example, Republic of Botswana (2017) *Botswana National Development Plan 11 (2017-2023)*. Gaborone: Ministry of Finance and Development Planning.

²⁰ Wily, Elizabeth A. (1979) *Official Policy Towards San (Bushmen) Hunter-Gatherers in Modern Botswana: 1966-1978*. Gaborone, Botswana: National Institute of Development and Cultural Research.

²¹ Childers, Gary W. (1976) *Report on the Survey/Investigation of the Ghanzi Farm Basarwa Situation*. Gaborone, Botswana: Government Printer.

little water), and Groot Laagte. Some of the people who lived in the vicinities of Rooibrak, Groot Laagte, and Qabo returned to the bush and essentially became what are known as voluntary isolated indigenous peoples (VIIPs), a process which continues up to the present.²²

Unfortunately, several problems arose with the settlement schemes. The first one revolved around the size of the area to be allocated. While it was held that the area should be large enough to support a sizable population based on diverse production systems, with room enough for growth, the Ghanzi District Council decided to allocate blocks of land 20 X 20 kilometers in size (400 km² in area) for the proposed settlements at West and East Hanahai. As populations of humans and livestock grew, these areas turned out to be too small. They were not adjusted, however, to fit population needs. A second problem was that the Ghanzi Land Board was reluctant to provide for security of tenure over the land to which people had been moved. This continues to be a major problem for people living in communal areas and in Wildlife Management Areas. A third difficulty was that the Ghanzi council and the Ghanzi Land Board were reluctant to allow local residents to fence their agricultural areas, something that led to high rates of wildlife and livestock damage to crops.

A major problem relating to the RAD settlements was that they were open to anyone in the country who wanted to settle there. Thus, local people tended to get squeezed out by wealthier groups who came in with their livestock and who had the funds to start businesses like small general dealerships. The Ghanzi Land Board allegedly tended to favor non-San groups in the allocation of grazing rights, water rights, and business sites. According to many residents of Ghanzi remote area communities, there is still a problem of differential allocation by the Ghanzi Land Board, an issue that they say they want investigated by the government Ombudsman or by the Ministry of Local Government and Rural Development. Similar claims have been made by remote area communities in the Kgalagadi District; for example, at Nwatile, the Kgalagadi Land Board gave water rights to an individual from Hukuntsi who had no ties to anyone in Nwatile.

Remote Area Dweller settlements were not necessarily gazetted settlements under the government's National Settlement Policy (NSP), which added to the uncertain land tenure status. The National Settlement Policy of 1998 stipulates that communities having 500 or more people within a distance of 15 kilometres can be gazetted (made legal under government policy) and therefore can receive central and district government support for development activities.²³ Those settlements that either had fewer than 500 people or which were considered to be in cattle post (grazing) areas were not seen as having the same status as gazetted settlements.

²² Arthur Albertson, Kalahari Wildlands Trust, personal communications, 2020 and 2021; field data, Robert Hitchcock, Melinda Kelly, Maria Sapignoli, SIAPAC, 2019, 2020.

²³ Republic of Botswana (1998) *National Settlement Policy*. Government Paper No. 2 of 1998. Gaborone, Botswana: Government Printer.

The issue of gazettelement is a crucial one being debated currently in Botswana. It should be noted that the Ghanzi Wildlife Management Areas are gazetted, but not the Kgalagadi District Wildlife Management Areas. Few of the remote area communities are gazetted, resulting in the possibility of district council decisions leading to their residents being relocated against their will, which is what happened at Ranyane in 2013. There is a serious need for reassessment of the District Council and Land Board land use and development plans and concerted efforts to coordinate the district council plans with those of the KGDEP.

The Remote Area Dweller settlements, of which there are 67 currently in Botswana,²⁴ did, however, get social and physical infrastructure, much of it provided by donor funds, especially SIDA (Swedish International Development Agency) and NORAD (the Norwegian Agency for Development Cooperation), some of this work being undertaken under the Accelerated Remote Area Development Program (ARADP) which lasted from 1998 to 1996.²⁵ Since that time, government has covered the costs of development and infrastructure in the remote area communities. The RAD settlements in Botswana usually have some or all of the following assets:

- borehole and storage tank
- stand pipes for collection of water by residents
- water reticulation (pipes)
- health post or clinic
- government offices (district administration) and government guest house
- kgotla* (meeting place)
- chief's or headman's office
- tribal police office
- school
- hostels for school children
- teachers quarters (homes for teachers)
- agricultural fields
- kraal (corral) for lost cattle (*matimela*)

²⁴ Ludick, Steven (2018) Botswana Report. In *Sub-Regional Workshop on Inclusive Development for San People in the Framework of the United Nations Declaration on the Rights of Indigenous Peoples, 3-5 December, 2018, Windhoek, Namibia*. Windhoek: Minorities Communities Division, Office of the President, and New York: United Nations Department of Social and Economic Affairs (UNDESA).

²⁵ Chr. Michelsen Institute (1996) *NORAD's Support of the Remote Area Development Programme in Botswana (RADP) in Botswana*. Bergen, Norway: Chr. Michelsen Institute, University of Bergen, Bergen, Norway, Oslo, Norway: Royal Norwegian Ministry of Foreign Affairs and Gaborone, Botswana: Ministry of Local Government, Lands, and Housing.

In Ghanzi District, there is only one community where residents have the ability to get *de jure* (legal) rights over their residential plots, which is D'Kar.²⁶ Dqae Qare, a freehold farm located 11 km north of Ghanzi that caters to tourists, is owned by the D'Kar Trust, having been bought for them by SNV, a Netherlands voluntary organization, in 2000. Dqae Qare is an important location not only because of its land tenure status, but also because it employs over two dozen Naro San and Bakgalagadi and benefits are shared with the D'Kar Trust.²⁷ None of the other remote area communities in Ghanzi and Kgalagadi have secure land tenure status. All of them are either on communal land or in Wildlife Management Areas. This is a particularly significant problem for indigenous peoples in Botswana that is urgently in need of resolution, especially since the pressures for turning communal land into ranches and farms and degazetting wildlife management areas are building quickly at the national and district level.

Property Rights of Indigenous and Minority Communities in the Project Area

Property rights of indigenous and minority peoples are tied up in the lands in which they reside, which are sometimes described as territories. The territorial unit is known as a *nong* (Naro), *gu* (G/ui), *g!u* (G//ana), *n//olli* (!Xǎó), *no* (Tshwa), and *n!ore* (Ju/'hoansi, ǀX'ao-||'aen). These territories have the following features:

- They contain all the resources necessary to sustain a group (water, food (flora, fauna), materials for home construction, tool manufacture, medicines, sanitation, body decoration)
- One has to ask for permission from an “owner” in order to collect food there if one is not a member of the group
- They are known to the residents as well as to other groups
- In most cases boundaries are not marked, but some of the residents generally know the limits of their areas
- Information on the location, “ownership” and use of these areas is maintained and exchanged
- The areas often contain places where specific historical events occurred which people remember
- The territories are sub-divided into different parts: residential areas, gathering areas, hunting areas, specialized areas (e.g. ones which have specific important resources, such as baobab trees, salt, or ochre), places of historic significance such as old campsites and graves, and areas that are buffer zones
- Land in the vicinity of indigenous and minority communities is usually sub-divided among segments of societies, including extended families and kin groups

²⁶ Lawy, Jenny (2016) *An Ethnography of San: Minority Recognition and Voice in Botswana*. PhD Dissertation, Social Anthropology, University of Edinburgh, Edinburgh, United Kingdom.

²⁷ Bollig, Michael, Robert K. Hitchcock, Cordelia Nduku, and Jan Reynders (2000) *At the Crossroads: The Future of a Development Initiative. Evaluation of KDT, Kuru Development Trust, Ghanzi and Ngamiland Districts of Botswana*. The Hague, The Netherlands: Hivos.

