

PROJECT DOCUMENT
COUNTRY: BOTSWANA



Empowered lives.
Resilient nations.

Project Title: Support to the fulfillment of human rights, access to justice and empowerment of youth and women (the Project).

Project Number: 00104658

Implementing Partners: Administration of Justice; Attorney Generals Chambers; Directorate of Economic Crime and Corruption; Legal Aid Botswana; Ministry for Immigration, Nationality and Gender Affairs; Ministry for International Affairs and Cooperation; Ministry for Local Government and Rural Development; Ministry for Presidential Affairs, Governance and Public Administration; Ministry for Youth Empowerment, Sport and Culture Development; Ombudsman’s Office; Parliament; the NGO-Council

Project Period: 4 years (2018 – 2021)

Brief Description

Project Objective and Outcome

The objective of the Project is to provide advisory and technical support to the Government to strengthen and enhance its capacity to respect, protect and fulfil human rights, enhance the accessibility of the justice system and empower youth and women.

The expected outcome of the Project is more effective human rights mechanisms and domestication of human rights and a justice system that fosters inclusive growth and development and provides opportunities for youth and women to participate in this inclusive growth.

To achieve this outcome the Project is guided by the Government development priorities and goals as articulated in Vision 2036, the National Development Plan 11 (NDP 11) and the Global Sustainable Development Goals ('SDGs'); United Nations Sustainable Development Framework (UNSDf) and the Country Programme Document (CPD) (2017-2022).

Gender equality and human rights will be integrated into the Project through a human rights based approach from the project inception phase through to implementation. A series of baseline assessments will provide benchmarks against which to measure progress.

Contributing Outcome
Indicative Output(s)

Total resources required:	USD 4,643,713	
Total resources allocated:	UNDP	
	TRAC:	
	Donor:	
	Government:	
In-Kind:		
Unfunded:		

SIGNATURES

Government



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 Title: **Permanent Secretary**
 Date: **23 January 2018**



United Nations Development Programme (UNDP)

Print Name: **JACINTA BARRINS**
 Title: **Resident Representative**
 Date: **23 JANUARY 2018**

Non-government Implementing Partners



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Print name: **Peter John Britts**
 Title: **Chief Executive Officer**
 Date: **1 February 2018**

RECEIVED	
LEGAL AID BOTSWANA CHIEF EXECUTIVE OFFICE	
DATE:	<u>1/2/2018</u>
SIGN:	<u>[Signature]</u>

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INTRODUCTION

1. Botswana is hailed as a role model in Africa on governance issues due to exemplary performance on socio-economic development, democracy, and anti-corruption. The country is celebrated as Africa's miracle¹ and jewel² due to its steady performance in socio-economic and political parameters with which most sub-Saharan Africa countries struggle. This section provides a contextual background to Botswana's governance system. It acknowledges Botswana's achievements and highlights challenges and opportunities that could strengthen the country's human rights and justice system to support Botswana to attain high income status and inclusive growth as envisaged in Vision 2036 and national development plans.
2. Botswana has been a constitutional democracy since its independence in 1966, with elections held every five years. The Constitution provides for separation of powers among the three arms of government: Executive, Legislature and Judiciary. The Executive is headed by the President, and is responsible for the execution and implementation of policies in the country. Cabinet Ministers are appointed by the President from the National Assembly. At the local level, local authorities perform various developmental and administrative functions such as rural development; tribal administration; community development; fire services; local economic development; physical planning; development planning; development of primary infrastructure; and provision of social services.³
3. The Legislature is the law-making body and is made up of 63 members, 57 being the number of directly elected members and six being 'specially elected'.⁴ In addition to the elected members, the Constitution of Botswana establishes the *Ntlo ya Dikgosi*, a constitutional institution which represents the interests of tribes and tribal organisations. The *Ntlo ya Dikgosi* has an advisory role in relation to all matters within the executive or legislative authority which affect the customs or the culture of the people. Made up of 35 traditional leaders, *Ntlo ya Dikgosi* is the voice of the people and the link between the governed and the government.⁵
4. The Judiciary is the custodian and interpreter of the law and ensures that the Legislature and the Executive conduct their affairs according to the Constitution and the law. The highest court is the Court of Appeal, headed by the President of the Court of Appeal. Officers to the Judiciary are assessed and recommended for appointment by the Judicial Service Commission, chaired by the Chief Justice.
5. Botswana also applies customary law. In 2013, there were about 429 customary law courts in the country, popular for their expeditious, affordable and accessible adjudication of disputes.⁶

¹ Christian von Soest, Stagnation of a "Miracle": Botswana's Governance Record Revisited (2009) GIGA Working Paper 99, 5. Available on <https://www.giga-hamburg.de/en/system/files/publications/wp99_soest.pdf> (accessed 3 September 2017).

² See <<http://www.gov.bw/en/Ministries--Authorities/Ministries/State-President/Department-of-Corruption-and-Economic-Crime-DCEC/Policies/Good-Governance-transparency-and-the-Rule-of-Law/>> (accessed 3 September 2017).

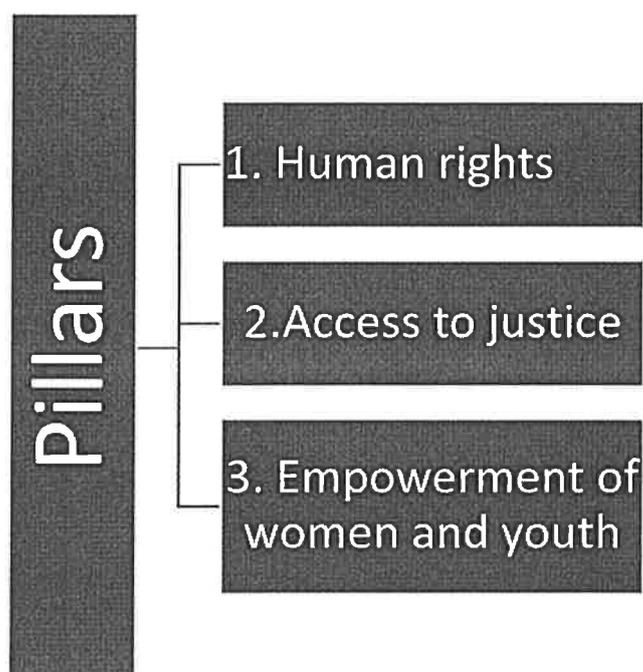
³ NPD 11, 4.

⁴ NPD 11, 1.

⁵ Tsaone Basimanebotle, *The evolution of Ntlo Ya Dikgosi* (2016) Available on <<http://www.mmegi.bw/index.php?aid=62401&dir=2016/august/19>> (accessed 3 September 2017)

⁶ Ditshwanelo Botswana- Centre for Human Rights ed Alice Mogwe, *Customary Law and its Impact on Women's Rights, Children's Rights and*

6. While Botswana continues to bask in the praises attributed to its governance, there is still room for improvement, reform and change, as far as human rights, anti-corruption and access to justice are concerned. This is particularly true for the poor and marginalized including youth and women as the country aims to attain high income status, diversify its economy and achieve inclusive development.
7. The three pillars of this programme (human rights, access to justice and empowerment of women and youth) were identified and agreed upon through consultations with Government for UNDP technical support. The figure below reflects the key pillars identified and agreed upon in pursuit of a more vibrant and effective human rights, governance and justice system in Botswana.



8. In determining how best to render support on the most appropriate actions by UNDP the following were the guiding principles and questions:
 - a. Can UNDP's support lead to a *clear and quantifiable difference* to the lives of citizens in Botswana particularly youth and women?
 - b. Will the proposed support *benefit the most vulnerable*; and
 - c. Will the proposed support contribute to strengthening human rights mechanisms, legal frameworks and transparency in Botswana?
9. The contextual analysis below, summarises the current status in relation to each pillar of support, existing gaps and the opportunities to support Botswana's strategic direction as developed in NDP11 and Vision 2036 as aligned with UNDP's global comparative expertise.

PILLAR 1: HUMAN RIGHTS

Situational analysis

10. The two primary challenges facing Botswana in relation to human rights are to strengthen mechanisms for government engagement on human rights at the structural level (institutions,

domestication and localisation of human rights treaties and law reform) and the creation of pathways for engagement between citizens and government and the international community, for participatory mechanisms for the fulfilment of human rights in Botswana.

Domestic policy framework for human rights

11. The national strategic policy framework provides a solid foundation for the fulfilment of human rights in Botswana.

- **Vision 2036 “Achieving Prosperity for All”** is the Government of Botswana’s 20 year strategic plan. The key objective is to achieve inclusive growth and transform Botswana from an upper middle-income country to a high-income country by 2036. Vision 2036 recognizes the importance of unity and tolerance for diversity and is built on the understanding that development entails freedom from extreme poverty and inequality.
- Vision 2036 includes a commitment to the fulfilment of human rights. Vision 2036 provides that *“Botswana will be among the top countries in the protection of human rights. These rights will be based on the principle of the supremacy of national and community rights over individual rights.”*
- Vision 2036 recognizes that respect for diversity (gender, age, location, religion, creed, ethnic origin, sex, disability, language and political opinion), and the promotion of cultural and traditional practices is essential to achieving an inclusive and equitable nation.
- **National Development Plan 11 (NDP 11)** outlines development policies, strategies, programmes and projects to be implemented during the period 2017 – 2023.

12. A summary of the features of Vision 2036 and NDP 11 relevant to human rights in Botswana follows:

- **Strengthening institutional capacity:** NDP11 commits to a refocus on ‘the promotion and protection of citizens’ human rights’ including ‘expanding the mandate of the Ombudsman office to deal with human rights issues.’⁷ The Ombudsman Act will also be reviewed to ‘grant the Office sufficient powers to deliver on its mandate.’⁸ Effectiveness of the Ombudsman’s office is also affected by low public awareness of the Office, resource constraints which affect education and outreach and limited accessibility to offices due to distance and cost.⁹
- **Domesticating human rights treaties and Constitutional and legal reform:** NDP 11 commits, in the context of providing effective protection and promotion for human rights, to ‘a review of all relevant legislation.’¹⁰ Vision 2036 also renews Botswana’s commitments to the international community while maintaining an international image. In this context, Botswana committed to review and reform the constitutional and legal framework:

‘the constitution and human rights framework of Botswana will ensure human equality, uphold the rule of law, guarantee the inalienable birthright of citizenship while offering individual liberties in which all residents are allowed and encouraged to contribute positively to society.’

⁷ NDP 11, 8.93.

⁸ NDP 11, 8.131.

⁹ NDP 11, 8.129.

¹⁰ NDP 11, 8.93.

Vision 2036 also commits to the harmonization of Botswana's customary and common law.

- **Gender equality:** is specifically recognized in Vision 2036. Importantly Vision 2036 specifically commits to 'domesticating human rights treaties that aim to promote gender equality, empower women and make deliberate efforts to end gender discrimination and gender-based violence.' NDP11 commits to implementation of the National Policy on Gender and Development (including 'the participation of women in all governance structures') and the National Gender machinery.¹¹
- **Strengthening participatory mechanisms:** Vision 2036 recognizes that 'people should be capacitated to have a voice in decisions that affect their lives.' Social inclusion and access to decision making and services (particularly by the most vulnerable) is recognized by Vision 2036 as being critical to achieving inclusive growth. Specific focus is given in Vision 2036 to the inclusion of women, youth and children as three identified vulnerable groups. Access to information will be 'a protected right and will spur public participation.' NDP 11 includes a commitment to building an informed and active citizenry that can voice interests and hold public officers accountable.¹²

Domestic legal framework for human rights

13. Botswana is a 'dualist' State which means that, provisions of international treaties and conventions are not automatically part of the law of Botswana and do not create justiciable rights. Treaties, including international human rights conventions which Botswana has ratified, are not enforceable in Botswana unless they are expressly incorporated into domestic law. The courts also play a significant role in the domestication of international human rights since they have in some cases interpreted the Constitution in a way that is consistent with the international human rights standards to which it has subscribed.¹³
14. The Constitution of Botswana contains a Bill of Fundamental Rights and Freedoms¹⁴ which enshrines limited civil-political rights. The Bill of Rights has not been reviewed in light of Botswana's international human rights commitments and domestic legislation to implement equality rights are largely absent.¹⁵
15. Botswana has recognized in its strategic policy framework, as noted above, that domestication of international human rights treaties is required, and has committed to a review of all relevant legislation in this regard.¹⁶
16. Some progress has already been made towards domestication of international commitments. For example, with the recent domestication of the Rome Statute into Botswana's domestic law, Botswana has been recognized as 'one of the only regional voices to take a stand' against human rights abuses and in particular international crimes (such as genocide and crimes against humanity) and impunity.¹⁷

¹¹ NDP11, 8.94.

¹² NDP11, 8.83.

¹³ See, eg *Dow v Attorney General, Ahmed v Attorney General, Mmusi & Others v Ramantele & Others*.

¹⁴ Part II of the Constitution.

¹⁵ Although discrimination is a criminal offence under the Penal Code, the elements of discrimination and equality before the law and affirmative action are not well developed, legally.

¹⁶ NDP11, 8.93.

¹⁷ See <<https://www.amnestyusa.org/countries/botswana/>> (accessed 5 September 2017)

International engagement on human rights

17. The challenges in international engagement on human rights include the non-ratification of several key international and regional human rights treaties and optional protocols, the challenges of timely and effective reporting to treaty bodies, the monitoring and implementation of the UPR and treaty body recommendations and their alignment with SDG and national development priorities.
18. Botswana is a party to several international human rights instruments: the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC); the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW); the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing UNCAT and the United Nations Convention against Transnational Organized Crime amongst others.
19. Botswana has not ratified ICESCR or CRPD, two core human rights treaties. Of concern to government is the compliance cost of participating in the international human rights treaty system. Botswana has a strong commitment to the rule of law and to meeting its international commitments, however is concerned about the potential cost of implementing human rights treaties and what it sees as the high cost of producing treaty reports. It is within the mandate of the Inter-Ministerial Committee on Treaties, Conventions and Protocols to assess the impact of ratification of treaties and optional protocols.
20. Botswana is not yet a party to the Convention on Economic, Social and Cultural Rights (ICESCR). ICESCR rights include the right to education, highest attainable standards of health, a clean environment and the rights of minorities.¹⁸ In fact, Botswana is already meeting many of the human rights obligations contained in ICESCR without having ratified the treaty. Botswana has ratified the African Charter on Human and Peoples' Rights which contains a range of economic, social and cultural rights which the African Commission has held to be justiciable. However, ratification and domestication of the ICESCR would support the fulfilment of socio-economic rights in Botswana since they cannot currently be litigated as part of the enforcement of the Constitutional Bill of Fundamental Rights and Freedoms. Botswana has agreed in the UPR process, to consider ratification of ICESCR.
21. Furthermore, while Botswana is party to the CEDAW it is yet to ratify or accede to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. It is also instructive that Botswana is yet to sign or ratify the African Charter on Democracy, Elections and Governance.
22. In addition to considering the ratification of key treaties, Botswana is also committed to state reporting obligations to the treaty monitoring bodies for those treaties it has already ratified.
23. Although Botswana has submitted reports for the Universal Periodic Review, the African Charter on Human and People's Rights, the CEDAW, CRC and ICRC, it still has several outstanding reports to the various treaty bodies (eg ICCPR and CAT). Botswana has recently been approved for use of the simplified treaty reporting process for the ICCPR in 2018 and submitted its first Common Core Document in conjunction with its CRC report in October 2017. These developments provide a strong foundation upon which to further support Botswana to achieve high quality simplified treaty reporting in the project period.
24. Botswana is developing national monitoring and evaluation systems for implementation of the NDP11 and SDGs. Linking human rights with SDG and NDP 11 monitoring systems recognizes

¹⁸ See <http://www.icla.up.ac.za/images/country_reports/botswana_country_report.pdf> 7 (accessed 5 September 2017).

that human rights underpins both the SDGs and inclusive growth, is an effective use of limited resources and more sustainable than creating parallel systems. By linking UPR and treaty body recommendations and SDGs with NDP11 indicators and targets, government will be supported to achieve both its strategic vision and human rights commitments.

Strategic response

25. The strategic response proposed by this project is to provide technical support for the institutionalization, domestication and localization of human rights, including support for citizen – government engagement on human rights. The objectives of the technical support are to strengthen government’s efforts towards achieving its strategic objectives to:
 - Strengthen participatory mechanisms to ensure an active citizenry that can hold government to account;
 - Domesticate human rights treaties and effect constitutional and legal reform as required;
 - Meet international commitments on treaty reporting; and
 - Strengthen institutional capacity for human rights (including the establishment of a human rights mandate at the Ombudsman’s Office).
26. Through UNDP support, a Human Rights Specialist was appointed in 2017 and will be deployed to the Office of the President to advise and provide technical support to the Human Rights Unit, when it is established.
27. It is proposed that under this Project, the technical support will include support for the following key institutional pillars of human rights in Botswana:
 - Office of the President (Human Rights Unit);
 - Office of the Ombudsman;
 - The Inter-Ministerial Committee on Treaties, Conventions and Protocols (IMCTCP);
 - NGO Council.
28. In 2014, Cabinet agreed to transfer the mandate for human rights and reporting responsibility from the Ministry of Defense, Justice and Security to the Ministry of Presidential Affairs and Public Administration. This decision has yet to be fully operationalized, with MIAC continuing to convene the IMCTCP and line ministries bearing responsibility for specific treaty reports. In 2018, the **Office of the President** will establish a Human Rights Unit at the Office of the President which will be supported by the Human Rights Specialist. Priorities for this unit include coordination of human rights nationally, which will be guided by the Human Rights Strategy, and steering the National Human Rights Action Plan process which will be informed by a baseline assessment and national consultations.
29. The Office of the President also includes a Disability Unit which has requested support for, among other things, ratification of the CRPD and disability responsive legislation. It is noted in this regard that support may also be required for the anticipated African Union Protocol on Disability within the project period.
30. Although the Botswana Government has drafted a Bill to amend the Ombudsman Act No.5 of 1995 to expressly confer the human rights mandate to the **Office of the Ombudsman**, and NDP 11 commits to implementing this decision,¹⁹ the proposed law to give effect to this decision has yet to be passed. Typically, an Ombudsman’s Office with a human rights mandate can receive and investigate complaints of human rights violations, monitor implementation of treaty body recommendations and human rights standards. Ombudsman Offices with a human rights

¹⁹ NDP11, 8.27.

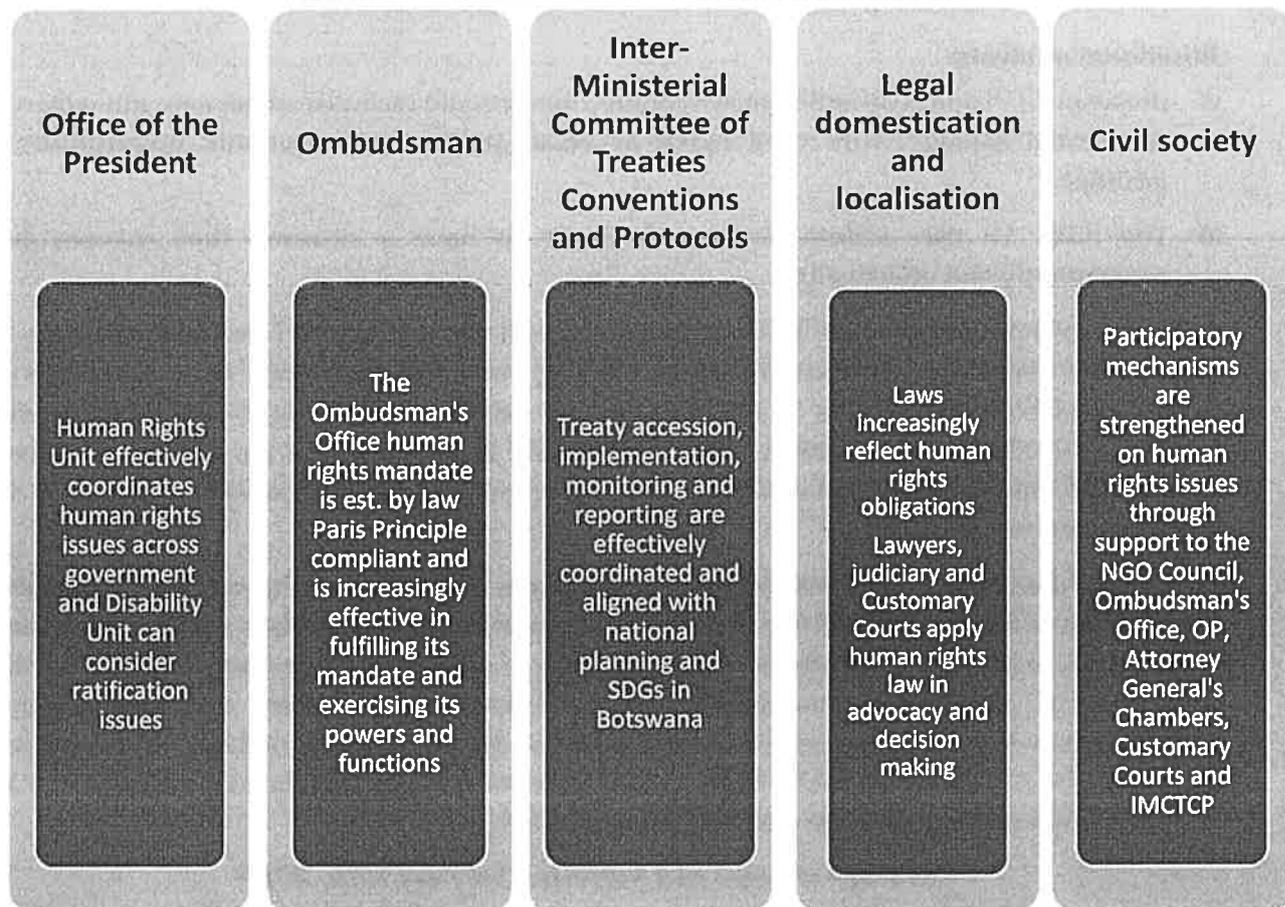
mandate also typically support government-citizen consultation on human rights issues, and the ratification of international human rights treaties. The Project seeks to continue support for the establishment and functioning of a Paris Principle - compliant Ombudsman Office that is accredited by the Global Alliance for National Human Rights Institutions (GANHRI).

31. The **Inter-Ministerial Committee on Treaties, Conventions and Protocols (IMCTCP)** has been established to support the coordination of treaty engagement and has a mandate to ensure that Botswana accedes to relevant treaties, implements, monitors and reports as required. The IMCTCP is chaired by the Ministry of International Affairs and Cooperation (MIAC) and consists of all Government Ministries and Independent Departments. The drafting committee comprises the MIAC and the Attorney General's Chambers (International and Commercial Division). Responsibility for leading the drafting of reports is divided between ministries.²⁰ This Project proposes to support the Committee to coordinate treaty reporting (including access to the required data and information), revise and maintain a common core document and engage with the simplified treaty reporting processes. The Project will also support the IMCTCP to develop mechanisms for effective use of a national treaty database as a monitoring tool, including linkages with SDG monitoring and inclusive economic growth targets. The Project will also support the Committee with advice as required on the implications of treaty ratification to support decision-making in this area.
32. Botswana's national strategies have a strong focus on **strengthening participatory mechanisms**, as noted above. The relationship between civil society and the government is of paramount importance and the CPD has indeed acknowledged that 'weak civil society organizations and lack of resources further limit the voice of vulnerable groups'.²¹ This project will offer technical support to foster effective coordination between government bodies and the civil society organizations in Botswana on issues relating to human rights, primarily through support to the NGO Council (and any other relevant civil society partner) and the Ombudsman's Office and through sensitization of Customary Courts and lawyers to legislation and case law that promotes and protects human rights in Botswana.
33. The courts have played an important role in the development of human rights jurisprudence in Botswana. Due to difficulties accessing court decisions and low awareness of the impact of these decisions by lawyers, Customary Courts and the general public, the potential impact of case law on the protection of human rights is not being fully realized. This Project will support publication of an Annotation of the Constitution's Fundamental Rights and Freedoms which will form the basis for the development of a training module in human rights for lawyers, judiciary and customary courts. This will be particularly relevant after the human rights mandate at the Ombudsman's Office becomes express and people become more aware of their legal rights.
34. The proposed results to be achieved through the Project's support for human rights is summarized in the diagram below.

²⁰ CRC Ministry of Local Government; CEDAW Ministry of Nationality, Immigration and Gender Affairs; CERD and ICCPR Office of the President; CAT Ministry of Defence, Justice and Security.

²¹ CPD, *ibid*, 5.

PILLAR 1 – HUMAN RIGHTS - ANTICIPATED RESULTS

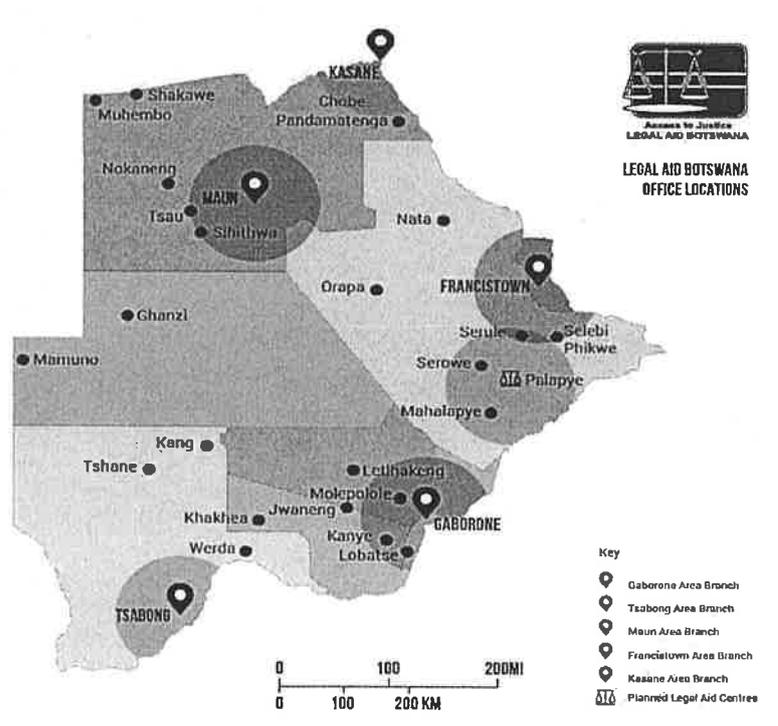


PILLAR 2: ACCESS TO JUSTICE FOR THE MOST VULNERABLE

Situational analysis

35. Botswana's Vision 2036 anticipates a country that socially includes all persons and where they are treated equally, with equal access to social, political and economic opportunities and facilities.²²
36. The NPD 11 also reflects Botswana's desire to have a citizenry that accesses justice conveniently and effectively.
37. The actions proposed by NPD 11 are consistent with the Sustainable Development Goals. Goal 16 is the realization of peace, justice and strong institutions of which access to justice is an indispensable pillar. Access to justice refers to a situation where 'rights and their correlative legal protections are recognized and incorporated in law and that the right to an effective, accessible and prompt legal remedy, including reparation, for the violation or abuse of rights be guaranteed'.²³
38. Some of the barriers to access to justice in Botswana include limited awareness by the general populace of the law, limited free access to laws, gaps in legal protections and remedies, limited access to legal aid, perceptions of miscarriages of justice in Customary Courts due to the backlog of cases²⁴ and inaccessibility of the formal justice system due to distance and remoteness of some of the regions where some of the populations reside.²⁵ The map below shows, for example, the reach of Legal Aid Botswana services and the vast geographical areas that remain without services despite having 6 offices.

Coverage of Legal Aid Botswana Services 2016 - 2017²⁶



²² Ibid, 20.

²³ The International Commission of Jurists, *Women's Access to Justice in Botswana: Identifying the Obstacles & Need for Change* (2013), 11. Geneva: Switzerland. Available on <<http://www.refworld.org/pdfid/530f05e24.pdf>> (accessed 3 September 2017).

²⁴ NDP11 8.72.

²⁵ Ditswhanelo <<http://www.ditshwanelo.org/bw/botswana.html>> accessed 10 September 2017.

²⁶ Legal Aid Botswana *Annual Report 2017*

39. Legal Aid Botswana was established in 2015 (with the support of UNDP) and has made significant progress towards supporting access to the most vulnerable by providing means-tested legal aid for civil matters (family, land, labour and contract law cases, damages and alternative dispute resolution). Legal services are provided by in-house practitioners, private lawyers and law clinics.
40. While it is widely accepted that all persons should have equal access to justice, poverty and geographical barriers present significant obstacles for access to justice in Botswana, particularly because indigent people often cannot afford transport costs. Legal aid clients are often trapped in a vicious cycle where barriers to obtaining justice reinforces their poverty and exclusion. Botswana has one of the most unequal distributions of income in the world and this inequality is reflected in the gap between those who can access fair justice and those who cannot.²⁷
41. In some cases, access to justice is limited because the law itself does not offer rights or remedies and further excludes marginalized groups and vulnerable people. As noted in the situational analysis for pillar 1 (human rights), the Constitution does not recognize or protect socio-economic rights, such as the right to the highest attainable standards of health, education, access to food and housing or to a clean environment. There are also gaps in domesticating Botswana's international human rights treaties and court decisions into legislation. This means that even where a treaty violation is evident, there may be no recourse in courts of law for remedy. Accordingly, as noted above, there is a need to continue the review of laws to ensure human rights are protected, in line with Botswana's international commitments²⁸ and national development strategies.²⁹
42. There is also a need to ensure that legislation and court decisions, which together form the law of Botswana, are widely accessible and understood, including but not limited to human rights legislation and case law.³⁰ Botswana e-laws, an online resource that publishes legislation and cases, does not digest or interpret the law and is several years out of date.
43. The Ministry of Local Government and Rural Development, Department of Tribal Administration (DTA), advises the Minister regarding the constitution, jurisdiction and membership of customary courts, the administration of a range of legislation relating to Tribal Administration mandate (nation building, preservation of culture and dispensation of justice for social harmony). Over 80% of all cases in Botswana are handled in Customary Courts.³¹ Due to the affordability, accessibility and the procedural ease of customary law in Botswana, it has been found that recourse to Customary Courts and the cultural context dictates that customary system is 'more socially acceptable than an application to an ordinary court.'³² However, despite the popularity and accessibility of the Customary Courts, the DTA has identified a range of complex and inter-related challenges facing the operations of the Customary Courts and Tribal Administration and the dispensation of justice.
44. Challenges include the appointment and capacity of decision makers and mediators. DTA advises there is no induction for the 786 *Dikgosi* or 2020 headmen of arbitration that dispense

²⁷ See <http://www.hw.undp.org/content/botswana/en/home/ourwork/democraticgovernance/successstories/Access_to_justice_botswana.html> (accessed 2 October 2017)

²⁸ Article 26 of the Vienna Convention on the Law of Treaties (1969) provides that 'every treaty in force is binding upon the parties to it and must be performed by them in good faith.' Article 27 of the Vienna Convention provides that 'A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.' Although Botswana has not ratified this Convention, the Convention has been accepted as codifying customary international law governing international agreements.

²⁹ Para 8.89 NDP11.

³⁰ See, for example, the case of *Mmusi v Ramantele* where the court applied the principle of natural justice to overcome the exceptions in sub-sections 15(4)(c) and (d) of the Constitution which permits discrimination in family matters (marriage, divorce, devolution of property) and in matters relating to customary law.

³¹ Ditshwanelo Center for Human Rights <http://www.ditshwanelo.org/bw/botswana.html>, NDP 11, 1.8.

³² The International Commission of Jurists, 30.

justice at the local levels according to 33 pieces of legislation. The level of education varies from no formal education to diploma level, making it difficult to deal with the level of legal understanding and analysis required to apply the law. Headmen of arbitration and *Dikgosi* have no training or guidelines. Anecdotal evidence suggests that in some cases they may handle matters that are outside jurisdiction (eg gender-based violence or minor criminal matters such as stock theft). While Customary Courts allow those who cannot afford the common law courts to access justice, Customary Courts face challenges in implementing the legal rights of women and children since 'customary law is often interpreted or applied in a manner which discriminates against women in the areas of legal capacity, rights within marriage, inheritance and child custody.'³³ Lack of professional development also means that legal developments in the Magistrates Court, the High Court and Court of Appeal may not filter through to the Customary Courts at all, creating a significant gap in the rule of law both in terms of the jurisprudence and volume of cases considered annually in the customary courts.