- Some people in remote communities are known to have extensive knowledge of the land and its use over time; these individuals are sometimes given names (e.g. *no kxaosi* in the G/ui language; it is these individuals to whom people most go to obtain permission to use areas of land or resources on that land
- In the past, people could cross into the territories of other groups, for example, when they are chasing a wounded animal; they are then obligated to share the results of these activities (e.g. meat, skins, and other products) with members of the land-holding group
- The sharing of resource areas associated with territories is organized along lines of kinship, historical association, demography, and specific resource availability
- The territorial system is generally flexible, and is a method for facilitating the distribution of people and resources
- There are conditions (e.g. droughts, large-scale losses of plants due to large fires) where the resource access inside the territory may become more restricted.
- Sometimes the rights to the territories are inherited from one's parents, either from the mother's side or the father's side or both (bilateral inheritance)
- There are also cases where people colonize an area which has not been occupied for a substantial period, establishing territorial control, establishing occupancy rights
- Customary rights to land are obtained through various means, including colonization, long-term association, or seeking permission from other groups
- One of the strategies for coping with drought and climatic uncertainty employed in the Kalahari was to request permission to move to another group's territory which had sufficient resources to sustain a larger number of people.
- Usually, people asked permission to visit the territories of people with whom they already had social ties, such as those created through marriage (affinal ties) or ones that came about through trade partnerships (reciprocal exchange ties).
- In most instances, if the territory 'owners' felt that there were enough resources available in their area, they gave permission for the other people to enter.
- There were cases, however, when permission was refused, especially in times of extreme drought. This was said to have been the case in the western and central and southern Kalahari at the beginning of the 20th century, in 1933, 1947, and 1961-1965 when lengthy droughts saw large areas affected, so much so, according to informants, that even the large trees along dried-out rivers died off.

It should be noted that there is considerable variation in territory sizes, as noted in Table 4, which shows territory sizes in the Central Kalahari from 1951-recent times. The territory sizes range from approximately 450-5,000 sq km in size. This argues for planners to consider allocations of sizable areas of land to communities, not just the 20 X 20 (400 sq km) plots allocated to remote area settlements at present.

Government of Botswana Policy Documents Relating to Remote Area Populations and Communities

There are three main Botswana government policy documents relating specifically to remote area populations. These are as follows:

Republic of Botswana (2000) *Remote Area Development Program Operational Guidelines*. Gaborone, Botswana: Government Printer.

Republic of Botswana (2009) *Revised Remote Area Development Programme (RADP)*. Ministry of Local Government, February 2009. Gaborone, Botswana: Republic of Botswana.²⁸

Republic of Botswana (2014) *Affirmative Action Framework for Remote Area Communities, 16th July 2014*. Gaborone: Ministry of Local Government and Rural Development.

Unlike Namibia,²⁹ the Botswana government never issued a formal white paper on indigenous peoples or on the Remote Area Development Programme even though a draft of one developed by the Ministry of Local government and Rural Development was discussed at Cabinet level in the 1990s. The revised Remote Area Development Programme of 2009 and the Affirmative Action Framework are not very specific about the land issues facing Remote Area Dwellers in particular, saying members of a remote area community have the same rights as other people to apply for land in remote area settlements.

The openness and lack of specificity about issues such as the gazettement of remote area communities as settlements has left open the possibility of members of other groups moving into the remote area communities and utilizing the water, grazing, and other resources in these places, resulting in community competition over resources, which are subjects of major concern to indigenous and other communities. The Affirmative Action Framework and the Remote Area Development Programme were under investigation by a team of consultants in 2021 which overlapped with the present project implementation.³⁰ While there was a mention of 'Bushmen rights' in the 1966 Constitution, this was later removed during the first millennium of the 21st century as the government of Botswana was dealing with legal actions related to the CKGR.

²⁸ Republic of Botswana (2009) *Revised Remote Area Development Programme (RADP)*. Ministry of Local Government, February 2009. Gaborone, Botswana: Republic of Botswana. See especially pp. 9-10. See also Republic of Botswana (2014) *Affirmative Action Framework for Remote Area Communities, 16th July 2014*. Gaborone: Ministry of Local Government and Rural Development, p. 9.

²⁹ Division of Marginalized Communities (2020) *Draft White Paper on the Rights of Indigenous Peoples in Namibia*. Windhoek: Division of Marginalized Communities, Office of the President.

³⁰ Diouf, Alexandre and David Mmopelwa (2021) *Review of the affirmative action framework for remote area communities and impact assessment of the Remote Area Development Programme: Inception Report*. Gaborone: Ministry of Local Government and Rural Development (MLGRUD).

There is no mention whatsoever of Remote Area Dweller land needs and rights in the 2015 Botswana government land policy.³¹ Those remote area communities that have applied for land under the 2015 Land Policy have not been granted any land, unlike individuals, some of them well-to-do, who have applied for land. These issues have been raised by Botswana citizens and representatives of Botswana San non-government organizations at the meetings of the United Nations Permanent Forum on Indigenous Issues in New York and in UN and Universal Period Review meetings in Geneva numerous times in the past two decades, and at regional meetings on San inclusive development such as the one held from 3-5 December 2018 in Windhoek. Some of these meetings were convened by the Working Group of Indigenous Minorities in Southern Africa and some by the governments of Botswana and Namibia.³²

In addition to indigenous peoples in the project area there are also vulnerable groups, including some voluntary isolated hunting and gathering peoples (VIIPs) in remote parts of the northwestern and southwestern Central Kalahari and in the Groot Laagte WMA (GHA 1) in northwestern Ghanzi District, extending into southern Northwest District. A careful and well thought out policy will be needed to work out effective ways to deal with isolated indigenous peoples.

Vulnerable groups also include women, girls, and youth, orphans, the elderly, and people with disabilities. Members of these vulnerable groups receive assistance through the Botswana government's social safety net programmes, some of which are spelled out in the national policy on destitute persons.³³ There are also people who have HIV/AIDS and ones with drug-resistant tuberculosis who are assisted through government programmes sponsored by the Ministry of Health and Wellness and the District Health Teams. Voluntary isolated indigenous peoples, however, are beyond the range of government programmes.

A recent area of concern has been the COVID-19 pandemic, which has led the government to mount a whole series of lockdowns, dissemination of information, and provision of soap, hand sanitizer, and personal protective equipment beginning in late March 2020. Various organizations in Botswana have undertaken gap analyses to determine the statuses of vulnerable groups and to recommend assistance.³⁴ In addition to the COVID-19 epidemic, there have been concerns about gender violence and abuse of youth, particularly at school hostels, an issue highlighted by the Botswana

³¹ Republic of Botswana (2015) *Botswana Land Policy*. Government Paper No. 4 of 2015. Gaborone: Botswana Government Printer.

³² Sapignoli, Maria (2018) *Hunting Justice: Displacement, Law and Activism in the Kalahari*. Cambridge: Cambridge University Press.

³³ Republic of Botswana (2002a) *Revised National Policy on Destitute Persons*. Gaborone: Government Printer.

³⁴ See Child Frontiers (2020a) *Mapping and Capacity Gap Analysis: Strengthening the social service workforce to prevent and respond to violence against children in Botswana*. Gaborone: Child Frontiers.

Khwedom Council and the San Youth Network (SYNET) in 2020.³⁵ The Department of Social Protection and UNICEF Botswana have raised the issue of violence against women and youth, as have various government agencies, including the Ministry of Nationality, Immigration and Gender Affairs and the Ministry of Youth Empowerment, Sport, and Culture Development (MYSC).³⁶ These issues are highlighted in the gender mainstreaming and planning documents related to the KGDEP.

Botswana is a signatory of the Declaration on the Rights of Indigenous Peoples that was passed in the United Nations in September 2007 and is a party to a number of other treaties and declarations relevant to indigenous peoples (see Box 1). Botswana has not, however, signed the International Labour Organization (ILO) Convention 169 which is the only international convention directly focused on indigenous people. It is important to note that Botswana has supported the African Commission of Human and People's Rights' position on group rights and peoples' rights in meetings of the African Commission, the African Union, and the Universal Periodic Review (UPR) of the United Nations.