45. The second challenge in the Customary Courts is document and case management. The lack of written documentation at the lower level Customary Courts and lack of a case management system means that there is no reliable record of cases and no means to ensure consistent application of the law by decision makers in different local areas or even within the same local area. Consistent application of the law is a fundamental pillar of the rule of law and its absence can contribute to injustice (whether actual or perceived). This is resulting in a very high level of appeals to the Customary Court of Appeals which causes a burden on the system. NDP 11 recognises that delays in Customary Courts can lead to a 'miscarriage of justice'³⁴ and management of cases in these courts is a government priority.³⁵
46. Finally, review of the *Bogosi Act* is a government priority under NDP 11³⁶ and the DTA has identified areas for reform of the Act which require technical support.

Strategic response

47. This project will support **Legal Aid Botswana** to extend its reach through the establishment of mobile offices and satellite offices, gradual and controlled extension of legal aid to the more serious criminal cases in the magistrates' courts, and the extension of the electronic reach of Legal Aid Botswana, consistent with the NDP.³⁷
48. To increase access to legal aid for the poor and marginalized by overcoming geographical barriers, **Legal Aid Botswana**, with the support of UNDP, will provide direct mobile legal aid services in and around the central, western and north-western parts of Botswana. A vehicle will be converted into an office for this purpose. The mobile legal clinic will enable the indigent in remote or outlying areas to access legal aid services and circumvent the need for them to travel to legal aid offices. The mobile legal clinic will also support outreach and communications by Legal Aid Botswana on legal rights and services provided by Legal Aid Botswana.
49. Legal Aid Botswana, with the assistance and support of UNDP, will conduct intensive awareness raising campaigns in selected areas of Botswana to ensure that communities are aware of legal rights and responsibilities and the avenues for exercising and enforcing these rights, including at customary courts (although lawyers are not permitted to appear at customary courts).³⁸ This awareness campaign will be informed by a national legal needs

³³ Ibid.

³⁴ NDP11, 8.72.

³⁵ NDP 11, 8.127.

³⁶ NDP 11, 8.92.

³⁷ NDP11 8.126.

³⁸ S. 32 Customary Courts Act; The Legal Aid Guide provides that legal aid lawyers may advise people who will appear in Customary Courts and

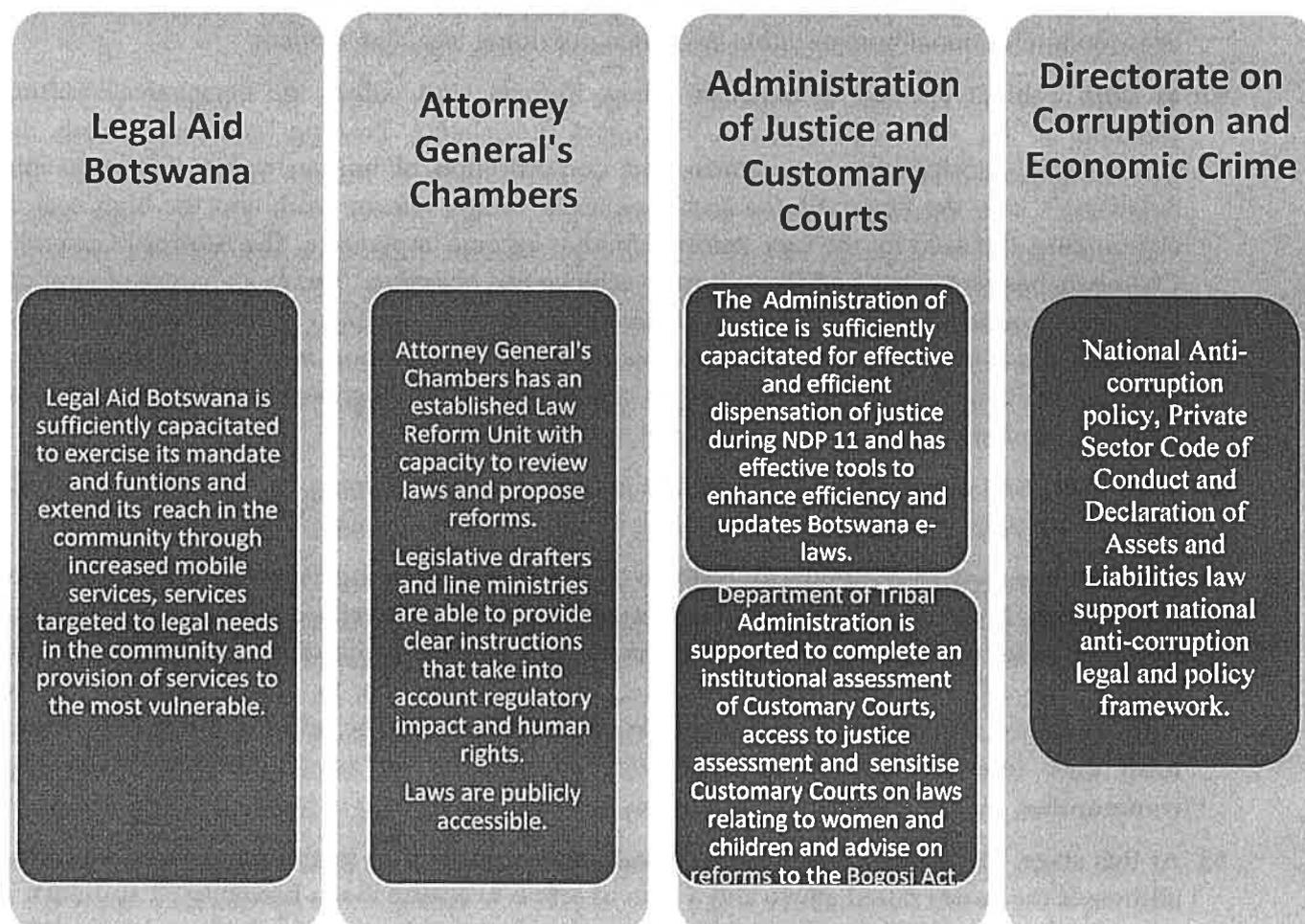
assessment to identify the key legal challenges facing Botswana, to ensure that legal aid services (including education campaigns) are well targeted and relevant to the needs of indigent Botswana.

50. The project will also support the **Office of the Ombudsman and Legal Aid Botswana** to increase **public awareness** of law, human rights, legal obligations and remedies and options for legal recourse, including establishing baselines to measure progress and mobile outreach services;
51. The Legislative Drafting Division at the **Attorney General's Chambers** is responsible for the drafting of new laws and in recent years has revised numerous laws relating to women and children, for example. The Corporate Services Division (IT Unit) at the Attorney General's Chambers is responsible for the maintenance and updating of Botswana e-laws. This Project seeks to support government's efforts by supporting the continuation of Botswana e-laws (which provides access to laws online free of charge), providing relevant technical guidance for strategies for integration of regulatory impact assessments, the incorporation of human rights standards into domestic law and building the capacity of legal advisors who prepare draft Bills to develop quality submissions and instructions to reduce the burden on drafting officers. This Project will support the publication of an Annotated Constitutional Fundamental Bill of Rights and Freedoms which will enable civil society, lawyers and the judiciary to easily access and draw on international human rights law when providing legal aid services.
52. In 2010, Cabinet decided to establish a **Law Reform Unit** within the Legislative Drafting Division at the Attorney General's Chambers (Legislative Drafting Division). With the government priorities for law reform and domestication of human rights standards into Botswana's law, the large volume and complexity of law reform work and the high cost of outsourcing, the need for the Law Reform Unit has become imperative. The Attorney General's Chambers has requested UNDP support to achieve this objective. The exact nature of support will be determined in early 2018 and the relevant concept note annexed to this project document, however it is anticipated that the scope of work will include support for the establishment of a Law Reform Unit with capacity to fulfil its general law reform mandate and discrete technical guidance on domestication of human rights into law.
53. The Project will support **Administration of Justice** to provide training on "real time reporting" and writing court judgements and updating judgments on Botswana e-laws.
54. The DTA has requested support for analysis on the challenges facing *Dikgosi* in the performance of functions, how functions should be executed and issues of welfare. There is no Code of Conduct to set consistent standards for *Dikgosi* and manage community expectations in this regard. The DTA advises *Dikgosi* are seeking modernisation to ensure that the Tribal Administration remains the cornerstone of the functioning Republic, and support to ensure they fulfil their role in engaging in community consultation on laws and policies affecting communities, building resilient communities and the dispensation of justice.
55. At this stage, the priority action for the **Customary Courts** is an institutional assessment that addresses the issues raised above and a plan of action to ensure that a harmonized approach is taken. This project will support the institutional assessment in year 1 and the assessment will be used by the DTA as the basis for engagement with *Dikgosi* and future reform efforts in Year 2 and beyond. An access to justice study will be conducted in the Customary Courts and *Dikgosi* and headmen will be sensitized on law reforms affecting women and children.

Anti-Corruption

56. The Directorate on Corruption and Economic Crime (DCEC) was established by the *Corruption and Economic Crime Act*. DCEC's mandate is to combat corruption through investigations, audits and public education.
57. Vision 2036 reiterates Botswana's zero tolerance for corruption and NDP 11 commits DCEC to enhance its capacity for corruption prevention; strengthening the legal framework; strengthening investigations, asset tracking and recovery; implementing community outreach programmes; and examining policies, systems, procedures and practices prone to corruption.
58. Following a request from DCEC, this programme will support the legal and policy framework for anti-corruption in Botswana. Specifically, the programme will support the DCEC to bed down the National Anti-Corruption Policy and the Code of Conduct for the Private Sector and the drafting of a law on the declaration of assets and liabilities, all of which will integrated the human rights based approach including gender equality.

PILLAR 2 – ACCESS TO JUSTICE ANTICIPATED RESULTS



Pillar 3: Empowerment of women and youth

Situational analysis

Women

59. As of November 2014, the representation of women in Botswana's Parliament was only 10%.³⁹ Representation at local level was slightly higher at 23%.⁴⁰ In the general elections held that year, 16 women competed against 159 for parliamentary seats and 185 women competed against 1406 men for council seats.⁴¹ According to the Mo Ibrahim Governance Index, gender is Botswana's most deteriorated sub-category, registering the second largest decline on the continent.⁴²
60. It is worth noting that women account for more than 52% of the total population, and democracy requires meaningful representation. An increased representation of women in decision-making spaces would ensure that women have the power to influence decisions and policies and inroads would be made to closing the economic and political gaps between the genders in Botswana.
61. According to the United Nations Sustainable Development Framework 2017-2021, in addition to the underrepresentation of women in political processes, gender based violence remains an issue of serious concern. According to the UNSDF:

"gender-based violence is a key concern affecting girls and women with 67% of women in Botswana reporting having experienced some form of gender-based violence in their lifetime. Cases of defilement and rape are high with 27% of victims of rape aged below 16 years according to 2012 GBV study. Pockets of child marriage and high teenage pregnancy have also been identified. Accepting attitudes towards gender-based violence persist. Victims more often than not do not report this abuse; the culture of silence and treatment of gender based violence as a private or domestic matter persists. Social pressures as well as the costs of accessing justice are cited as major issues⁴³. Reporting of cases is low (1.7%). Services for victims are inadequate and not adequately coordinated. There is limited data management on GBV and research in this area is weak. Gender based violence is also identified as one of the drivers of HIV in the country."⁴³

Youth

62. The Botswana National Youth Policy defines youth as those between the ages of 15-35.⁴⁴ According to the 2011 population census, the youth constitute about 46.5% of the population of Botswana.⁴⁵ The National Youth Policy identifies the below as some of the key challenges facing young people in the country.⁴⁶ While the NPD 11 appreciates the strides taken by the Economic Diversification Drive (EDD), it also acknowledges the need to consolidate and further the gains to 'address the structural causes of poverty including gender inequalities, improve the self-reliance of the population, and help reap the benefits of youth dividends.'⁴⁷

³⁹Keneilwe S. Mooketsane, *Gender And Political Representation In Botswana* (2014) BIDPA Policy Brief No. 13, 1. Available on https://www.bidpa.bw/img_upload/pubdoc_74.pdf (accessed 6 September 2017).

⁴⁰Keneilwe S. Mooketsane, *Gender And Political Representation In Botswana* (2014) BIDPA Policy Brief No. 13, 1. Available on https://www.bidpa.bw/img_upload/pubdoc_74.pdf (accessed 6 September 2017).

⁴¹Gomolemo Rasesigo, *Botswana: Elections- Women's Fight For Equal Representation Is Not Over* (2014) Available on <http://genderlinks.org.za/news/botswana-elections-our-fight-is-not-over-2014-10-24/> (accessed 5 September 2017).

⁴²*Mo Ibrahim Index*, 30.

⁴³United Nations Development Programme, *United Nations Sustainable Development Framework 2017-2021* (2016) 20.

⁴⁴National Youth Policy (2010).

⁴⁵2011 Population and Housing Dissemination Report Census

⁴⁶See further <http://www.youthpolicy.org/national/Botswana_2010_National_Youth_Policy.pdf> accessed 03 October 2017.

⁴⁷NPD 11, *ibid*, 114.

63. Youth unemployment is a significant challenge in Botswana. In 2016, the World Bank estimated the rate of unemployment among the youth in Botswana to be 33.3%, significantly above the global average rate of 13.6%.⁴⁸ This has partly been attributed to the over-reliance of the economy on diamond mining and the acquisition of skills that are not 'relevant' and/or 'satisfactory'.⁴⁹ Youth participation in leadership and decision making is also very low.⁵⁰ It is also noteworthy that in 2013, a staggering 7.9% of the total number of youth in Botswana were living with the HIV virus.⁵¹ The resultant effect has been high levels of poverty among the youth, especially those living in urban areas.⁵² Youth must be empowered with the right skills, opportunities and resources for Botswana to 'reap the demographic dividend'.⁵³ Economic growth that is not inclusive and does not benefit youth will only increase inequality and marginalization of youth.
64. It is important to ensure that the citizens are engaged in the discussion around empowerment and that very deliberate measures are taken towards this end. Unfortunately, in many countries the term 'engagement' is interpreted to mean mere consultation and giving information.⁵⁴ While transparency and participation in Botswana is above the global average, especially concerning budgets, the Open Budget Index has noted that Botswana's performance fell from 51% in 2010 to 47% in 2015. The Index further found that the provision of opportunities for the public to engage and participate in the budgeting process was 19% lower than the global average of 25%.⁵⁵ The absence of an access to information legal framework further frustrates the situation since both the government and the governed lack the proactive nature and initiative to give and demand information respectively. This engagement and empowerment is particularly important for the youth who are the engines of socio-economic development.
65. The NPD 11, while acknowledging the gravity of the unemployment issues among the youth in Botswana, commits to the following:
- Continued 'measures aimed at improving the investment climate for both local and foreign investors' in the hope that this 'will facilitate the fast growth of the private sector, which, in turn, is expected to result in the creation of sustainable jobs';⁵⁶ and
 - Efforts at 'resourcing initiatives that promote entrepreneurship development, with a view to stimulating economic activities, including youth and women's economic empowerment initiatives that will generate employment opportunities.'⁵⁷

In addition to these strategies, it is imperative to develop and implement measures that will increase the rate of self-employment among the youth.

66. The NPD 11 envisions⁵⁸ interventions that will inform gender-responsive and rights-based policies that will facilitate, amongst others, fairness of treatment, including in the distribution

⁴⁸ See <<https://data.worldbank.org/indicator/SL.UEM.1524.ZS>>(accessed 5 September 2017)

⁴⁹ Statement by H.E Charles T. Ntwaagae, Ambassador of the Republic of Botswana to the United Nations during the 50th session of the Commission on Population and Development (3-7 April 2017), 4. Available on <http://www.un.org/en/development/desa/population/pdf/commission/2017/country/AgendaItem3/botswana_en.pdf> (accessed 5 September 2017).

⁵⁰ See <<https://data.worldbank.org/indicator/SL.UEM.1524.ZS>> (accessed 5 September 2017).

⁵¹ Statistics Botswana, Preliminary Results Botswana Aids Impact Survey Iv (Bais Iv) (2013), 13. HIV/AIDS and associated diseases affect large numbers of youth. According to the Botswana AIDS Impact Survey of 2008, HIV and AIDS prevalence account for 25.9% of illnesses among youth.

⁵² Statement by TAPOLOGO B. BAAKILE at the 45th session of the Commission on Population and Development on 24th April 2012, 3. Available on <http://www.un.org/en/development/desa/population/pdf/commission/2012/country/Agenda%20item%204/Country%20statements/Botswana_Item4.pdf> (accessed 5 September 2017).

⁵³ Vision 2036, 21.

⁵⁴ IDASA, ed Karin Alexander & Gape Kaboyakgosi, *A Fine Balance: Assessing the Quality of Governance in Botswana* (2012), 24-25. Pretoria: IDASA.

⁵⁵ See <<http://www.internationalbudget.org/wp-content/uploads/OBS2015-CS-Botswana-English.pdf>> (accessed 5 September 2017).

⁵⁶ NDP 11, *ibid*, 21.

⁵⁷ NDP 11, *ibid*, 118.

⁵⁸ NDP 2.6, 2.36.

of development resources and opportunities between women and men. NDP 11 also looks towards intensified implementation of gender mainstreaming as a strategy for sustainable development across sectors to ensure equal and meaningful opportunities for women and men to participate in and benefit from socio-economic, cultural and political development initiatives of the country.

Strategic response

67. To this end, women's rights including gender equity and participation in political processes by women will be addressed in partnership and collaboration with UN Women. This project will:

- Continue to support the **National Gender Commission and Parliament** as well as **traditional authorities** to resolve cultural misconceptions about women;
- Support the **compilation of statistics and data on the levels of womens' participation** at all levels, to inform policies and advocacy efforts for affirmative action initiatives;
- **Sensitise the Customary Courts** to recent law reforms affecting women (and children) and facilitate the roll out of the Customary Courts' Gender Mainstreaming Action Plan;
- Support **Legal Aid Botswana** to continue outreach efforts with a particular focus on the rights of women and children and GBV issues;
- Launch and conduct **educational forums** in which the public – men and women alike - can engage and learn about the benefits of empowering and protecting women. Thus, even in the absence of legislative frameworks, the programme will seek to begin a culture of change that values the contributions of women to the country equally to those of men;
- Provide technical support to the **Ministry of Immigration, Nationality and Gender Affairs and Parliament** to strengthen the capacity of the **National Gender Commission** and related structures to implement the National Gender Policy and support **women's effective participation in political processes** including awareness raising and dialogue with traditional authorities and address gender based violence.

68. The Project will support the **Ministry of Youth Empowerment, Sport and Culture Development** to:

- Review the **National Youth Policy** and strengthen coordination within the Ministry;
- Develop and implement a **youth leadership and mentorship programme** to enhance the participation of youth in socio economic and political development;
- Develop **youth innovation hubs** and **business incubation centers** where the youth can present original business ideas and access relevant technical and financial assistance;
- Evaluate **skills and education outcomes** to match with jobs and opportunities;
- Support the **evaluation of past programmes** to guide future policy and programmes;
- Support the **new Youth Council** and its secretariat to carry out their mandates;
- Create **youth dialogues** at all levels on youth issues with a solution focus; and
- **Analyze youth behavior patterns and needs.**

PILLAR 3 - EMPOWERMENT OF WOMEN AND YOUTH ANTICIPATED RESULTS

Ministry of Youth Empowerment, Sport and Culture Development

The Ministry of Youth Empowerment, Sport and Culture Development is sufficiently capacitated to support youth empowerment and citizen engagement

Youth policies and programmes reviewed to ensure Youth are able to participate in socio-political development

Ministry of Immigration Nationality and Gender Affairs and National Gender Machinery

The Ministry of Immigration Nationality and Gender Affairs and the National Gender Machinery are capacitated to Implement the National Policy on Gender and Development

The Ministry of Immigration Nationality and Gender Affairs and the National Gender Machinery have effective tools to enhance efficiency including access to data on participation of women in all levels.

MONITORING AND EVALUATION

69. UNSDF 2017 – 2021 Pillar 3 relates to Data for Planning, Monitoring, Evaluation and Decision making. Under this pillar, UNDP and other UN agencies have committed to support implementation partners to set up M&E systems relating to funded interventions. The measurement systems will be established at all levels where UNDP is involved, from community level to sub-district level, from district level to sector level. All systems will seamlessly feed into each other, from the community level up to the National M&E system coordinated by central government.
70. In addition to this system-wide M&E support and baseline assessments for implementing partners, UNDP will support the development of several **specific M&E tools** including:
- a **tracking tool** to ensure human rights and gender mainstreaming and budgeting are included in all the four Thematic Working Groups of NDP 11;
 - a **legal needs assessment and perception survey** to identify the nature and extent of legal need and perceptions of justice in Botswana;
 - an **assessment of women’s political engagement** at all levels;
 - a **baseline assessment** for a National Human Rights Action Plan and Strategy;
 - an **institutional and access to justice assessment of Customary Courts**; and
 - enhancement of the Ministry of International Affairs and Cooperation **international agreements** database or mechanism to track UPR and treaty recommendation implementation.
71. The Project Board will guide implementation of this project, including any adjustments required to improve results or respond to changing circumstances. The Project requires biannual reporting to the Project Board under the Governance Framework to assess impact and monitor progress on results.
72. The project will have a mid-term evaluation at the end of year 2 / early year 3 and a final evaluation at the end of year 4.

Support for Coordination, Monitoring and Evaluation - Office of the President

73. In a separate initiative, UNDP is recruiting a Coordination / Monitoring and Evaluation Advisor (P4) to support the Ministry of Presidential Affairs, Governance and Public Administration to ensure that Vision 2036 Council and the coordinating agency run effectively. The Advisor will provide technical support in monitoring mechanisms to ensure integration, coordination of inter-sectoral national programmes and accountability in tracking and evaluating progress on NDP 11 and Vision 2036. The Advisor will be located at the Office of the President and report to the Permanent Secretary and the UNDP Resident Representative.
74. This Advisor will support the delivery of Output 3 which forms a discrete project under this project, but delivery on this Output will not fall under the auspices of the Project Board; the advisor’s reporting lines for Output 3 are as noted above.

PROGRAMME STRATEGY AND THEORY OF CHANGE

75. Botswana's development and transition to a high-income country calls for transformative model to reduce its vulnerability to social, economic and environmental risks, which stagnates its development and entrenches inequality. 'Vision 2036,' NDP11, international human rights standards and the sustainable development goals provide the theoretical and policy framework to address these inequalities and ensure that no one is left behind. Legal and institutional reforms will be instrumental in achieving the national strategic objectives in NPD 11 and Vision 2036.
76. Accordingly, this project will offer technical support to institutions, processes and mechanisms for a **more effective human rights and justice system in Botswana to foster inclusive growth and development especially for youth, women and its most vulnerable populations**. This project is premised on the assumption that government remains fully committed to the objectives in these strategic plans.
77. The UN upholds the norms, standards and principles of the UN Charter, the Universal Declaration of Human Rights, statutory and customary international law, international treaties, the development agenda (as outlined in the Sustainable Development Goals Declaration) and the Paris Principles. The UN, as custodian of these instruments and norms, advocates for their implementation, monitors adherence, and supports Governments in complying with their obligations. This project support on human rights and access to justice will be premised on the need to improve the lives of people on the basis of these **normative standards** to which Botswana has subscribed, as well as the Constitution, laws and customary laws of Botswana.
78. One of the challenges in Botswana is **reconciling these normative standards (to which Botswana has committed) with domestic laws including customary laws**. The integration of human rights at domestic level, as required by human rights treaties and international law, is a long-term inter-generational project that is achieved through education, awareness and incremental improvements over time. The strategy of this project will be to work with government to support, as a priority, the implementation of those standards where consensus can be reached within the project time-frame while continuing to increase awareness and strengthen the evidence basis for, and dialogue on, the remaining standards (including through the UPR and the international treaty process).
79. This Project will be implemented between 2018 – 2021. The current **President's term** will end in early 2018 and **general elections** are scheduled for 2019. While the Presidential transition and elections are expected to be peaceful, transitions of this nature generally result in machinery of government changes, personnel changes and possible policy changes that may affect the Project.
80. The Project's strategy is based on the premise that there will be continued support throughout political transitions and events for **government commitments** made to the Human Rights Council during the UPR cycles and the following **Cabinet decisions**:
- to give the Ombudsman's Office an express human rights mandate (2014);
 - to re-assign responsibility for the human rights mandate and reporting responsibility from the Ministry of Defence, Justice and Security to the Office of the President (2014); and
 - to establish a Law Reform Unit within the Legislative Drafting Division of the Attorney General's Chambers (2010).

The project has been designed to provide transitional support to the existing institutional structures for human rights (eg the Inter-Ministerial Committee on Treaties, Conventions and

Protocols chaired by MIAC) until the institutional structures required to implement Cabinet's decisions have been put in place, at which time support will shift to the newly established institution or mechanism. The Project will be guided by the Project Board if any of these government commitments or Cabinet decisions is no longer supported (including through adequate financial and human resources), or will not be implemented during the project time-frame, and adjustments to the project will be made as required.

81. The Project's strategy is based on the assumption that effective laws, policies and programmes that are consistent with international human rights and anti-corruption standards will support the promotion, protection and fulfilment of rights and inclusive development that leaves no one behind. However, the risk is that **laws and policies may not be fully implemented** and that **people may not have access to, or understand the laws and their rights** and therefore not be in a position to enforce or access them. While acknowledging the gap between law, policy and practice, this project seeks to reduce these risks by:
- supporting the development of **effective monitoring and evaluation mechanisms** for human rights (eg National Human Rights Action Plan, integrating human rights into NDP11 and SDG monitoring); and
 - supporting the Attorney-General's Chambers and Administration of Justice to **increase public access to laws** (Botswana e-laws);
 - supporting the Attorney General's Chambers (Law Reform Unit, Legislative Drafting Division) and DCEC to increasingly **harmonise laws and policies** with international normative standards (human rights and anti-corruption);
 - supporting Legal Aid Botswana and the Office of the Ombudsman to **increase awareness** of laws, rights and enforcement mechanisms (outreach); and
 - supporting line ministries and the NGO Council to ensure policies that affect the most vulnerable reflect **legal and normative standards** (youth, women and NGOs who support these groups) and that the required **institutional structures** are there to support full implementation of the programmes (eg Office of the President, Ombudsman, NGO Council, Department of Tribal Administration, MIAC).
82. The Project's strategy is also premised on the **collection of, and access to, reliable disaggregated data at the national level and the integration of human rights indicators with the national monitoring mechanisms for SDGs and NDP11**. The data will inform policy and programme design and implementation including, but not limited to human rights policies and programmes (eg the National Human Rights Action Plan, treaty and UPR recommendation implementation) and access to justice (eg the scope of Legal Aid services and resourcing of Customary Courts based on case load). Accurate baselines and a regular data collection and monitoring mechanisms will help monitor the effectiveness of policies and the extent to which they meet the needs of the intended communities. It is noted that any delays to the implementation of national monitoring and evaluation systems for the SDGs and NDP 11 will affect the timing of integration of human rights into these processes.
83. In view of the above, and in response to the expressed needs of the Government, UNDP will implement a project that reinforces the **value triangle of policy design, policy implementation and data** as Botswana moves towards 'Vision 2036'. In line with the UNSDF, which acknowledges the particular value-add of UN partners in the Botswana context, the support by UNDP will focus on **advisory and technical support** to undertake innovative legal, policy and institutional reforms and implementation as well as **monitoring and tracking progress**. UNDP will seek to **facilitate comparable lessons** sharing from its global practices to ensure design and

implementation of law, policy and programs is informed and inspired by replicable global lessons, experiences and best practices.

84. One of the challenges with technical support to government is the **turnover of staff** within the public sector. The Project Board will advise appropriate responses if key government counterparts are reassigned to other duties during the project period.
85. A second challenge is the lack of **particular skills and expertise** in country (eg human rights investigation, monitoring and litigation and law reform processes). In these cases, support will be provided for training and mentoring key personnel.
86. The project will **mainstream gender** across all its programming. **Women's rights (including gender equity and participation in political processes)** will also be addressed in partnership and collaboration with UN Women and in line with the UNCT Joint Gender Strategy. UNDP will thus continue to support the National Gender Commission and Parliament as well as traditional authorities to overcome misconceptions about women. The programme will launch and conduct educational forums in which the public – men and women alike - can engage and learn about the benefits of empowering and protecting women including preventing and addressing gender based violence. The project will support the compilation of data on the level of political engagement of women at all levels and a research study on human rights (including gender equality) in the customary courts to inform legislative frameworks and affirmative action policies for women. The project will seek to support a culture change that values the contributions of women to the country equally to that of men.
87. **Youth engagement** will focus especially on those who are likely to be left behind in the reform and development agenda. Inclusion and participation of youth will entail active dialogue where **concerns of youth are factored into decision making** rather than a passive process where the public is made aware of policies. This will be evidenced by comprehensive reports on the data and feedback from the citizen engagement forums to be conducted at the national and local levels.
88. The programme also envisions that **youth will be actively engaged in the economic, social and political reforms** and specific programmes will be implemented in their interest based on the current context. Emphasis will be placed on skills, leadership, and mentorship and on the importance of investing time and energy even on non-white collar jobs and opportunities. Thus, Botswana will have greater opportunities to benefit from the demographic dividend in the country and spur economic growth.
89. UNDP will apply the lessons learned from the evaluation of the Country Programme (2010 – 2014) which found that placing technical experts in priority line Ministries was an effective strategy and in some instances, value for money can be increased by locating the expert at UNDP to service various ministries.
90. In the last programme cycle, (UNDP, CPD 2010-2016) all partners exhibited similar challenges, namely limited experience with reporting development results and capacity constraints, particularly in relation to project implementation.

RESULTS AND PARTNERSHIPS

Having discussed the current context of the project and highlighting the anticipated areas of intervention, this section lays out the specific targets of the project and the partners who will be sought to support implementation. In addition, the section highlights what will be needed and the risks accompanying the pursuit of the goals therein. This programme is guided by the five-year United National Strategic Development Framework, (UNSDF 2017- 2021). The UNSDF has three outcomes set out below in boxes. This program is also guided by the UNDP Botswana Country Development Programme, (CPD) 2017- 2021. The CPD is derived from UNSDF. The relevant CPD outputs and indicators are included in the boxes below.

UNSDF Outcome 1: By 2021, Botswana has quality policies and programmes towards the achievement of Sustainable Development Goals targets (SDGs) and national aspirations

CPD Output and Indicator:

1. Output 2.3 Improved capacities to plan for delivery, identify and resolve implementation challenges and account for the delivery of quality interventions to deepen democracy outcomes and strengthen governance institutions
2. Existence of operational national human rights institution.

Expected Results under Outcome One

91. **By 2021 Botswana will have:**

- a. Adopted and implemented a legal and policy framework for the establishment of a human rights mandate in the Ombudsman's Office;
- b. Strengthened institutional capacity for human rights (including established an Ombudsman's Office with an operational human rights mandate);
- c. Domesticated human rights treaties and effected constitutional and legal reform;
- d. Drafted, adopted and implemented human rights laws and court procedures that are user friendly and affordable to the vulnerable;
- e. Developed and Implemented Standard Operating Procedures to enhance efficiencies in access to justice especially for the most vulnerable and marginalized;
- f. Reviewed and updated the National Youth Policy;
- g. Revised the NGO Council policy and budget to improve co-ordination between NGO Council and CSOs including on human rights and access to justice issues.

UNSDF Outcome 2: By 2021 Botswana will have fully implemented policies and programmes towards the achievement of the Sustainable Development Goals and national aspirations.