Indigenous peoples and vulnerable groups have both been very active in terms of asking the government of Botswana to treat them equally and to address their specific human rights concerns. What remote area dwellers want is for Botswana to carefully consider the concept of juridical personality, which is the recognition of a group, association, or organization of indigenous peoples within the legal system whereby both individuals and organizations have certain rights, protection privileges, responsibilities, and liabilities in law.³⁷

5. UNDP Social and Environmental Standards

This Indigenous Peoples Planning Framework has been prepared in line with UNDP's Social and Environmental Standards (SES) Policy, which came into effect 1 January 2016.³⁸ It has also been prepared in line with the updated SES policy that came into effect on 1 January 2021. These standards underpin UNDP's commitment to ensure protection of indigenous peoples. They are an integral component of UNDP's quality assurance and risk management approach to programming. Through the SES, UNDP meets the requirements of the GEF's Environmental and Social Safeguards Policy.

The objectives of the UNDP SES are to:

³⁵ Hitchcock, R.K. and J. Frost (2021). Botswana. In *Indigenous World 2021*, Dwayne Mamo, ed. Pp. 37-47. Copenhagen: International Work Group for Indigenous Affairs.

³⁶ Child Frontiers (2020b) *Protecting Children of Nomadic Groups in Botswana*. Gaborone: Child Frontiers and UNICEF, May 2020.

³⁷ Adriano, Elvia Arcelia Quintana (2015) The Natural Person, Legal Entity or Juridical Person and Juridical Personality. *Penn State Journal of Law and International Affairs* 4(1):365-393.

³⁸ United Nations Development Programme (2016) *Guidance Note: UNDP Social and Environmental Standards. Social and Environmental Assessment and Management*. New York: United Nations Development Programme.

- Strengthen the social and environmental outcomes of Programs and Projects;
- Avoid adverse impacts to people and the environment;
- Minimize, mitigate, and manage adverse impacts where avoidance is not possible;
- Strengthen UNDP and partner capacities for managing social and environmental risks;
- Ensure full and effective stakeholder engagement, including through the development of a mechanism to respond to complaints from project-affected people.

In accordance with UNDP SES policy, the Social and Environmental Screening Procedure (SESP) has been applied to the Project during the project development phase (both at Project Identification and Project Grant Preparation stages). The earlier screenings were done as part of the project preparation activities. Consultations were held at the local level with a sample of the communities in the proposed project area. The degree to which these consultations met the criteria of Free, Prior, and Open Consent is open to question because there are no notes on the reactions of the community members.

In addition, in accordance with that policy, a SES principle or standard is ‘triggered’ when a potential risk is identified and assessed as having either a ‘moderate’ or ‘high’ risk-rating based on its probability of occurrence and extent of impact. Risks are assessed as ‘low’ if they do not trigger the related principle or standard. In the case of this project, the overall rating initially was low, but has been upgraded to moderate in this assessment.

The screening highlighted the Kgalagadi-Ghanzi Drylands Ecosystem Project’s intentions as they relate to mainstreaming human rights, gender equality and women’s empowerment, and environmental sustainability. Careful attention was paid to UNDP’s SES Standard 6 on Indigenous Peoples.³⁹

An impact risk assessment was undertaken using the Social and Environmental Screening Procedure to identify and assess both the probability and the impact of risks posed by the project. This was done twice, and the current report reflects a third risk assessment effort.

The IPPF identifies the following risks as specific to indigenous peoples.

Risk 1: Indigenous Peoples including vulnerable groups might not engage in, support, or benefit from project activities (UNDP SES Standard 6)

³⁹ United Nations Development Programme (2017) *UNDP Social and Environmental Standards. Standard 6: Indigenous Peoples*. New York: United Nations Development Programme.

Referring to UNDP Standard 6: Indigenous Peoples, the policy and operating environment of Botswana in relation to indigenous peoples is relatively stable, though there have been issues raised internationally and locally regarding the government's treatment of indigenous peoples. Botswana is a democratic country that has held eight open elections since its independence on 30 September 1966. The country has a strong constitution and well-defined rules of law. It has regularly taken part in the Universal Periodic Review (UPR) of the Human Rights Council, the most recent discussions being in 2020. Government officials and representatives of Botswana indigenous organizations take part regularly in the annual meetings of the United Nations Permanent Forum on Indigenous Issues in New York, most recently in 2019 (the 2020 meetings were postponed due to the coronavirus pandemic). As mentioned previously, the government has an office devoted to Remote Area Development, a remote area development policy, and an affirmative action framework aimed at assisting people living in remote areas. However, a number of implementation risks to the project remain due to the marginalized position of the country's indigenous peoples. These include, but are not limited to

- 1) Representation and participation: San, Nama, and Balala are all minority populations, and they lack strong political and institutional representation in the project landscape, with the exception of the Ghanzi District Council which has at least 6 district councilors who are San from various parts of the district. In general, levels of education, employment, technical expertise, and experience tend to be lower for San than is the case for other groups in the project area. Indigenous peoples in the project area have an unfortunate history of dispossession, resettlement, and dispossession, which has led to the rise of organizations promoting indigenous rights in the area (e.g., First People of the Kalahari, the Kuru Family of Organizations, and the Botswana Khwedom Council) (see Table 2). Indigenous groups in the area have had difficulties in seeking their rights and opportunities to negotiate with the government, which has led to a series of legal cases brought against the government.
- 2) Special attention should be paid to ensuring that consultation systems within the project are detailed, comprehensive, and are monitored following SES and FPIC principles. This set of processes should include identification through document reviews, consultation with central, district, and local level organizations, hosting of meetings with project-affected communities, and targeted discussions with indigenous, minority, and vulnerable groups in the project area. Such approaches should include balanced gender and youth participation. There should be consultation and FPIC before planning for specific activities is complete, for example, the plans that government tried to impose on the Central Kalahari Game Reserve such as establishing a trust to cover all of the CKGR communities without any consultation with the communities themselves in the time before the KGDEP project was conceived.
- 3) Potential for limited benefits from wildlife and natural resources exists for indigenous peoples in the project area. While the government has a well-

- established Community-based Natural Resource Management Programme which has existed in the country since 1990, the imposition of the hunting ban in January 2014 led to a weakening of the community trusts that had been established under the CBNRM policy. In some cases, the community trusts were taken over by outside organizations. In other cases, the community trusts were not getting any benefits from CBNRM, so they ceased to hold meetings and plan any activities. This, in turn, has led to a reduction in the financial, employment, and subsistence returns from the trusts. The project authorities will have to carefully assess the status of the community trusts through careful consultation efforts aimed at speaking to all segments of the communities. San, Nama, and Balala community members should be included in government discussions of CBNRM and access and benefit sharing of natural resources and in institutions involved with conservation and development in the project area.
- 4) Language: as noted previously, many if not most of the indigenous communities in the project area speak mother tongue San, Nama, and Balala languages as their first language. Consultation and information dissemination in these communities in the project area will have to include translators, and materials produced by the project should be not only in English and Setswana but also in mother tongue San languages. They will need in-person translators and/or project representatives who know their languages. Along these lines, specific attention should be paid to ensuring that indigenous languages are given priority alongside national languages in the discussions in the communities. It should be noted that as of February 2022, the government of Botswana is going to allow the teaching of mother tongue San languages in the schools, something that has been recommended by reviewers of the Remote Area Development Program and the Affirmative Action Framework (AAF) of Botswana.⁴⁰
 - 5) Preliminary Free, Prior, and Informed Consent (FPIC) procedures have largely been followed in the early phases of the project, but additional efforts will have to be made in this area in order to meet social safeguards requirements. Further consultations must be carried out for certain project activities, including work on livelihood-related projects such as tourism-related enterprises and game farms which have important implications for both land use and community member participation, management, and equitable benefit sharing.
 - 6) Special efforts need to be made to document the territoriality and land use practices of remote area communities in the project area. Such a step is necessary in order to highlight potential areas of conflict (e.g., over land being allocated for game farms and wildlife corridors). Such mapping has taken place in the Central Kalahari and has been presented to the Department of Wildlife and National Parks, but no decisions have been forthcoming from government about

⁴⁰ Diouf, Alexandre and David Mmopelwa (2021) *Review of the affirmative action framework for remote area communities and impact assessment of the Remote Area Development Programme: Inception Report*. Gaborone: Ministry of Local Government and Rural Development (MLGRUD).

how to deal with indigenous land claims and how to address conflicts that exist among various communities over land and resource access.