CPD Output and Indicator:

1. Output 2.3 Improved capacities to plan for delivery, identify and resolve implementation challenges and account for the delivery of quality interventions to deepen democracy outcomes and strengthen governance institutions.
2. Increase in the percentage of beneficiaries satisfied with service delivery by public institutions.

Expected Results under Outcome Two

92. By 2021 Botswana will have:

- a. Strengthened participatory mechanisms to ensure an active citizenry that can hold government to account with a focus on women and youth;
- b. Enhanced participation of civil society, private sector and citizens in promoting and protecting human rights and preventing corruption through monitoring compliance and awareness raising;
- c. Complied with its international commitments on human rights treaty reporting and have mechanisms in place to ensure ongoing reporting and effective monitoring;
- d. Increased awareness of the law, human rights, remedies (including publications and e-laws) and mechanisms where one can seek legal recourse on human rights violations and corruption including, the Directorate of Economic Crime and Corruption, the Office of Ombudsman and Legal Aid Botswana;
- e. Extended access to legal aid for the indigent especially the most vulnerable to vindicate their fundamental human rights;
- f. Strengthening case flow management and improving real time reporting processes and procedures to enhance efficiency and effectiveness;
- g. Enhanced the capacities of the legal fraternity and civil society actors to provide public interest and human rights litigation;
- h. Developed and implemented youth leadership and mentorship programmes to enhance participation of youth in socio-economic and political development;
- i. Evaluated and matched skills and education outcomes to reduce youth unemployment;
- j. Developed and rolled out youth innovation hubs and business incubation centers across the country where the youth can present original business ideas and access relevant technical and financial assistance.

Expected Results under Outcome Three

UNSDF Outcome 3: By 2021 state and non-state actors at different levels use quality and timely data to inform planning, monitoring, evaluation, decision-making and participatory accountability processes.

CPD Output and Indicator:

1. Output 3.1 Increased institutional capacities to collect, manage, analyze, package and utilize data to improve planning, monitoring, evaluation and decision-making
2. Existence of a national M&E system for the National Vision, programmes, policies and sustainable development goals.

93. By 2021:

- a. Systematic national monitoring of progress on human rights indicators and treaty recommendations implementation;
- b. SDG and human rights indicators aligned for national tracking and monitoring;
- c. National partners have increased capacity to collect and analyse disaggregated data;
- d. Human rights, UPR and treaty recommendations and indicators can be tracked in a database;

- e. National capacity to monitor progress on human rights indicators and recommendations increases;
- f. National legal needs (and youth needs) are used to target services and design appropriate programmes;
- g. Developed an interactive citizens' tracking tool/dashboard to monitor implementation of the Sustainable Development Goals; NDP 11 and Vision 2036; and
- h. Adopted and rolled out tracking tool to ensure gender mainstreaming and budgeting in all the four Thematic Working Groups of NDP 11 that can include a gender score card.

Resources Required to Achieve the Expected Results

94. The resources required are as set out in the **multi-year plan** annexed to this project document.

Partnerships

- 95. The project will pursue a strategy of partnership with relevant donors to maximize the impact of interventions. Resource mobilization will be actively undertaken to augment available resources.
- 96. Collaboration with international organisations, civil society organisations, the private sector and academic institutions will be encouraged to facilitate support, including in-kind support.

Risks and Assumptions

- 97. The key risks and assumptions are described above under 'Programme Strategy and Theory of Change.'
- 98. A detailed risk log is annexed.

South-South and Triangular Cooperation

- 99. The Government of Botswana through the Ministry of International Affairs and Cooperation (MIAC) is currently in the process of developing a SSC/TrC strategy to address ongoing challenges on SSC/TrC. These challenges include absence of a common understanding on the concept and modalities for SS & TrC in the country; limited information of the various stakeholders involved; limited information on coordinating structures and frameworks; and little data on impact or data on funds and resources. It is also exploring opportunities to strengthen its SSC and TrC engagements in the Global South and beyond.
- 100. A South-South and Triangular Cooperation Strategy for the Government of Botswana is currently being developed through the MIAC with the support of UNDP (under a separate project) to support the implementation of the SDGs, along with its costed implementation action plan and monitoring and evaluation framework.
- 101. When this Strategy is completed, this project will implement any adjustments required to align with this strategy.
- 102. In the meantime, UNDP will promote South-South and triangular cooperation into programming of operational with a view to maximize knowledge sharing to the end of realizing of national goals and internationally agreed development goals, including the Sustainable

Development Goals. Examples include regional benchmarking for the Law Reform Unit and continued benchmarking for the human rights mandate at the Ombudsman's Office.

Knowledge and communications

103. The project will include several knowledge products that will enhance human rights and access to justice in Botswana. These include an annotation of Chapter II of Botswana's Constitution (Fundamental Rights and Freedoms). This publication will consolidate all relevant legislation and case law relating to Botswana's Bill of Rights. A compilation of UPR and treaty body recommendations for Botswana will be produced in English and Setswana for use as a monitoring tool by the Office of the President's Human Rights Unit, Inter-Ministerial Committee, Ombudsman's Office and civil society. The project will also include a Setswana translation of relevant international human rights treaties.
104. The baseline data of institutional capacity, the legal needs and perception survey, the analysis of women's political engagement at all levels, the study on human rights (including gender equality) in the customary courts and the national baseline study for the National Human Rights Action Plan will all provide valuable data and information to inform law, policy and programming.
105. Legal Aid Botswana and the Ombudsman's Office will both be supported to enhance their outreach and communications strategies.
106. Knowledge will be managed according to UNDP's and implementing partner processes and procedures.
107. Regular updates of progress will be developed for the purposes of external communications, again subject to UNDP's and implementing partner processes and procedures, in line with the agreed communications strategy.

Sustainability and Scaling up

108. UNDP will focus its initiative on piloting initiatives with a strong multiplier effect, which can easily be taken over and up-scaled by Government.
109. Sustainability is supported by strong alignment with national strategic objectives and investment in supporting institutional and human capacity.

RESULTS FRAMEWORK

Intended Outcome as stated in the UNDAF/Country Programme Results and Resource Framework: By 2021 Botswana has high quality policies and programmes towards the achievement of sustainable development goals, targets and national aspirations (UNSD outcome 1). Intended Outcome as stated in Botswana's Vision 2036: By 2036 Botswana will be a moral, tolerant and inclusive society that provides opportunities for all; Botswana will be a society where all men and women have equal opportunity to actively participate in the economic, social, cultural and political development of their country. Botswana will have made relevant investments in its youthful population in order to reap the demographic dividend (Pillar 2) By 2036 Botswana will be a land of peace, freedom and progressive governance; Botswana will live in full enjoyment of their Constitutionally guaranteed rights; The three arms of government will maintain operational independence to ensure their credibility and public confidence; Bogosi will be a visible, functional and empowered institution of governance contributing to national development; civil society organisations will be partners and legitimate actors in the national development process (Pillar 4).

Outcome indicators as stated in the Country Programme Results and Resources Framework, including baseline and targets:

Applicable Output(s) from the UNDP Strategic Plan 2014 - 2017: Growth and development are inclusive and sustainable, incorporating productive capacities that create employment and livelihoods for the poor and excluded (Outcome 1)

Project title and Atlas Project Number: Support to the fulfilment of human rights and for access to justice by the most vulnerable including youth and women

EXPECTED OUTPUTS	OUTPUT INDICATORS	DATA SOURCE	BASELINE		TARGETS (by frequency of data collection)				DATA COLLECTION METHODS & RISKS	
			Value (rating scale)	Year	Year	Year	Year	Year		FINAL
Output 1: Enhanced national institutional capacity to strengthen governance and deepen access to justice, peace	1.1 Ombudsman's office has express human rights mandate, is Paris Principle compliant and operational (NDP11 8.127, SDG 16a1)	Law, reports	Not fully assigned mandate	2017	1	2	3	4	Fully assigned the mandate	DCM: Desk review Risks: Activities may cease to be national priority; Law making may be impacted by 2019 elections; budgetary constraints may delay or impact on implementation

	complaint mechanisms and legal services are increasingly accessible to women, youth and vulnerable groups.		low application							DCM: Desk review Risks: Public accountability measures may cease to be national priority; Policy making may be impacted by 2019 elections; Lack of public consultation may affect implementation of NHRAP; budgetary constraints may delay or impact on implementation.
	Output 2.3 Effective public engagement in development of laws, policies and programmes to reduce corruption and deepen access to justice, peace and security for women, youth and vulnerable groups.		low quality public participation	2017					High quality public participation	Risks: Insufficient human or financial resources to implement National Gender, Youth and NGO Council Policies; Lack of support within government for consultation on draft laws; Consultation may be impacted by 2019 election processes;
			Low accessibility	2017					High accessibility	Risks: Resources may be insufficient to roll out mobile and outreach services to desired extent.
Output 3: Increased	Output 3.1 Inter- sectoral reports		Weak capacity	2017		Weak	Moderate	Strong	Strong capacity	

<p>institutional capacities to collect, manage, analyse, package and utilize data to improve planning, monitoring, evaluation and decision-making towards sustainable development of the economy.</p>	<p>coordination, monitoring and evaluation of national programs strengthened</p>		<p>unsatisfactory level of disaggregation</p>	<p>2017</p>	<p>Unsatisfactory</p>	<p>Satisfactory with some improvements</p>	<p>Satisfactory</p>	<p>Moderately satisfactory</p>	<p>Highly satisfactory level of data disaggregation</p>	<p>Risks: Resources may be insufficient to cover entire M&E component, implementation may be delayed if national processes are delayed.</p>
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MONITORING AND EVALUATION PLANS

In accordance with UNDP's programming policies and procedures, the project will be monitored through the following monitoring and evaluation plans:

Monitoring Plan

Monitoring Activity	Purpose	Frequency	Expected Action	Partners (if joint)	Cost (if any)
Track progress results	Baselines will be done for all implementing partners in the first year. Implementing partners will collect and analyse and report to the Project Board on progress data against the results indicators in the RRF to assess the progress of the project in achieving the agreed outputs.	Quarterly, or in the frequency required for each indicator.	Slower than expected progress will be addressed by Project Board.	UNDP, All IPS	PMU
Monitor and manage risk	Identify specific risks that may threaten achievement of intended results. Identify and monitor risk management actions using a risk log. This includes monitoring measures and plans that may have been required as per UNDP's Social and Environmental Standards. Audits will be conducted in accordance with UNDP's audit policy to manage financial risk.	Quarterly	Risks are identified by project management and Project Board and actions are taken to manage risk. The risk log is actively maintained to keep track of identified risks and actions taken.	UNDP, All IPS	PMU
Learn	Knowledge, good practices and lessons will be captured regularly, as well as actively sourced from other projects and partners and integrated back into the project.	At least annually	Relevant lessons are captured by the project team and used to inform management decisions.	UNDP, All IPS	PMU
Annual Project Quality Assurance	The quality of the project will be assessed against UNDP's quality standards to identify project strengths and weaknesses	Annually	Areas of strength and weakness will be reviewed by project management and used to inform	UNDP Programme Specialist	PMU

	and to inform management decision making to improve the project.		decisions to improve project performance.	
Review and Make Course Corrections	Internal review of data and evidence from all monitoring actions to inform decision making.	At least annually	Performance data, risks, lessons and quality will be discussed by the project board and used to make course corrections.	UNDP, All IPS PMU
Project Report	A progress report will be presented to the Project Board and key stakeholders, consisting of progress data showing the results achieved against pre-defined annual targets at the output level, the annual project quality rating summary, an updated risk long with mitigation measures, and any evaluation or review reports prepared over the period.	Annually, and at the end of the project (final report)		UNDP, All IPS PMU
Project Review (Project Board)	The project's governance mechanism (i.e., project board) will hold regular project reviews to assess the performance of the project and review the Multi-Year Work Plan and Annual Work Plans to ensure realistic budgeting over the life of the project. In the project's final year, the Project Board shall hold an end-of project review to capture lessons learned and discuss opportunities for scaling up and to socialize project results and lessons learned with relevant audiences.	Annually and at the end of the Project	Any quality concerns, blockages to implementation or slower than expected progress should be discussed by the project board and management actions agreed to address the issues identified.	UNDP, All IPS, PSC PMU

Evaluation Plan

Evaluation Title	Partners (if joint)	Related Strategic Plan Output	UNDAF/CPD Outcome	Planned Completion Date	Key Evaluation Stakeholders	Cost and Source of Funding
Mid-Term Evaluation and Final evaluation	All IPS	Not Available	TBA	2019 & 2021	All IPs and beneficiaries	TBA

MULTI-YEAR WORK PLAN

Output Indicators	PLANNED ACTIVITIES	Planned Budget by Year (USD)				Implementing partner	Funding Source	PLANNED BUDGET	
		Y1	Y2	Y3	Y4			Budget Description	Amount
Output 1.1 Ombudsman's office has express human rights mandate, is Paris Principle compliant and operational (NDP11 8.127, SDG 16a1)	1.1 Support for technical review and consultations for a law to confer human rights mandate on Ombudsman's Office	25,000	x	x	x	UNDP, OP, OMB	OHCHR	Advice, consultation, publication, dissemination	25,000
	1.2 Baseline capacity assessments for all IPs	PMC	x	x	x	All IPs		Consultant	0
	1.3 Training for Ombudsman's office on human rights mandate and powers eg: Monitoring Investigation Human rights subject issues (2)	x	30,000	30,000	x	UNDP, OP, OMB		Consultant / OHCHR / NANHRI	60,000
	1.4 Ombudsman human rights related report (eg monitoring report, investigation report, annual report including human rights mandate)	x	5,000	5,000	x	UNDP, OP, OMB		Publication, dissemination	10,000
	1.5 SOPs and Guidelines on Ombudsman's human rights mandate	x	5,000	5,000	x	UNDP, OP, OMB		Technical, consultations, publications	10,000
	1.6 Application for accreditation of Ombudsman as NHRI	x	x	x	10,000	UNDP, OP, OMB		Technical, consultations	10,000
Output 1.2 Government has capacity to review and develop laws including laws to protect and promote human rights and anti-corruption (NDP11 8.9)	1.7 Support the development and implementation of a Law Reform Unit at the Attorney General's Chambers including design of structures and mandate, staffing, strategic priorities.	50,000	100,000	100,000	50,000	UNDP, AGC		Technical advisor, consultations, publications, training, benchmarking (TBA according to Annexed Concept Note)	300,000

	1.3 Legislative drafting guidelines reviewed to integrate gender, regulatory impact assessment and human rights and training on revised guidelines.	10,000	10,000	x	x				UNDP, AGC	Technical, publication, workshops	20,000
	1.9 Technical support to thematic review of laws	x	10,000	10,000	10,000	x			OHCHR, UNDP, UN agencies, AGC	Technical, consultation, workshops	20,000
	1.10 Technical support for instructing officers in line ministries to strengthen quality of instructions	x	15,000	15,000	x				UNDP, AGC	Technical, consultation, workshops	30,000
	1.11 Technical support for the legislative programme	X	PMC	PMC	x				UNDP, AGC, OP	Technical, consultation, workshops	PMC
	1.12 Technical support to DCEC to complete Code of Conduct for Private Sector	20,000	x	x					DCEC	Technical, consultations, workshops	20,000
	1.13 Technical support to DCEC to complete Assets and Liabilities Law	x	20,000	10,000	x				DCEC	Technical, consultations, workshops	30,000
	1.14 Technical support to DCEC to complete National Anti-Corruption Policy	x	20,000	10,000	x				DCEC	Technical, consultations, workshops	30,000
Output 1.3 Human Rights laws, policies and programmes are coordinated at the national level and aligned with national monitoring mechanisms	1.15 Technical support for Human Rights Unit structure, workplan and staffing	1,000	1,000	X	X				OP	Hospitality for planning days and consultations	2,000
	1.16 Technical support and broad consultations for National Human Rights Action Plan	x	PMC	PMC	PMC				UNDP, OHCHR, OP, OMB	Technical, consultations, travel	70,000
	1.17 Technical support for national human rights strategy including broad consultations	PMC	x	x	x				UNDP, OP, OMB	Technical, consultations	10,000
	1.18 Baseline assessment for National Human Rights Action Plan	PMC	x	x	x				UNDP, OHCHR, OP	M&E (SC position)	PMC
	1.19 Baseline assessment of Inter-Ministerial Committee on Treaties, Conventions and Protocols (IMC).	PMC	20,000	20,000	20,000				UNDP, OP, IMC	Technical, workshops	60,000

	1.20 Training and mentoring and support for drafting of 3 treaty reports (ICCPR, CAT, CERD) for IMC drafting committee on simplified reporting procedures (ICCPR) and Review of common Core Documents and ICERD report; training on a treaty (eg ICRPD, CAT) and civil society on shadow reporting and monitoring of recommendations.	20,000	20,000	20,000	20,000	20,000	20,000	20,000	IMC, OP, OHCHR	OHCHR	Technical, workshops	80,000
	1.21 Continued development of IMC agreements database as a monitoring tool	5,000	2,000	2,000	2,000	2,000	2,000	2,000	UNDP, MIAC, OP		Technical and consultations	11,000
	1.22 Technical support to review and update the National Youth Policy and consultations	x	PMC 10,000	x	x	x	x	x	UNDP, MYESCD		Technical and consultations	10,000
	1.23 Technical support to review the NGO Council Policy in consultation with civil society	x	50,000	10,000	x	x	x	x	MINGA		Technical and consultations	60,000
	Sub-Total for Output 1 per Annum	141,000	308,000	272,000	147,000	868,000	868,000	868,000				868,000
	Sub-Total for Output 1											868,000
Output 2.1 Improved institutional structures to support increased access to justice in the courts systems	2.1 Training for real-time reporting (Magistrate's and Higher Courts)	x	10,000	x	x	x	x	x	AOJ		Technical	10,000
	2.2 Training for writing judgements (Magistrate's and Higher Courts)	x	15,000	x	x	x	x	x	AOJ		Technical	15,000
	2.3 Institutional Assessment Department of Tribal Administration (Customary Courts system)	40,000	20,000						MLGRD		Technical, consultations, local travel	60,000
Output 2.2 Dispute resolution, complaint mechanisms and legal services are increasingly accessible to women, youth and vulnerable groups.	2.4 Ombudsman's Office complaint guidelines to include human rights and disaggregated data	x	70,000	x	x	x	x	x	OMB		Technical	70,000
	2.5 Mobile Outreach Ombudsman Office	x	50,000	10,000	10,000	10,000	10,000	10,000	OMB		Vehicle and retro-fitting	70,000

	2.6 Support piloting Mobile Legal Clinic Legal Aid Botswana	15,000	x	60,000	x	LAB		Vehicle, retrofitting	75,000
	2.7 Support finalization and launch mobilisite and application	10,000	x	x	x	LAB		Technical	10,000
	2.8 National legal needs assessment and justice perception survey	PMC 40,000	X	X	X	LAB		Technical, travel, DSA and consultants	40,000
	2.9 Access to Justice (including gender equality) in the Customary Courts study	x	30,000	X	X	DTA		Technical, travel, DSA, consultants	30,000
Output 2.3 Effective public engagement in development of laws, policies and programmes to reduce corruption and deepen access to justice, peace and security for women, youth and vulnerable groups.	2.9A Communications and outreach strategy for Ombudsman's office including developing pilot for mobile outreach services	x	20,000	20,000	20,000	OMB		Technical and consultation	60,000
	2.10 Legal awareness and outreach Legal Aid Botswana	10,000	10,000	10,000	10,000	LAB		Publications	40,000
	2.11 Training for government, legal aid, civil society and private sector lawyers on public interest and human rights litigation	x	25,000	x	x	LAB, AGC, OP		Training	25,000
	2.12 Publication: Annotated Constitution Part II Fundamental Rights and Freedoms and sensitization to government and civil society.	30,000	X	X	X	OMB		Technical, printing, dissemination and translation	30,000
	2.13 Publication: UPR and treaty body recommendations (categorized) and sensitization to government and civil society.	20,000	x	x	x	OHCHR, MIAC, OP, OMB		Technical, online dissemination and translation	20,000
	2.14 Publication: Translated simplified treaties and sensitization to government and civil society.	x	30,000	x	x	OMB		Technical, online dissemination and printing	30,000
	2.15 Botswana e-laws updated and maintained	20,000	20,000	20,000	20,000	AGC		Technical	80,000
	2.16 Technical support to the Ministry of Youth to develop and implement youth leadership and	10,000	10,000	x	x	MYESCD		Technical	20,000

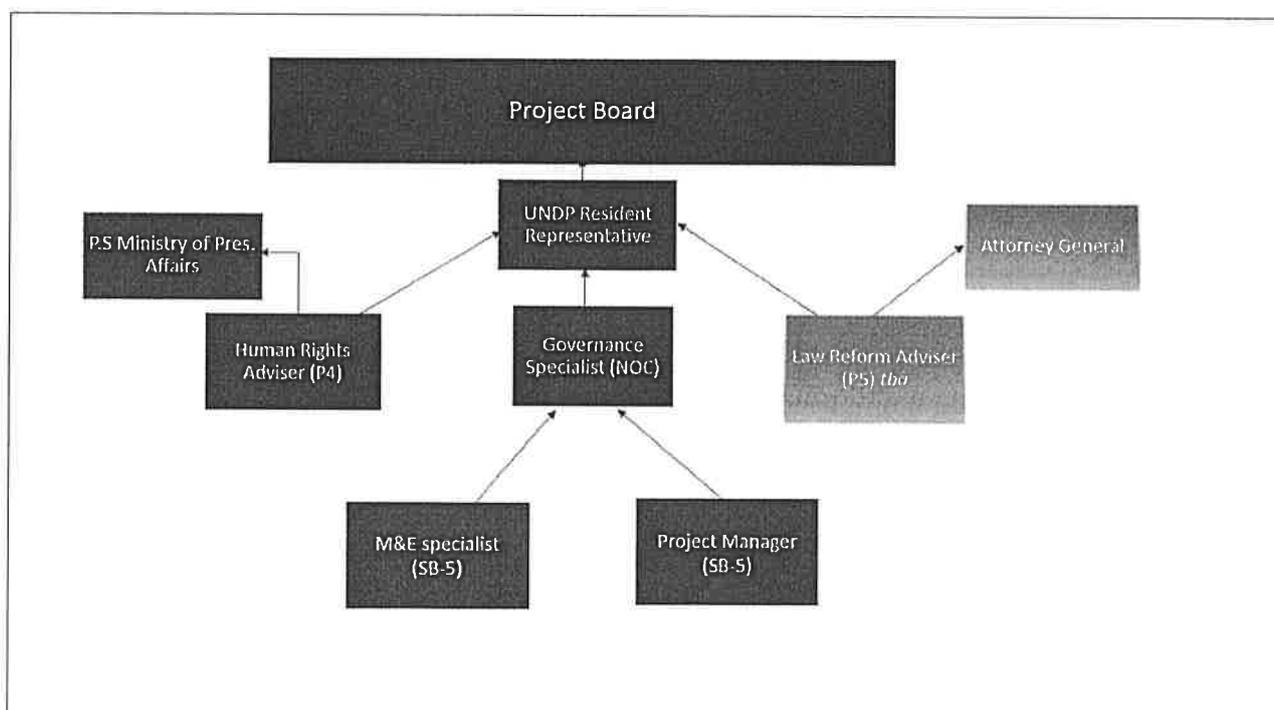
Output 3.1	Inter Sectoral coordination, monitoring and evaluation of national programs strengthened	3.1 Establishment of a national M&E system for the National Vision, programmes, policies and sustainable development goals at Sector, District and Ministerial levels which integrates human rights and gender indicators.	15,000	30,000	x	x	x	OP	Technical, conferencing, local travel & DSA	45,000
		3.2 Support analysis of the first multi-topic household survey data	10,000	x	x	x	OP	OP	Technical, & DSA	10,000
		3.3 Support production and publication of at least 2 analytical reports from the first multi-topic survey results, integrating human rights and gender.	x	30,000	x	x	OP	OP	Technical	30,000
		3.4 Support the strengthening of a data collection system and analysis of the second multi-topic survey.	x	20,000	x	x	OP	OP	Technical	20,000
		3.5 Technical support to the National Gender Commission to track gender mainstreaming and budgeting in all the four Thematic Working Groups of NDP 11	x	50,000	x	x	MINGA	MINGA	Technical	50,000
		Sub-Total for Output 3 per annum	25,000	130,000	0	0				155,000
		Sub-Total for Output 3								155,000
		Total for all Outputs								2,268,000
Evaluation		EVALUATION								
		4.1 Mid-term evaluation	x	20,000	x	x	UNDP, OP	UNDP, OP	Technical, consultation, travel	20,000
		4.2 End of project evaluation	x	x	x	20,000	UNDP, OP	UNDP, OP	Technical, consultation, travel	20,000
Staffing costs		Governance Programme Specialist (NOC)	75,723	75,723	75,723	75,723	UNDP	UNDP	Salary and on costs	302,892
		Human Rights Specialist (P4)	203,759	203,759	203,759	203,759	UNDP	UNDP	Salary and on costs	815,036
		Coordination / Monitoring and Evaluation Specialist (P4 / IC) (Output 3)	152,820	203,759	203,759	203,759	UNDP	UNDP	Salary and on costs	764,097
		Project Manager (SB-5)	50,000	60,000	60,000	60,000	UNDP	UNDP	Salary and on costs	230,000

	M&E advisor (SB-5) (Outputs 1 & 2)	50,000	x	x	x	x		UNDP	All M&E baselines, systems for Outputs 1 & 2	50,000
	Communications (NOB) (10%)	8,778	8,778	8,778	8,778	8,778		UNDP	Salary and on costs	35,112
	Driver (10%)	1,294	1,294	1,294	1,294	1,294		UNDP	Salary and on costs	5,176
Operational costs	Project vehicle	32,000	2,000	2,000	2,000	2,000		UNDP	Vehicle, fuel and maintenance	38,000
	Travel	15,000	15,000	15,000	15,000	15,000		UNDP	Travel (local and international)	60,000
	Office equipment and supplies	12,000	3,000	3,000	3,000	3,000		UNDP	Laptops, screens and printers, consumables	21,000
	Communications	3,600	3,600	3,600	3,600	3,600		UNDP	Mobile / data x 5	14,400
		604,974	596,913	576,913	596,913	596,913				2,375,713
GRAND TOTAL	Outputs 1 – 3 and project management									4,643,713

GOVERNANCE AND MANAGEMENT ARRANGEMENTS

110. A Project Board will be established to ensure overall management and supervision of the project including the approval of annual work plan (AWP).
111. The Board will meet at the inception of the project and bi-annually to review reported progress and close the project.
112. The Project Board meetings will be co-chaired by the Permanent Secretary of the Ministry of Presidential Affairs, Governance and Public Administration and the UNDP Resident Representative.
113. The Project Board members are the Administration of Justice; Attorney Generals Chambers; Directorate of Economic Crime and Corruption; Legal Aid Botswana; Ministry of Immigration, Nationality and Gender Affairs; Ministry of International Affairs and Cooperation; Ministry of Local Government and Rural Development; Ministry of Presidential Affairs, Governance and Public Administration; Ministry of Youth Empowerment, Sport and Culture Development; Office of the Ombudsman (OMB); Parliament; the NGO-Council and the United Nations Development Programme project team. The Project Board may approve changes to the membership of the Project Board to reflect changing circumstances.
114. The Project Board is responsible for general project oversight and may authorize variation to, or deviation from, agreed activities to reflect changing circumstances on the ground or to mitigate emerging risks. The Project Board is responsible for providing technical guidance and supports performance improvement issues.
115. The Ministry of Presidential Affairs, Governance and Public Administration will be tasked with overall coordination of the project, as the lead Ministry on Governance in Botswana. This governance structure does not however envisage that other ministries and implementing partners will be accountable to the lead Ministry for their results; implementing partners will report to the Project Board.
116. The UNDP project team will consist of a Programme Specialist, Project Manager, Monitoring and Evaluation Specialist, Human Rights Advisor and Law Reform Advisor (anticipated) and support staff.
117. The Programme Specialist NO-C provides technical support on the Access to Justice and Anti-Corruption thematic areas and will ensure overall effective implementation of interventions including monitoring risks, convening regular project coordination meetings and ensuring secretariat functions are provided for the Project Board. The Programme Specialist reports directly to the UNDP Resident Representative.
118. The Project will be supported by a Project Manager (SB-5) (to be recruited) who will provide technical support to the Youth and Gender thematic areas and project management support to outputs 1 and 2. The Project Manager will report to the Programme Specialist with matrix reporting to Advisors on relevant issues.

119. A Monitoring and Evaluation Specialist (SB-5) will be recruited for the first year of the project to conduct baseline assessments for all IPs, support the institutional assessment for the customary courts and the national agreements database, the national legal needs assessment and the baseline study for the National Human Rights Action Plan and Strategy and support IPs to monitor their project results. The specialist will also support the identification of relevant human rights indicators for use in the national agreements database and integration in national strategy and SDG monitoring. The Monitoring and Evaluation Specialist will report to the Programme Specialist with matrix reporting to Advisors on relevant issues. This role is distinct from the Coordination, Monitoring and Evaluation Advisor (P4) who will implement Output 3 directly with the Office of the President.
120. The Human Rights Advisor (P4) will provide technical advisory services on human rights and related elements of the project and support national capacity building to enhance the protection and promotion of human rights in Botswana. The Human Rights Advisor will provide technical support for law reform elements of the project pending appointment of the Law Reform Advisor. This position reports directly to the UNDP Resident Representative and to the Permanent Secretary of the Ministry of Presidential Affairs, Governance and Public Administration.
121. The Law Reform Advisor (P5) is an anticipated position, to be recruited, which is intended to spearhead the initiation and implementation of the Law Reform Unit at the Attorney General's Chambers. This position is likely to report directly to the UNDP Resident Representative and to the Attorney-General. Details are subject to a full concept to be developed by the Attorney General's Chambers and UNDP in early 2018, which will be annexed to this project document. The anticipated position has been costed under Output 1 of the multi-year plan, pending finalization of the nature of support to be provided.
122. The Project will have additional support from UNDP including communications specialist (10%) and driver (10%), programme associate (25%), office space and office consumables, all of which are detailed in the budget.



PROJECT MANAGEMENT

123. This project will be implemented via **National Implementation Modality (NIM)** however, where expedient, procurement of assets and selection of implementing partners and activities will be conducted via the UNDP Programme and Procurement Services in line with the organization's rules and regulations, under the rubric of the value for money principle. The management of project funds will be carried out according to UNDP financial rules and regulations against the budget presented in this project document.
124. **Baseline assessments** for each implementing partner will be conducted in the first year and a work plan based on this assessment will be developed and agreed with each implementing partner. These baseline assessments will inform the capacity building strategies and provide the basis for subsequent impact evaluation.
125. The Terminal Evaluation of the UNDP Botswana Country Programme (2010 – 2014) confirmed the value and impact of deploying technical advisors to line ministries. The evaluation recommended the development of **an explicit strategy for the transfer of technical skills** from advisor to counterparts (eg mentoring) to improve effectiveness. Since the project's focus is on the provision of technical and advisory services, a capacity development strategy will be critical to the success and sustainability of the project.
126. A **capacity development strategy** will be developed to guide the work of advisors along the following principles:
- Recognition that capacity development is a long-term process and motivation is a key driver of change;
 - Links must be made between the enabling environment, organizational capacity and individual capacity;
 - Emphasis on the use of national systems, national plans and expertise. If national systems are not strong enough, they should be reformed and strengthened, not bypassed;
 - Moving beyond individual skills and a focus on training to address broader questions of institutional change, leadership, empowerment and public participation;
 - International and regional comparative experience is relevant (particularly for south-south cooperation) but the strategy must be firmly grounded in the Botswana context;
 - The strategy must link to broader reforms in the public sector and beyond;
 - Capacity is measured using indicators, case evidence and analyses of quantitative and qualitative data to ensure that objective assessments are made of capacity assets and needs and progress achieved;
 - Unplanned consequences may arise from capacity development and these must also be tracked and evaluated.
127. The Terminal Evaluation of the UNDP Botswana Country Programme (2010 – 2014) considered that greater value for money may be gained by **co-locating technical advisors** at UNDP offices and rotating between line ministries, rather than deploying advisors for extended periods in one line ministry. This Project will adopt both recommendations as required and agreed by the Project Board, to build on lessons learned and increase effectiveness.