Required Action to address points 1-5 above. The project's Stakeholder Engagement Plan will have to take into account the factors that are noted above, including the use of appropriate language, careful consultation during all phases of the project, engagement of women, youth, and vulnerable population members, and discussions of FPIC and of the Grievance Redress Mechanism developed during the course of the project. The required actions to address the various risks include a wholesale re-assessment of the anti-poaching operations, human rights and conflict management training of DWNP officers, careful thought being given to the idea of incorporating community members into anti-poaching and information gathering activities regarding illegal wildlife trade.

Promoting of partnerships between communities and government is a goal of the KGDEP but will have to be dealt with carefully by government officials and communities, given the sensitivity of local community members about top-down decision-making regarding such activities as designating campsites for allocation to private companies and individuals without consulting local community members and ensuring the spread of benefits between private and public partnerships.

Risk 2. Increased wildlife-related legal enforcement and new approaches to Human-Wildlife Conflict could change current access to protected areas, buffer zones including Wildlife Management Areas, and communal zones, as well as to specific resources, potentially leading to economic displacement and/or changes in indigenous and other people's property rights (SES Principle 1, Standard 1, and Standard 5).

This risk stems from the continued competition for land between conservation, subsistence, and agricultural livelihoods in the Ghanzi and Kgalagadi Districts. Indigenous peoples in the project area have been moved involuntarily to promote conservation and tourism, as occurred in the case of the Central Kalahari Game Reserve, and at least one community in the GH 10 Wildlife Management Area, Ranyane, has been moved to Bere, ostensibly in order to achieve conservation goals. There is thus considerable sensitivity among indigenous people to the possibility of being resettled and relocated as land zoning changes in the area. The project has committed itself to a 'no resettlement' position in line with SES Standard 6. However, mixed messages are being reported, particularly in the Central Kalahari Game Reserve which has had visits from government ministers, Ghanzi District Council personnel, and ministry officials who have told the local communities that resettlement is still an option being considered by the government.

There are also mixed messages about livelihood projects such as game farms which have been promised to communities in the Central Kalahari and in Ghanzi District,

notably to Bere and to a group of communities in or near the Okwa Valley, West and East Hanahai, and Ka/Gae.⁴¹ Members of the East and West Hanahai communities remember all too well the game farms that were promised to them in 1991 that were later taken over by wealthy individuals.⁴² In the Central Kalahari, there is also concern about the government-proposed game farm being outside of the boundaries of the reserve, which potentially could lead to other people taking the farm over for their own benefit.⁴³

Required Action. The ESIA and ESMP must carefully define processes through which the project, with the support of MENT and other stakeholders, will monitor and consult on any likely changes in land use and enforcement resulting from project activities. These processes must be defined before the changes are implemented, and they must incorporate suitable mitigation measures wherever possible. The risk that is related to the statements made by project officials, district council officials, and central government personnel is that there is serious confusion at the local level because of mixed messages. Efforts have to be made by KGDEP personnel to ensure that the communities are getting up-to-date and accurate information. There also have to be assurances that the community trusts that are being proposed actually have community buy-in and consent. To take one example. The Memoghamoga Community Trust, consisting of 5 communities in the Central Kalahari and the three Central Kalahari resettlement sites, New Xade, Kaudwane, and Xere, was imposed on the Central Kalahari communities without their consent or agreement in 2018. The Central Kalahari Game Reserve Residents Association wrote to government ministries, including MENT, Ministry of Local Government and Rural Development, and the Office of the President about this matter in May 2019, but they have not received a reply. In April 2021 government officials from the Department of Wildlife and National Parks began a process of identifying campsites for allocation to private companies in the Central Kalahari, with no consultation with any of the communities in the central Kalahari, the resettlement locations (New Xade, Kaudwane, and Xere), or the community trusts in Ghanzi District.

Risk 3. Anti-Poaching Unit (APU) patrols could pose safety risks to local communities if the patrol members are not properly trained, managed, and overseen (SES Principle 1, Standard 3)

The experiences of international organizations in other Sub-Saharan African countries (e.g., Cameroon, Republic of Congo, DRC) have highlighted the importance of clear policies, transparency, monitoring, complaint mechanisms, and

⁴¹ They are part of what is known as the Okwa Conservation Trust (OCT).

⁴² Sechele, Sechele (1991) Swartz discounts claims on Ghanzi Farms. *Mmegi*, 15-21 March 1991, p. 1; Minority Rights Group report, 1991. United States Department of State (1993) *Country Reports on Human Rights Practices for 1993: Botswana*. Washington, D.C.: United States Government Printing Office.

⁴³ Information provided to the people of the CKGR communities in mid-September 2020 by a team from the Ghanzi District Council.

communication between anti-poaching units and community members. In order to avoid disruption to communities, efforts must be made to minimize the chances of mistaken or unwarranted use of force, ensure fair treatment of all individuals suspected of violating wildlife conservation laws. Care must be taken when it is necessary to seek information from community members which might put them at risk from other members of the community if they reveal identities of individuals involved in illegal wildlife exploitation, illegal wildlife trade (IWT), or possession of what government considers to be trophies under government national parks and wildlife conservation regulations.⁴⁴

The project seeks to learn lessons from previous GEF and UNDP projects in Botswana and internationally including how to go about safely and equitably expanding economic opportunities and livelihood options, some of them related to wildlife and other natural resources.

Botswana, unlike Namibia, does not have a Community Game Guard or Community ranger system. If Botswana is to attempt to establish a community game guard system for the project area, substantial effort will have to be invested in communicating to communities how community game guards would work, and how these guards will be trained in order to ensure they are aware of human rights. Communities will want to know how they are supervised and if they are going to be armed, something that some project area communities have already said would be unacceptable. The degree to which communities should or will be involved in anti-poaching efforts will need to be a subject of substantial consultation and discussion.

Efforts will also have to be made to carry out a risk assessment for the specific activities related to anti-poaching units and communicate to communities the principles of the national anti-poaching strategy.⁴⁵ The various units involved in anti-poaching will have to be discussed openly with community members, including Department of Wildlife and National Parks, the Botswana Police, and the Botswana Defense Force. Community members in the project area have been particularly concerned with the actions and tactics of the Special Support Group (SSG) of the Botswana Police, who have been known to employ torture and mistreatment of suspects in the past. Community members also want a formal review of the government's 'shoot-to-kill' policy and would like to see it discontinued as it is a direct violation of human rights.

Required Action: Consultations on the potential risks of anti-poaching patrols and engagement with anti-poaching activities must be included in the ESIA consultations.

⁴⁴ Republic of Botswana (2000a) *National Parks and Game Reserves Regulations*. Gaborone, Botswana: Government Printer.

⁴⁵ Republic of Botswana (2013) *National Anti-Poaching Strategy*. Gaborone: Republic of Botswana. Dikobe, Leonard and Bolt Othomile (2021) *Evaluation of Botswana National Anti-Poaching Strategy 2014-2019*. Gaborone: Department of Wildlife and National Parks, UNDP, and Government of Botswana.

Discussions will also have to be held about government anti-poaching policies and how they are being implemented. Communities should be informed about the results of the Botswana Anti-Poaching strategy. A new anti-poaching strategy is seriously in need of re-evaluation, and principles incorporated into it that emphasizes human rights and does not allow impunity of government officials, including wildlife officers, for violation of individual rights. A particular area of concern that has been noted by community members in the KGDEP area is that letters they have written to the MENT about issues such as anti-poaching, setting of hunting quotas, support of community trusts, and advertising of campsites for private allocation on the web have gone unanswered, underscoring what they see as a lack of consultation and lack of responsibility on the part of MENT. There will have to be a monitoring system which records all communications from communities to the MENT in which the letters are included, and the responses to the communities are documented. A major problem in the project area has been the failure to respond to written communications, and the failure to record community concerns when meetings are held by MENT and DWNP with communities.

Risk 4. Protecting traditional knowledge and cultural heritage (SES Standard 4).