LEGAL CONTEXT

Option a. Where the country has signed the Standard Basic Assistance Agreement (SBAA)

This project document shall be the instrument referred to as such in Article 1 of the Standard Basic Assistance Agreement between the Government of Botswana and UNDP. All references in the SBAA to “Executing Agency” shall be deemed to refer to “Implementing Partner.”

This project will be implemented by the “Implementing Partners” stated at page 1 of this Project Document in accordance with its financial regulations, rules, practices and procedures only to the extent that they do not contravene the principles of the Financial Regulations and Rules of UNDP. Where the financial governance of an Implementing Partner does not provide the required guidance to ensure best value for money, fairness, integrity, transparency, and effective international competition, the financial governance of UNDP shall apply.

RISK MANAGEMENT

Option a. Government Entity (NIM)

1. Consistent with the Article III of the SBAA *[or the Supplemental Provisions to the Project Document]*, the responsibility for the safety and security of the Implementing Partner and its personnel and property, and of UNDP’s property in the Implementing Partner’s custody, rests with the Implementing Partner. To this end, the Implementing Partner shall:
 - a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the project is being carried;
 - b) assume all risks and liabilities related to the Implementing Partner’s security, and the full implementation of the security plan.
2. UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of the Implementing Partner’s obligations under this Project Document.
3. The Implementing Partner agrees to undertake all reasonable efforts to ensure that no UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml.
4. Social and environmental sustainability will be enhanced through application of the UNDP Social and Environmental Standards (<http://www.undp.org/ses>) and related Accountability Mechanism (<http://www.undp.org/secu-srm>).
5. The Implementing Partner shall: (a) conduct project and programme-related activities in a manner consistent with the UNDP Social and Environmental Standards, (b) implement any management or mitigation plan prepared for the project or programme to comply with such standards, and (c) engage in a constructive and timely manner to address any concerns and complaints raised through the Accountability Mechanism. UNDP will seek to ensure that communities and other project stakeholders are informed of and have access to the Accountability Mechanism.

6. All signatories to the Project Document shall cooperate in good faith with any exercise to evaluate any programme or project-related commitments or compliance with the UNDP Social and Environmental Standards. This includes providing access to project sites, relevant personnel, information, and documentation.
7. The Implementing Partner will take appropriate steps to prevent misuse of funds, fraud or corruption, by its officials, consultants, responsible parties, subcontractors and sub-recipients in implementing the project or using UNDP funds. The Implementing Partner will ensure that its financial management, anti-corruption and anti-fraud policies are in place and enforced for all funding received from or through UNDP.
8. The requirements of the following documents, then in force at the time of signature of the Project Document, apply to the Implementing Partner: (a)UNDP Policy on Fraud and other Corrupt Practices and (b)UNDP Office of Audit and Investigations Investigation Guidelines. The Implementing Partner agrees to the requirements of the above documents, which are an integral part of this Project Document and are available online at www.undp.org.
9. In the event that an investigation is required, UNDP has the obligation to conduct investigations relating to any aspect of UNDP projects and programmes. The Implementing Partner shall provide its full cooperation, including making available personnel, relevant documentation, and granting access to the Implementing Partner's (and its consultants', responsible parties', subcontractors' and sub-recipients') premises, for such purposes at reasonable times and on reasonable conditions as may be required for the purpose of an investigation. Should there be a limitation in meeting this obligation, UNDP shall consult with the Implementing Partner to find a solution.
10. The signatories to this Project Document will promptly inform one another in case of any incidence of inappropriate use of funds, or credible allegation of fraud or corruption with due confidentiality.

Where the Implementing Partner becomes aware that a UNDP project or activity, in whole or in part, is the focus of investigation for alleged fraud/corruption, the Implementing Partner will inform the UNDP Resident Representative/Head of Office, who will promptly inform UNDP's Office of Audit and Investigations (OAI). The Implementing Partner shall provide regular updates to the head of UNDP in the country and OAI of the status of, and actions relating to, such investigation.

11. *Choose one of the three following options:*

Option 3: UNDP shall be entitled to a refund from the Implementing Partner of any funds provided that have been used inappropriately, including through fraud or corruption, or otherwise paid other than in accordance with the terms and conditions of the Project Document. Such amount may be deducted by UNDP from any payment due to the Implementing Partner under this or any other agreement.

Where such funds have not been refunded to UNDP, the Implementing Partner agrees that donors to UNDP (including the Government) whose funding is the source, in whole or in part, of the funds for the activities under this Project Document, may seek recourse to the Implementing Partner for the recovery of any funds determined by UNDP to have been used inappropriately, including through fraud or corruption, or otherwise paid other than in accordance with the terms and conditions of the Project Document.

Note: The term "Project Document" as used in this clause shall be deemed to include any relevant subsidiary agreement further to the Project Document, including those with responsible parties, subcontractors and sub-recipients.

12. Each contract issued by the Implementing Partner in connection with this Project Document shall include a provision representing that no fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the proposal, have been given, received, or promised in connection with the selection process or in contract execution, and that the recipient of funds from the Implementing Partner shall cooperate with any and all investigations and post-payment audits.
13. Should UNDP refer to the relevant national authorities for appropriate legal action any alleged wrongdoing relating to the project, the Government will ensure that the relevant national authorities shall actively investigate the same and take appropriate legal action against all individuals found to have participated in the wrongdoing, recover and return any recovered funds to UNDP.
14. The Implementing Partner shall ensure that all of its obligations set forth under this section entitled "Risk Management" are passed on to each responsible party, subcontractor and sub-recipient and that all the clauses under this section entitled "Risk Management Standard Clauses" are included, *mutatis mutandis*, in all sub-contracts or sub-agreements entered into further to this Project Document.

LIST OF ANNEXES

ANNEX 1: Social and Environmental Screening Template

ANNEX 2: Draft Terms of Reference Project Board

ANNEX 3: Terms of Reference Programme Specialist

ANNEX 4: Terms of Reference Human Rights Specialist

ANNEX 5: Project Risk Analysis and Risk Log

ANNEX 6: Project Quality Assurance

ANNEX 1: SOCIAL AND ENVIRONMENTAL SCREENING TEMPLATE

The completed template, which constitutes the Social and Environmental Screening Report, must be included as an annex to the Project Document. Please refer to the Social and Environmental Screening Procedure and Toolkit for guidance on how to answer the 6 questions.

Project Information

Project Information	
1. Project Title	Support to the fulfilment of human rights for access to justice by women and youth
2. Project Number	00104658
3. Location (Global/Region/Country)	BOTSWANA

Part A. Integrating Overarching Principles to Strengthen Social and Environmental Sustainability

QUESTION 1: How Does the Project Integrate the Overarching Principles in order to Strengthen Social and Environmental Sustainability?

Briefly describe in the space below how the Project mainstreams the human-rights based approach

The Project includes:

- measures to assist the government to realise (respect, protect and fulfil) human rights under international law;
- Enhances the availability, accessibility and quality of benefits and services for potentially marginalized individuals and groups, and increases their inclusion in decision-making processes that may impact them;

Supports meaningful participation and inclusion of all stakeholders, in particular marginalized individuals and groups, in processes that may impact them including design, implementation and monitoring of the project, e.g. through capacity building, creating an enabling environment for participation

Briefly describe in the space below how the Project is likely to improve gender equality and women's empowerment

The Project design:

- Benefits from gender experts and gender analysis
- Applies a meaningful participatory process for engaging women's voices
- Includes analysis of gender inequalities, in the Project's rationale section, and makes clear how UNDP will promote changes in relation to gender equality

- Incorporates age and sex-disaggregated data and gender statistics and specific, measurable indicators related to gender equality and women’s empowerment
- Identifies cultural, social, religious, and other constraints on women’s potential participation and strategies to overcome them
- Scores 3 and/or 2 as per output as per the ATLAS Gender Marker

Briefly describe in the space below how the Project mainstreams environmental sustainability

Part B. Identifying and Managing Social and Environmental Risks

QUESTION 2: What are the Potential Social and Environmental Risks? Note: Describe briefly potential social and environmental risks identified in Attachment 1 – Risk Screening Checklist (based on any “Yes” responses). If no risks have been identified in Attachment 1 then note “No Risks Identified” and skip to Question 4 and Select “Low Risk”. Questions 5 and 6 not required for Low Risk Projects.		QUESTION 3: What is the level of significance of the potential social and environmental risks? Note: Respond to Questions 4 and 5 below before proceeding to Question 6		QUESTION 6: What social and environmental assessment and management measures have been conducted and/or are required to address potential risks (for Risks with Moderate and High Significance)?
<i>Risk Description</i>	<i>Impact and Probability (1-5)</i>	<i>Significance (Low, Moderate, High)</i>	<i>Comments</i>	<i>Description of assessment and management measures as reflected in the Project design. If ESIA or SESA is required note that the assessment should consider all potential impacts and risks.</i>
Change in presidency may further reduce numbers of women in politics	3	low		Project implementation to include advocacy on women’s participation in politics in conjunction with UN WOMEN. Gender Machinery to be sufficiently capacitated.
Change of Presidency (2018) or elections (2019) result in change of government policy on key issues	2	Moderate		Project Board to monitor and advise on intention to implement / timing of relevant UPR commitments and Cabinet decisions and

				necessary revisions to work plans.
Civil society does not support or engage with human rights initiatives or support law reform to harmonise laws with human rights.	2	Moderate		NGO Council as implementing partner to garner support of civil society. Support to Ombudsman Office and OP Human Rights Unit and AGC on communications and consultation strategy to support engagement with civil society.
Delays within government in implementing Cabinet decisions (Law Reform Unit, OP human rights coordination - Human Rights Unit, Ombudsman's human rights mandate)	2	Moderate		Project Board and IPs to regularly update UNDP project team on delays being experienced to allow opportunity for reprioritization and revision of work plan.
QUESTION 4: What is the overall Project risk categorization?				
Select one (see SESP for guidance)			Comments	
<i>Low Risk</i>			<input checked="" type="checkbox"/>	
<i>Moderate Risk</i>			<input type="checkbox"/>	
<i>High Risk</i>			<input type="checkbox"/>	
QUESTION 5: Based on the identified risks and risk categorization, what requirements of the SES are relevant?				
Check all that apply			Comments	
<i>Principle 1: Human Rights</i>			<input checked="" type="checkbox"/>	
<i>Principle 2: Gender Equality and Women's Empowerment</i>			<input checked="" type="checkbox"/>	
<i>1. Biodiversity Conservation and Natural Resource Management</i>			<input type="checkbox"/>	
<i>2. Climate Change Mitigation and Adaptation</i>			<input type="checkbox"/>	
<i>3. Community Health, Safety and Working Conditions</i>			<input type="checkbox"/>	
<i>4. Cultural Heritage</i>			<input type="checkbox"/>	
<i>5. Displacement and Resettlement</i>			<input type="checkbox"/>	
<i>6. Indigenous Peoples</i>			<input type="checkbox"/>	
<i>7. Pollution Prevention and Resource Efficiency</i>			<input type="checkbox"/>	

Final Sign Off

<i>Signature</i>	<i>Date</i>	<i>Description</i>
QA Assessor		UNDP staff member responsible for the Project, typically a UNDP Programme Officer. Final signature confirms they have “checked” to ensure that the SESP is adequately conducted.
QA Approver		UNDP senior manager, typically the UNDP Deputy Country Director (DCD), Country Director (CD), Deputy Resident Representative (DRR), or Resident Representative (RR). The QA Approver cannot also be the QA Assessor. Final signature confirms they have “cleared” the SESP prior to submittal to the PAC.
PAC Chair		UNDP chair of the PAC. In some cases PAC Chair may also be the QA Approver. Final signature confirms that the SESP was considered as part of the project appraisal and considered in recommendations of the PAC.

SESP Attachment 1. Social and Environmental Risk Screening Checklist

Checklist Potential Social and Environmental Risks		
Principles 1: Human Rights		Answer (Yes/No)
1.	Could the Project lead to adverse impacts on enjoyment of the human rights (civil, political, economic, social or cultural) of the affected population and particularly of marginalized groups?	NO
2.	Is there a likelihood that the Project would have inequitable or discriminatory adverse impacts on affected populations, particularly people living in poverty or marginalized or excluded individuals or groups? ⁵⁹	NO
3.	Could the Project potentially restrict availability, quality of and access to resources or basic services, in particular to marginalized individuals or groups?	NO
4.	Is there a likelihood that the Project would exclude any potentially affected stakeholders, in particular marginalized groups, from fully participating in decisions that may affect them?	NO
5.	Is there a risk that duty-bearers do not have the capacity to meet their obligations in the Project?	NO
6.	Is there a risk that rights-holders do not have the capacity to claim their rights?	NO
7.	Have local communities or individuals, given the opportunity, raised human rights concerns regarding the Project during the stakeholder engagement process?	NO
8.	Is there a risk that the Project would exacerbate conflicts among and/or the risk of violence to project-affected communities and individuals?	NO
Principle 2: Gender Equality and Women's Empowerment		
1.	Is there a likelihood that the proposed Project would have adverse impacts on gender equality and/or the situation of women and girls?	NO
2.	Would the Project potentially reproduce discriminations against women based on gender, especially regarding participation in design and implementation or access to opportunities and benefits?	NO
3.	Have women's groups/leaders raised gender equality concerns regarding the Project during the stakeholder engagement process and has this been included in the overall Project proposal and in the risk assessment?	YES
4.	Would the Project potentially limit women's ability to use, develop and protect natural resources, taking into account different roles and positions of women and men in accessing environmental goods and services? <i>For example, activities that could lead to natural resources degradation or depletion in communities who depend on these resources for their livelihoods and well being</i>	NO
Principle 3: Environmental Sustainability: Screening questions regarding environmental risks are encompassed by the specific Standard-related questions below		
Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management		
1.1	Would the Project potentially cause adverse impacts to habitats (e.g. modified, natural, and critical habitats) and/or ecosystems and ecosystem services? <i>For example, through habitat loss, conversion or degradation, fragmentation, hydrological changes</i>	NO
1.2	Are any Project activities proposed within or adjacent to critical habitats and/or environmentally sensitive areas, including legally protected areas (e.g. nature reserve, national park), areas proposed for protection, or recognized as such by authoritative sources and/or indigenous peoples or local communities?	NO
1.3	Does the Project involve changes to the use of lands and resources that may have adverse impacts on habitats, ecosystems, and/or livelihoods? (Note: if restrictions and/or limitations of access to lands would apply, refer to Standard 5)	NO
1.4	Would Project activities pose risks to endangered species?	NO

⁵⁹ Prohibited grounds of discrimination include race, ethnicity, gender, age, language, disability, sexual orientation, religion, political or other opinion, national or social or geographical origin, property, birth or other status including as an indigenous person or as a member of a minority. References to "women and men" or similar is understood to include women and men, boys and girls, and other groups discriminated against based on their gender identities, such as transgender people and transsexuals.