This project does not seek to engage in activities that document or appropriate traditional knowledge and cultural heritage from indigenous peoples. There is a different access and benefit sharing project in Botswana that deals with the Convention on Biological Diversity and the Nagoya Protocol which addresses bioprospecting.⁴⁶ The KGDEP project will seek to engage whenever possible and to respect the practices of indigenous peoples in utilizing traditional and indigenous knowledge to manage and conserve natural resources and cultural resources. Where community-based management rights exist, these should be respected. These objectives will be achieved through consultation with communities about wildlife corridors, fencing, establishment of tourism and livelihood activities, and by building on both traditional and scientific management practices.

Efforts will be made to ensure protection of traditional uses of medicinal and other kinds of plants, minerals, and other resources. Specific efforts will need to be made to enable access of communities to areas of cultural and social importance, including places where there are sacred sites, including graves. Communities will be encouraged to protect and manage sites and places that are significant to them. Any plans about tourist or other public access to these places will be discussed with local leaders and local communities, who will have a full say over whether these kinds of

⁴⁶ UNDP (2020) *Access and Benefit-sharing (ABS) Project - Promoting beneficiation and value addition from Botswana's genetic resources through enhanced capacity for research and development and protection of traditional knowledge*. Gaborone: UNDP.

activities can take place.⁴⁷ This includes all activities relating to ecotourism including ecotourism trails which have been proposed recently by the KGDEP.

6. Participation, Consultation, and FPIC Processes

A summary of results of the culturally appropriate consultation and, where required, FPIC processes undertaken with the affected peoples which led to the indigenous peoples' support for the Project

SES Standard 6 contains specific requirements regarding participation of an agreement with indigenous peoples throughout the Project cycle. Specifically, free, prior, and informed consent (FPIC) must be assured for any matters within a project that may affect the rights and interests, lands, resources, territories (whether titled or untitled to the people in question) and traditional livelihoods of the indigenous peoples concerned.

Limited FPIC consultations were carried out with relevant indigenous peoples. There were limitations due to:

- Initial field consultations were carried out before project landscapes were clearly defined.
- The small and remote and mobile populations of indigenous peoples in some parts of the project area landscape presented challenges to project personnel to locate and access, notably the Central Kalahari Game Reserve and the Groot Laagte Wildlife Management Area in northern Ghanzi District (GHA 1).
- Time limitations in the second phase of consultations due to the large geographic area in which the project will work and the timing of the appointment of the Social Safeguards Specialist and fieldwork consultant.
- Restrictions on travel due to the declaration of the COVID-19 pandemic in Botswana in March 2020 and continued lockdowns in 2021.

Initial FPIC consultations took place with communities in both Ghanzi and Kgalagadi Districts. These consultations largely indicated the relevance of project activities to the San, Nama, and Balala communities. Community reactions to the initial FPIC consultations were largely positive, particularly where assistance with livelihoods was discussed and where improvement of human-wildlife conflict (HWC) situations was addressed. Concerns were expressed about potential impacts of anti-poaching operations and any potential changes to land zoning and land use in the project area. Indigenous peoples uniformly expressed a desire to share directly in the benefits of the project.

⁴⁷ Some similar recommendations were made in the Indigenous Peoples Planning Framework, Department of Wildlife and National Parks (2016) *Human-wildlife-Conflict Management (HWCM) in Northern Botswana Project*. Gaborone: Department of Wildlife and National Parks, Government of Botswana, and United Nations Development Programme (UNDP)

Required Actions: These issues formed a basis for further discussions with the project and with MENT on how to improve the participation of indigenous peoples within the project's activities. This is being done with a view to ensuring the communities long-term participation in conservation, land and resource management, and development of livelihoods both during and beyond the lifespan of the project.

Consultations with indigenous peoples during the project planning and implementation phases were undertaken using internationally recognized guidelines for Free, Prior and Informed Consent (FPIC), as reflected in the UNDP-SES Policy and following best practices.⁴⁸

In line with UNDP SES policy, FPIC consultations must be made in good faith using the following principles:

Free - consent should be given voluntarily and totally in the absence of coercion, intimidation, or manipulation, using languages that are understood by the community in question.

Prior - consent is sought which ensures that there is a sufficient period of time in advance of a project activity or process.

Informed - the nature of the engagement should be explained in a clear, consistent, and transparent manner and the types of information made available that should be available in appropriate languages.

Consent - the freely given collective decisions which are achieved through the customary decision-making processes of the affected peoples or communities.

No activities requiring FPIC should be initiated until the outcomes of the FPIC process are validated by the communities, and any required mitigation measures are in place. The indigenous peoples who are affected by the project will have a central role in defining the FPIC process. If possible, a facilitator to support this process should be available throughout the project. This individual should speak the necessary languages, be fully aware of the project contexts, objectives, and goals, and be sensitive to the culture and gender issues involved.

While the objective of the FPIC process is to reach an agreement (consent) between the relevant parties, whether it is a signed agreement or an otherwise-formalized

⁴⁸ Food and Agriculture Organization of the United Nations (FAO) (2016) *Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities – Manual for Project Practitioners*. New York: Food and Agriculture Organization of the United Nations (FAO).

oral contract, this does not suggest that all FPIC processes will lead to the full consent of and approval by people affected by the project. The project has a duty to achieve consent and not just consult with local people.⁴⁹

7. Appropriate Benefits

Guided by this Indigenous Peoples Planning Framework, the project will develop an Indigenous Peoples Plan (IPP) that will detail the agreements with the indigenous peoples concerned regarding the equitable sharing of benefits arising from the delivery of the project's outputs. This will be done in a manner that is culturally appropriate and fully inclusive. These benefits must not impede land rights or equal access to basic services including health services, clean water, energy, education, safe and decent working conditions, and housing (UNDP SES Standard 6: 6.11).

These arrangements should be detailed in the ESIA, including consultation and consent processes that were undertaken. Indigenous peoples in the project area should be provided with full information on the scope of potential income streams, services and benefits that the project may generate for all potential beneficiaries. In determining what constitutes fair and equitable benefit sharing – particularly where traditional knowledge, cultural heritage, lands, resources, and territories are involved – indigenous peoples should be treated not only as stakeholders, but appropriately as rights-holders.

8. Grievance Redress

As described in the project document, the government and UNDP is supposed to have established a project-level Grievance Redress Mechanism (GRM) during the first year of implementation, something that has yet to be done, putting the project out of compliance with GEF and UNDP guidelines. The GRM is a way to provide an effective avenue for expressing concerns and achieving remedies for complaints by communities, to promote a mutually constructive relationship and to enhance the achievement of project development objectives. A community grievance is an issue, concern, problem, or claim (perceived or actual) associated with the Project that an individual, or group, or representative wants to address and resolve.

The following principles should govern the grievance redress system to be implemented by the project:

- Legitimate, accountable, without reprisal.

⁴⁹ Iseli, Claudia (2020) The Operationalization of the Principle of Free, Prior, and Informed Consent: A Duty to Obtain Consent or Simply a Duty to Consult? *UCLA Journal of Environmental Law* 38(2):259-275.

- Accessible
- Predictable and timebound
- Equitable
- Transparent
- Rights compatible
- Used to improve policies, procedures, and practices to improve performance and prevent future harm.
- Based on engagement and dialogue

The full details of these GRMs will be agreed upon during the Inception and Implementation Phases, a process that will be overseen by the Project Manager in consultation with the Social Safeguard Specialist.

The grievance and response mechanisms are aimed at helping all stakeholders involved in the project, including project-affected groups and UNDP's partners along with government, non-government organizations, and the private sector companies operating in the project area to address jointly grievances or disputes related to the social and/or environmental impacts of UNDP supported projects. While the grievance and response mechanisms are important for all project stakeholders, it is particularly key for the indigenous people, who are often marginalised and discriminated against. The project will be implemented in areas which are home to indigenous peoples; hence it is critical that there is a transparent grievance redress mechanism for any issues. Aggrieved stakeholders will be able to approach the Project Management Unit and the Implementing Partner, the Ministry of Environment, Natural Resources, Conservation and Tourism (MENT) to register their grievances.

In those cases where the agencies are not able to address the grievances, or in cases when the grievances have not been addressed successfully, the aggrieved stakeholders have recourse to other national grievance mechanisms. It may be necessary to appoint an independent arbitrator to deal with complex issues. Communities are concerned about the potential conflict of interest if the government ministry involved in the project, MENT, is the only agency involved in assessing the grievances, and they would prefer to have an independent agency or organization oversee the grievance process.

At a local level, due to barriers of language, access to communications, potential issues of discrimination, and perceived issues of safety where protection of the identity of complainants may be required, it is essential to provide a local point of contact for community grievances. This may be a local NGO, trusted community members in various locations, trusted persons of authority, community associations, or other points of contact agreed through consultations with community members,

and particularly with indigenous peoples where they are included in project activities. [

It is critical that the person, persons, or organizations serving as the point of contact understand the need for community complaints to be anonymous where issues of individual or group safety are suspected, observed, or indicated. The point of contact will have direct access to the PMU staff. In the case of a complaint where anonymity is requested, the PMU and any resulting grievance process must respect this condition.

The project has already learned of complaints about failure to respond to community concerns involving the Department of Wildlife and National Parks and the Ministry of Local Government and Rural Development. These complaints will need to be documented and incorporated into the GRM documentation.

9. Capacity Support for Implementation of the Indigenous Peoples Plan

The IPPF will detail actions to be taken within the Project to ensure that sufficient capacity is allocated to meet the objectives of the SES Standard 6 and the specific measures agreed within the IPP. Where capacity may be limited, the IPPF will include additional actions to increase capacity in the short- or long-term to the same ends. As with other activities under the IPPF, it is important to maximise the participation of indigenous peoples in capacity support measures.

At a minimum, the IPPF provides:

- i. A description of project activities aimed at increasing capacity within the government and/or the affected indigenous peoples, and aims to facilitate exchanges, awareness, and cooperation between the two.
- ii. A description of measures aimed at supporting social, legal, technical capabilities of indigenous peoples' organizations in the project area to enable them to better represent the affected indigenous peoples more effectively.
- iii. Where appropriate and requested, a description of steps necessary to support technical and legal capabilities of relevant government institutions to strengthen compliance with the country's duties and obligations under international law with respect to the rights of indigenous peoples.

10. Recently Proposed Project Activities.

The KGDEP has proposed four initiatives that present opportunities for community benefits and potentially have some risks. These include:

- A. *Establishing a veld products and crafts centre such of the village of Ka/Gae.* This is a good idea from the standpoint of increasing access to community members

in the KGDP area to sell crafts, something that has been problematic in the past because of the decline of Gantsicraft's ability to work in the field due to lack of transport, and the purchasing activities of the Kuru Family of Organizations and Botswana-craft, none of which have been able to purchase crafts in the field in the past three years. Careful efforts will have to be worked out to ensure fair prices to be paid for crafts and for a benefit-sharing agreement between the veld products and crafts centre and local communities in the KGDEP area. Care will also have to be taken to ensure that the veld product exploitation activities are sustainable and do not utilize vulnerable, threatened, or endangered species. An Environmental and Social Impact Assessment of the centre likely will be necessary. Careful assessment will be required if the growing of high-value plants at the centre will be carried out and how the information on the results will be disseminated. A gender-balanced approach will be needed, given that a significant portion of the approximately 2,500 craft producers in the project area are women.

- b. *Implementing performance-based payments for adhering to agreed-upon local and use plans.* Payments will be made to local communities for keeping cattle in agreed-upon areas, ensuring that cattle and other stock do not stray into wildlife zones, to ensure that poaching is not done in the communities, and for carrying out conservation-related activities. These have already been pioneered in Zutshwa and have been discussed in Ukhwi, Ncaang, and Nwatele. Careful explanations of the criteria for the payments will be required. NGOs, notably Kalahari Research and Conservation (KRC), are already involved in implementing these payments which are very popular in Zutshwa.
- c. *Development of self-drive wilderness ecotourism trails.* These trails will provide self-drive tourists for opportunities to travel in remote areas that have wildlife and not cattle. These will be low-cost ecotourism ventures where tourists will drive themselves, guided by maps that indicate where they can drive and camp. As the numbers of these wilderness ecotourism trails expand, they will have to be monitored to ensure that tourists do not engage in illegal resource exploitation. Care will have to be taken to ensure that there is a balance among the various communities in cash benefits deriving from the ecotourism trails. This process has already been pioneered in Zutshwa village.
- d. *Conducting camel-back antipoaching patrols of WMAs to collect data on wildlife populations, poaching activities, rangeland management, and problem animals.* This project will be implemented through the Department of Wildlife and National Parks. Purchase of camels and equipment and training of DWNP personnel in camel-riding and management will be required. This project is under development in KD 2, with 12 community members being employed. In addition to the law enforcement and monitoring dimensions of this project, it is anticipated that at least three new camel-back ecotourism ventures will be developed, along with a new value chain in the form of wildlife data which can be made available to the DWNP, tourism companies, government departments,

NGOs, and communities. Efforts will have to be made to ensure that there are fair benefits provided to the communities involved in the camelback operations. Zutshwa currently has a contract with the DWNP for some of this work.

In addition to these proposed activities, there are also ones being implemented in the BORAVAST communities (Bokspits, Rappelspan, Vaalhoek and Struizendam) in Kgalagadi South. These activities include training in how to produce charcoal using Sexanana (*Prosopis glandulosa*, mesquite) and how to assist in the removal of non-indigenous plants like Sexanana. This is a collaborative effort between the Kgalagadi and Ghanzi Drylands Ecosystems Project (KGDEP) and the Department of Forestry and Range Resources (DFRR). Meanwhile, DFRR is also working on developing a management strategy that will control the spread of the “problem tree” in the Kgalagadi landscape. It is assumed that there is an EIA that has been done for these activities.

11. High Risk Issues in the KGDEP Area

There are a number of issues that can be identified as high risks in the project area. The first and most important revolves around anti-poaching activities. There has been a history of mistreatment of community members, particularly those in remote indigenous communities, by the Department of Wildlife and National Parks, the Botswana Police, and the Botswana Defense Force. Data indicate that much of the anti-poaching emphasis has been placed on remote area communities rather than on poaching gangs and poaching occurring on cattle posts and ranches. There is a serious need for MENT and other government law enforcement agencies to rethink their anti-poaching policies and strategies. There should be no impunity for law enforcement personnel who are accused of violating the human rights of community members. Human rights training is required for all law enforcement personnel. Getting the Grievance Redress Mechanism in place in the project area is absolutely critical.

A second area of high risk relates to the ways in which community trusts are dealt with in the project area. Since 2014 there has been a reduction in the capacities of community trusts because of lack of NGO support and central government unwillingness to address imbalance in the ways in which community trusts are dealt with. In some cases, community trusts have been handed over to private companies who then do not provide benefits to community trust members. The community trusts have expressed their concerns to government bodies, including MENT and the Ministry of Local Government and Rural Development both in writing and in community meetings. There has been a failure on the part of government ministries to respond to these concerns. Communities feel that the government and the district councils have allowed safari operators to handle tourism in the KGDEP rather than allow community trusts to handle ecotourism activities and receive the benefits

on their own. This poses a risk to the project's objectives of diversifying and ensuring livelihood benefits to communities.

A third area of risk to the project is the lack of coordination of messages being provided to communities. Currently, there is immense confusion at the community level about exactly what the project is offering and what government and the district councils and NGOs are offering. While 'the management of community expectations' is clearly necessary, this will require all stakeholders to provide accurate and up to date information on their plans. Two examples are campsite establishment and game farms, which have been discussed as recently as May 2021 by MENT and the district councils in the project area. There is tremendous confusion about the game farms and who will manage them. There is also confusion about benefit sharing from safari hunting and ecotourism activities at the community level.

A fourth area of high risk to the project relates to district council demarcation and allocation of cattle posts and ranches in the project area without regard to the planning of KGDEP. The decision of the Ghanzi District Council, for example, to come up with a new land use plan and to dezone areas in southern Ghanzi in order to turn the areas into cattle post and ranches is an important example. There was only one consultation on the new district land use plan, which was held just once in Ghanzi and to which no community members were invited. Regional planning will require project personnel to meet with the district councils immediately in order to work out ways to get a better handle on the land use and land allocation process. Without a change in the ways in which the councils are handling land allocation, the project is in serious risk of not achieving its objectives.

A fifth area of high risk relates to voluntary isolated indigenous communities. A well-worked out procedure for handling the interactions with these communities is necessary, including keeping confidential the existence and locations of these communities and ensuring their well-being. These communities should have the right to remain mobile and required to settle down if they so choose. Land use plans should take into consideration protecting those areas where these groups are located.

A sixth area of high risk for remote communities in the KGDEP area is the high probability of arrest for possession of ostrich eggshell (OES) products, which is illegal in Botswana if one does not have a license, in line with the government's Ostrich Management Plan Policy.⁵⁰ What this policy does, in effect, is criminalize one of the most important sources of income for San, Bakgalagadi, and Nama women. This policy is very much in need of revocation or serious revision.

⁵⁰ Republic of Botswana (1994) *Ostrich Management Plan Policy*. Gaborone, Botswana: Government Printer.

Table 1. Population Sizes and Distributions of Major San (Basarwa) Groups in the Kgalagadi and Ghanzi Dryland Ecosystem Project Area, Botswana

Group Name	Location	Population Size
Ani	Eastern Ghanzi District	600
Balala	Kgalagadi District, Southern District	2,350
G ana	Central, western, and northern Kalahari	2,825
G old (Dxoro)	Lake Xuan, Central District, eastern CKGR*	750
Gnu (G wi)	Central and western Kalahari	2,300
‡Hoan	Kweneng District, Central Kalahari	300
‡Khomani	Kgalagadi District, Kgalagadi Transfrontier Park, Northern Cape of South Africa	250
Kua	Western Central District, eastern CKGR*, northern Kweneng District	650
Nama	Kgalagadi District, Southern District	2,750
Naro (Nharo)	Ghanzi District and Kgalagadi District	8,000
Ts'aokhoe	Ghanzi District	1,000
Tshila	Central Kalahari	500
‡X'ao- 'aen [/'Xau ‡esi, //Au//eisi, Kao/'aeisi, Auen, Makaukau]	northern Ghanzi District (Groot Laagte)	1,000
!Xõó	Ghanzi, Kgalagadi District	3,800
Total = 14 Groups	Two Districts	27,100

*CKGR = Central Kalahari Game Reserve

Table 2. National, and Community-Based Organizations involving San and other Groups in Botswana

Group(s)	Organization	Founding
All minority groups in Botswana	Reteng – the Multicultural Coalition of Botswana	2002
Naro San and other minorities in Ghanzi and Northwest Districts, Botswana	Kuru Family of Organizations (KFO)	1986
San in Southern Africa	Working Group of Indigenous Minorities in Southern Africa (WIMSA)	1996
G/ui, G//ana, and other San and Bakgalagadi in Botswana	First Peoples of the Kalahari (FPK)	1993
San Youth in Botswana	SyNet	2016
San in Botswana	Botswana Khwedom Council (BKC)	2008

Table 3. Projects in the KGDEP area and non-government organizations involved in implementing them.

Activity	Implementing NGO	Status
Human-wildlife Conflict management	Cheetah Conservation Botswana (attn: Rebecca Klein et al)	On-going
Conservation payments to community members	Kalahari Research and Conservation (attn: Glynn Maude et al)	On-going, began 2020
Land Use Planning in GH 10 and GH 11	Kalahari Wildlands Trust (attn: Arthur Albertson)	On-going
Establishment of Veld Products and Craft Centre	Tanate Development Sustainable Development Foundation of Botswana and Cheetah Conservation Botswana (CCB)	In planning stages
Camel wildlife monitoring and ecotourism	Tanate Sustainable Development Foundation of Botswana (Attn: Derek Keeping)	On-going
Charcoal production and removal of invasive non-indigenous plants	Department of Forestry and Range Resources and NGO	On-going

Table 4. Group Size, Range Size, and Mobility of Central Kalahari Game Reserve Populations Prior to Resettlement and After the Return to the Reserve in Second Decade of the 21st Century

Group Name(s)	Number of Groups	Group Size(s), and Average	Range Size(s) and Average	Number of Annual Moves	Reference(s)
G/ui	6	21-85 (57)	457-1,036, 779.69 km ²	6-15	Silberbauer, (1972:295-297, 1981: 193, 196, 246)
G/ui	>2	Up to 70, one was 120	777-1,036 km ²	--	Campbell (1964)
G//ana, G/ui	9	7-57	4,000 km ²	11	Tanaka (1980:79, 117, Table 20)
G/ui, G//ana, Bakgalagadi	11	41-67, 98.73	505-4,323 km ² 222.65 km ²	4-10	Sheller (1977:21, 34)
G//ana	13	3-98 (33)	5,000 km ²	--	Osaki (1984:56)
G/ui, G//ana, Tsila, Bakgalagadi	6	3-165	1,600-6,300 km ² average of 3,950 km ²	1-8	Albertson, (2000:8-10)
G/ui, G//ana, Tsila, Bakgalagadi	5	50-200	1,500- 4,500 km ²	1-3	Sapignoli and Hitchcock (2014:24, field notes)

Albertson, Arthur (2000) *Traditional Land-Use Systems of Selected Traditional Territories in the Central Kalahari Game Reserve*. Report to First People of the Kalahari, Ghanzi, Botswana.

Campbell, A.C. (1964) A Few Notes on the Gwui Bushmen of the Central Kalahari Desert, Bechuanaland. *Nada* 9(1):39-47.

Osaki, Masakazu (1984) The Social Influence of Change in Hunting Technique among the Central Kalahari San. *African Study Monographs* 5:49-62.

Sapignoli, Maria and Robert K. Hitchcock (2014) *Social Impact Assessment Anthropological Analysis of the Ghanzi Copper Mine Area, Western Botswana*. Gaborone, Botswana: Loci Environmental and Windhoek, Namibia: SIAPAC.

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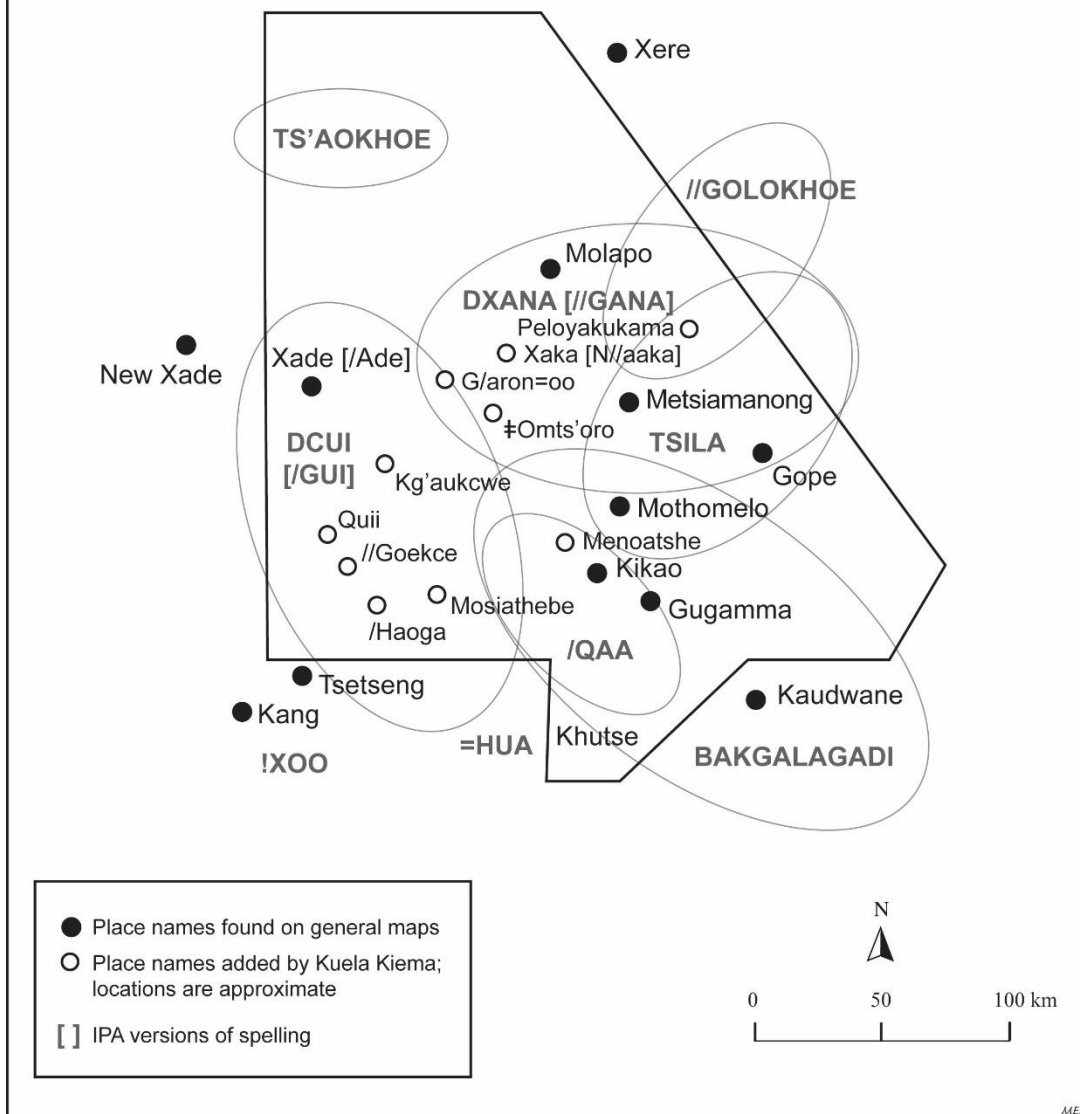
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Table 5. Numbers of San Botswana, Namibia, and Zimbabwe

Country	Population Size (2021)	Size of country (in km²)	Numbers of San (National)
Botswana	2,350,667	581,730	68,500
Namibia	2,678,191	824,292	38,000
Zimbabwe	14,829,988	390,757	2,800
TOTALS	19,858,846	1,796,779 km²	Ca. 109,300 San

Note: Data obtained from the Southern African Development Community (SADC); *The World Factbook* (2021); *Ethnologue* (www.ethnologue.com), accessed 13 October 2021, and from fieldwork

Tribal territories and locations in Tc'amnqoo (= 'Amnloo)



INTERNATIONAL HUMAN RIGHTS INSTITUTIONS RELATING TO INDIGENOUS PEOPLES' RIGHTS

International Covenant on Civil and Political Rights (ICCPR). This covenant was based on the Universal Declaration of Human Rights (UDHR) and was adopted by the United Nations General Assembly in 1966. The **Human Rights Committee (HRC)** is the body of independent experts that monitors the implementation of the ICCPR by states.

International Covenant on Economic, Social, and Cultural Rights (ICESCR). This covenant was also adopted by the United Nations General Assembly in 1966, and it came into force in 1976. This covenant commits states to promote and protect a wide range of economic, social, and cultural rights, including the right of individuals to work in economically just and healthy conditions, to an adequate standard of living, to social protection, to education and to enjoy the benefits of cultural freedom and scientific progress. The implementation of this covenant is monitored by the **Committee on Economic, Social, and Cultural Rights (CESCR)**, a body of independent experts.

International Labour Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries. This convention is the only human rights instrument relating specifically to indigenous peoples.

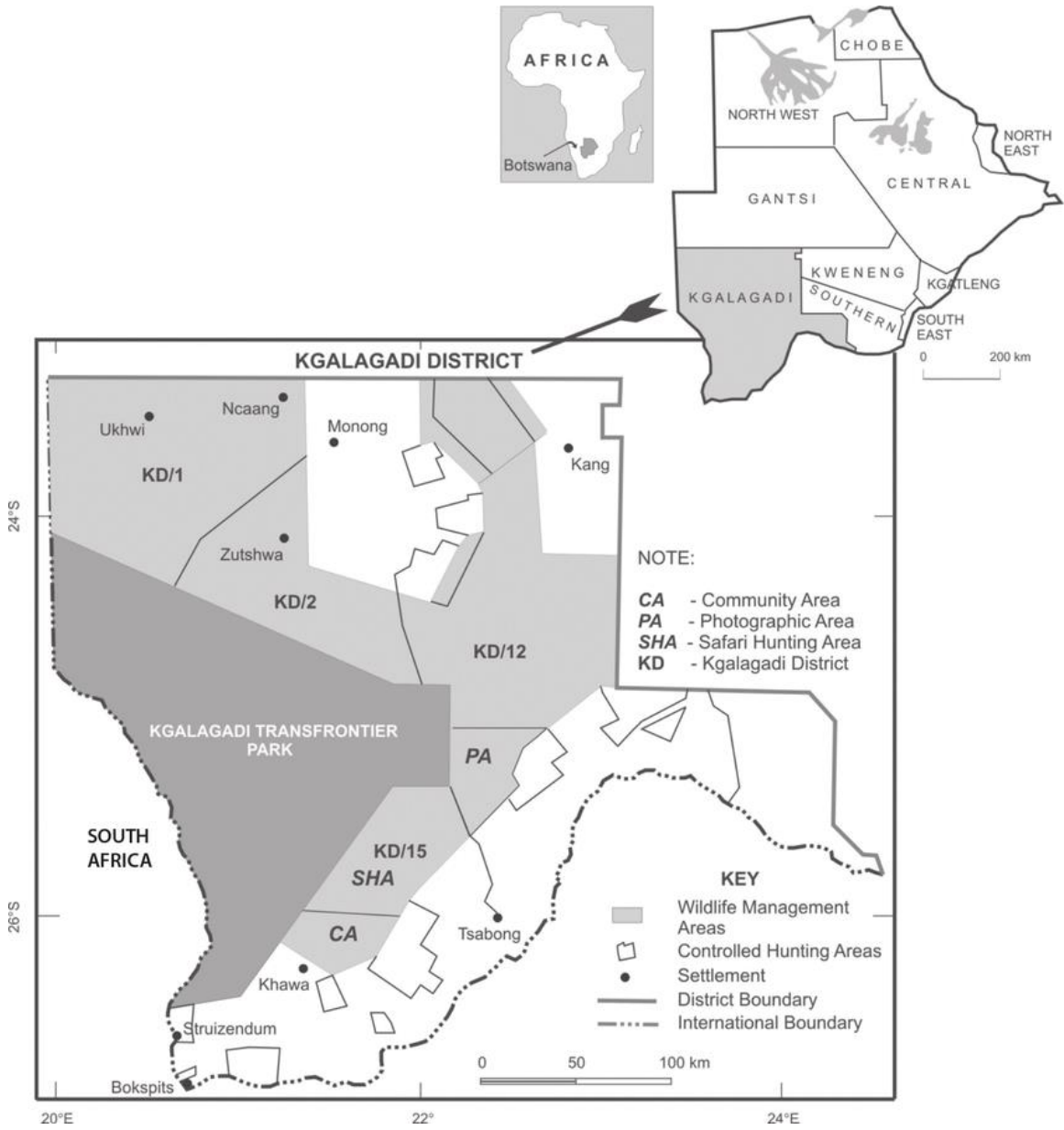
The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This important declaration, 23 years in the making, was passed by the United Nations General Assembly on 13 September 2007.

United Nations Permanent Forum on Indigenous Issues (UNFPII). This forum was created by the United Nations in 2000. It has a permanent secretariat and meets annually in New York, a meeting that is open to indigenous representatives.

Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples This special rapporteur position was created by the Commission on Human Rights (the predecessor to the Human Rights Council) in 2001.

United Nations Expert Mechanism on the Rights of Indigenous Peoples (UNEMRIP) This group of experts was created in 2006. Consisting of five experts, the Expert Mechanism focuses primarily on studies and research-based advice to the High Commissioner for Human Rights and the Human Rights Council.

Universal Periodic Review (UPR), bi-annual reviews of all states by the Human Rights Council in Geneva. Countries are required to attend and to provide formal responses to the human rights issues raised at the UPR meetings.



BASARWA LANGUAGE GROUPS: PRESENT AREAS OF LAND OCCUPATION (GHANZI DISTRICT)