1.5	Would the Project pose a risk of introducing invasive alien species?	NO
1.6	Does the Project involve harvesting of natural forests, plantation development, or reforestation?	NO
1.7	Does the Project involve the production and/or harvesting of fish populations or other aquatic species?	NO
1.8	Does the Project involve significant extraction, diversion or containment of surface or ground water? <i>For example, construction of dams, reservoirs, river basin developments, groundwater extraction</i>	NO
1.9	Does the Project involve utilization of genetic resources? (e.g. collection and/or harvesting, commercial development)	NO
1.10	Would the Project generate potential adverse transboundary or global environmental concerns?	NO
1.11	Would the Project result in secondary or consequential development activities which could lead to adverse social and environmental effects, or would it generate cumulative impacts with other known existing or planned activities in the area? <i>For example, a new road through forested lands will generate direct environmental and social impacts (e.g. felling of trees, earthworks, potential relocation of inhabitants). The new road may also facilitate encroachment on lands by illegal settlers or generate unplanned commercial development along the route, potentially in sensitive areas. These are indirect, secondary, or induced impacts that need to be considered. Also, if similar developments in the same forested area are planned, then cumulative impacts of multiple activities (even if not part of the same Project) need to be considered.</i>	NO
Standard 2: Climate Change Mitigation and Adaptation		
2.1	Will the proposed Project result in significant ⁶⁰ greenhouse gas emissions or may exacerbate climate change?	NO
2.2	Would the potential outcomes of the Project be sensitive or vulnerable to potential impacts of climate change?	NO
2.3	Is the proposed Project likely to directly or indirectly increase social and environmental vulnerability to climate change now or in the future (also known as maladaptive practices)? <i>For example, changes to land use planning may encourage further development of floodplains, potentially increasing the population's vulnerability to climate change, specifically flooding</i>	NO
Standard 3: Community Health, Safety and Working Conditions		
3.1	Would elements of Project construction, operation, or decommissioning pose potential safety risks to local communities?	NO
3.2	Would the Project pose potential risks to community health and safety due to the transport, storage, and use and/or disposal of hazardous or dangerous materials (e.g. explosives, fuel and other chemicals during construction and operation)?	NO
3.3	Does the Project involve large-scale infrastructure development (e.g. dams, roads, buildings)?	NO
3.4	Would failure of structural elements of the Project pose risks to communities? (e.g. collapse of buildings or infrastructure)	NO
3.5	Would the proposed Project be susceptible to or lead to increased vulnerability to earthquakes, subsidence, landslides, erosion, flooding or extreme climatic conditions?	NO
3.6	Would the Project result in potential increased health risks (e.g. from water-borne or other vector-borne diseases or communicable infections such as HIV/AIDS)?	NO
3.7	Does the Project pose potential risks and vulnerabilities related to occupational health and safety due to physical, chemical, biological, and radiological hazards during Project construction, operation, or decommissioning?	NO
3.8	Does the Project involve support for employment or livelihoods that may fail to comply with national and international labor standards (i.e. principles and standards of ILO fundamental conventions)?	NO
3.9	Does the Project engage security personnel that may pose a potential risk to health and safety of communities and/or individuals (e.g. due to a lack of adequate training or accountability)?	NO
Standard 4: Cultural Heritage		
4.1	Will the proposed Project result in interventions that would potentially adversely impact sites, structures, or objects with historical, cultural, artistic, traditional or religious values or intangible forms of culture (e.g. knowledge, innovations, practices)? (Note: Projects intended to protect and conserve Cultural Heritage may also have inadvertent adverse impacts)	NO

⁶⁰ In regards to CO₂, 'significant emissions' corresponds generally to more than 25,000 tons per year (from both direct and indirect sources). [The Guidance Note on Climate Change Mitigation and Adaptation provides additional information on GHG emissions.]

4.2	Does the Project propose utilizing tangible and/or intangible forms of cultural heritage for commercial or other purposes?	NO
Standard 5: Displacement and Resettlement		
5.1	Would the Project potentially involve temporary or permanent and full or partial physical displacement?	NO
5.2	Would the Project possibly result in economic displacement (e.g. loss of assets or access to resources due to land acquisition or access restrictions – even in the absence of physical relocation)?	NO
5.3	Is there a risk that the Project would lead to forced evictions? ⁶¹	NO
5.4	Would the proposed Project possibly affect land tenure arrangements and/or community based property rights/customary rights to land, territories and/or resources?	NO
Standard 6: Indigenous Peoples		
6.1	Are indigenous peoples present in the Project area (including Project area of influence)?	NO
6.2	Is it likely that the Project or portions of the Project will be located on lands and territories claimed by indigenous peoples?	NO
6.3	Would the proposed Project potentially affect the human rights, lands, natural resources, territories, and traditional livelihoods of indigenous peoples (regardless of whether indigenous peoples possess the legal titles to such areas, whether the Project is located within or outside of the lands and territories inhabited by the affected peoples, or whether the indigenous peoples are recognized as indigenous peoples by the country in question)? <i>If the answer to the screening question 6.3 is “yes” the potential risk impacts are considered potentially severe and/or critical and the Project would be categorized as either Moderate or High Risk.</i>	NO
6.4	Has there been an absence of culturally appropriate consultations carried out with the objective of achieving FPIC on matters that may affect the rights and interests, lands, resources, territories and traditional livelihoods of the indigenous peoples concerned?	NO
6.5	Does the proposed Project involve the utilization and/or commercial development of natural resources on lands and territories claimed by indigenous peoples?	NO
6.6	Is there a potential for forced eviction or the whole or partial physical or economic displacement of indigenous peoples, including through access restrictions to lands, territories, and resources?	NO
6.7	Would the Project adversely affect the development priorities of indigenous peoples as defined by them?	NO
6.8	Would the Project potentially affect the physical and cultural survival of indigenous peoples?	NO
6.9	Would the Project potentially affect the Cultural Heritage of indigenous peoples, including through the commercialization or use of their traditional knowledge and practices?	NO
Standard 7: Pollution Prevention and Resource Efficiency		
7.1	Would the Project potentially result in the release of pollutants to the environment due to routine or non-routine circumstances with the potential for adverse local, regional, and/or transboundary impacts?	NO
7.2	Would the proposed Project potentially result in the generation of waste (both hazardous and non-hazardous)?	NO
7.3	Will the proposed Project potentially involve the manufacture, trade, release, and/or use of hazardous chemicals and/or materials? Does the Project propose use of chemicals or materials subject to international bans or phase-outs? <i>For example, DDT, PCBs and other chemicals listed in international conventions such as the Stockholm Conventions on Persistent Organic Pollutants or the Montreal Protocol</i>	NO
7.4	Will the proposed Project involve the application of pesticides that may have a negative effect on the environment or human health?	NO
7.5	Does the Project include activities that require significant consumption of raw materials, energy, and/or water?	NO

⁶¹ Forced evictions include acts and/or omissions involving the coerced or involuntary displacement of individuals, groups, or communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating the ability of an individual, group, or community to reside or work in a particular dwelling, residence, or location without the provision of, and access to, appropriate forms of legal or other protections.

ANNEX 2: PROJECT BOARD - DRAFT TERMS OF REFERENCE

The Project Board will be established to ensure overall management and supervision of the project including the approval of annual work plan (AWP). The Project Board meetings will be co-chaired by the Permanent Secretary of the Ministry for Presidential Affairs, Governance and Public Administration and the UNDP Resident Representative.

The Project Board is responsible for general project oversight and may authorize variation to or deviation from agreed activities to reflect changing circumstances on the ground. The Project Board is responsible for providing technical guidance and supports performance improvement issues.

The Board will meet at the inception of the project and bi-annually (or more often, as required) to review reported progress.

Composition

The Joint Co- Chairs of the Project Board will be the United Nations Development Programme Resident Representative and the Permanent Secretary of the Ministry of Presidential Affairs, Governance and Public Administration.

The Ministry of Presidential Affairs, Governance and Public Administration will be tasked with overall coordination of the project, as the lead Ministry on Governance in Botswana. This governance structure does not however envisage that other ministries and implementing partners will be accountable to the lead Ministry for their results.

The Project Board members are the Administration of Justice; Attorney Generals Chambers; Directorate of Economic Crime and Corruption; Legal Aid Botswana; Ministry of Immigration, Nationality and Gender Affairs; Ministry of International Affairs and Cooperation; Ministry of Local Government and Rural Development; Ministry of Presidential Affairs, Governance and Public Administration; Ministry of Youth Empowerment, Sport and Culture Development; Office of the Ombudsman (OMB); Parliament; the NGO-Council and the United Nations Development Programme project team.

The Project Board may approve changes to the membership of the Project Board to reflect changing circumstances, including *ad hoc* members and observers.

Decisions:

- The Project Board makes decisions by consensus.
- Decisions of the Project Board shall be duly recorded by the Project Manager, who will provide Secretariat functions to the Project Board.
- Prior to presenting their position on a significant issue to the Project Board, UNDP must ensure that it is endorsed internally by their Agencies and is in line with their Agencies' regulatory requirements.
- Decisions on programme/project proposals will only be taken upon completion of a review by the appropriate thematic clusters, sectoral working groups or other SC agreed review bodies.

Role of Co-chairs:

- To encourage active participation by Project Board members including quality and timely reporting;
- To ensure that the decisions taken by the Project Board are in accordance with the regulatory requirements and frameworks of the Participating Agencies and agreements with the programme country and donors;
- To ensure that the decisions taken by the Project Board are duly recorded and promptly communicated to the members of the Project Board, including Participating Agencies, the programme country, and donors, as appropriate;
- To monitor the implementation of the decisions of the Project Board;
- To report to on the evolving risks and to flag issues that may affect the implementation of the decisions of the Project Board or otherwise impede the operations of the Project.

Role of Project Board Members:

Project initiation phase

- Review and appraise detailed Project Plan and AWP, including Atlas reports covering activity definition, quality criteria, issue log, updated risk log and the monitoring and communication plan;
- Delegate any Project Assurance function as appropriate;
- Review the Progress Report for the Initiation Stage (if an Initiation Plan was required).

Project implementation phase

- Provide overall guidance and direction to the project, ensuring it remains within any specified constraints;
- Address project implementation issues as raised by the Project Specialist;
- Address technical issues as raised by technical advisors;
- Provide guidance and agree on possible countermeasures/management actions to address specific risks;
- To report to on the evolving risks and to flag issues that may affect the implementation of the decisions of the Project Board or otherwise impede the operations of the Project;
- Agree on Project Specialist's tolerances in the Annual Work Plan and quarterly plans when required;
- Conduct regular meetings to review the Project Quarterly Progress Report and provide direction and recommendations to ensure that the agreed deliverables are produced satisfactorily according to plans;
- Review Combined Delivery Reports (CDR) prior to certification by the Implementing Partner;
- Appraise the Project Annual Review Report, make recommendations for the next AWP, and inform the Outcome Board about the results of the review;
- Review and approve end project report, make recommendations for follow-on actions;
- Provide ad-hoc direction and advice for exception situations when Project Specialist's tolerances are exceeded;

- Assess and decide on project changes through revisions.

Project closure phase

- Assure that all Project deliverables have been produced satisfactorily;
- Review and approve the Final Project Review Report, including Lessons-learned;
- Make recommendations for follow-on actions to be submitted to the Permanent Steering Committee;
- Commission project evaluation (only when required by partnership agreement);
- Notify operational completion of the project to the Permanent Steering Committee.

ANNEX 3: TERMS OF REFERENCE – PROGRAMME SPECIALIST

Overall responsibilities

The Programme Specialist has the authority to run the project on a day-to-day basis on behalf of the Project Board within the constraints laid down by the Board. The Programme Specialist is responsible for day-to-day management and decision-making for the project. The Programme Specialist's prime responsibility is to ensure that the project produces the results specified in the project document, to the required standard of quality and within the specified constraints of time and cost.

Specific responsibilities would include:

- Overall project management;
- Manage the realization of project outputs through activities;
- Provide direction and guidance to project team(s)/ responsible party (ies);
- Liaise with the Project Board or its appointed Project Assurance roles to assure the overall direction and integrity of the project;
- Identify and obtain any support and advice required for the management, planning and control of the project;
- Responsible for project administration;

Running a project

- Plan the activities of the project and monitor progress against the initial quality criteria;
- Mobilize goods and services to initiative activities, including drafting TORs and work specifications;
- Monitor events as determined in the Monitoring & Communication Plan, and update the plan as required;
- Manage requests for the provision of financial resources by UNDP, using advance of funds, direct payments, or reimbursement using the FACE (Fund Authorization and Certificate of Expenditures);
- Monitor financial resources and accounting to ensure accuracy and reliability of financial reports;
- Manage and monitor the project risks as initially identified in the Project Brief appraised by the LPAC, submit new risks to the Project Board for consideration and decision on possible actions if required; update the status of these risks by maintaining the Project Risks Log;
- Be responsible for managing issues and requests for change by maintaining an Issues Log.
- Prepare the Project Quarterly Progress Report (progress against planned activities, update on Risks and Issues, expenditures) and submit the report to the Project Board and Project Assurance;
- Prepare the Annual review Report, and submit the report to the Project Board and the Outcome Board;
- Based on the review, prepare the AWP for the following year, as well as Quarterly Plans if required.

Closing a Project

- Prepare Final Project Review Reports to be submitted to the Project Board and the Outcome Board;
- Identify follow-on actions and submit them for consideration to the Project Board;
- Manage the transfer of project deliverables, documents, files, equipment and materials to national beneficiaries;
- Prepare final CDR/FACE for signature by UNDP and the Implementing Partner.

ANNEX 4: TERMS OF REFERENCE – HUMAN RIGHTS SPECIALIST

I. Position Information

Job Code Title: Human Rights Specialist (International)

Department: UNDP Botswana

Reports to: UNDP Resident Representative and the Permanent Secretary Office of the President

Position Status: Non Rotational

II. Organizational Context

The Human Rights Advisor (HRA) will provide technical advisory services and support national capacity building to enhance the protection and promotion of human rights in Botswana. These include ratification and domestication/contextualisation of the human rights treaties and conventions, and the transformation of the Office of the Ombudsman by conferring a human rights mandate in the office.

The HRA will be based at the Office of the President, reporting to the Permanent Secretary, Ministry of Presidential Affairs, and the UNDP RR. The HRA will be supported by, and works in close collaboration with the UNDP Governance program manager and the Office of the High Commission of Human Rights Teams in Pretoria and Geneva.

The HRA will also collaborate with other UN Agencies and civil society in Botswana to provide technical inputs to the GOB/UN Thematic Groups on Governance and Human Rights.

III. Functions / Key Results Expected

Summary of key functions:

The HRA will provide advisory and capacity development support in the following areas:

1. Provide guidance in the transformation of the Office of the Ombudsman by ensuring a human rights mandate in the Office;
development of comprehensive HR Strategy and national action plan;
ratification of treaties and conventions and domestication thereof;
2. Guide the activities of the Inter-ministerial Committee on Conventions and Treaties;
the programme and activities of the National Coordinating Committee on Human Rights; and
the implementation of accepted UPR recommendations; and
in close collaboration with the Head of the UNDP Governance program ensure the production of quality project outputs;
3. Provide guidance and technical expertise for the implementation of a human rights approach in development planning, budgeting, monitoring and evaluation processes;

maintain close links with the relevant on-going projects in the Office of the President and other Ministries and funding partners to continue mobilise further financial support; Ensure that the project is informed by lessons learned from the wider international community;

4. Collaborate with and support the work being done by GOB and local/international organizations, civil society, researchers on Human Rights and Human Rights institutions; Liaise with the office of the United Nations Resident Coordinator on issues related to Human Rights.

Functions and Expected Results

1. In collaboration with the Head of UNDP Governance program, implement, monitor and evaluate the project to deliver Quality outputs He/she will:

- a) Advice on emerging HRs issues to strengthen annual and quarterly project planning, budget and reporting processes;
- b) Provide technical inputs to TORs, review and assess products/services provided by subcontractors, consultants and expert counterparts, notify and advice OP/UNDP and others on quality and appropriate actions to undertake for improvement of project outputs;
- c) Provide substantive support to the implementation of project activities aiming at the integration of the SDGs into national and sectoral policy, plans and budgets as per the work plan;
- d) Preparation of quarterly, annual and financial reports, with a special view to capturing lessons learned and best practices for improving project performance supported, monitor and evaluate project activities, prepare,
- e) periodic reports on emerging issues on Human Rights in Botswana;
- f) Provide comments in writing on substantive aspects of quarterly and annual work plans and budgets before approval by OP/UNDP.

2. Advisory support to implementation of project activities

The HRs advisor will provide technical advice to the GOB on international experience in the transformation of the Office of the Ombudsman by mainstreaming Human Rights issues into development policy making, planning and budgeting processes, including. He/She will:

- a) Advice on processes and mechanisms which can facilitate and support the integration of human rights into national and sector development planning and budgeting processes;
- b) Provide technical inputs to improve the integration of human rights into the existing development policies and planning systems in the country;
- c) Initiate inter-sectoral dialogue and collaboration by providing leadership, guidance and relevant inputs to ongoing sector policy, budget and monitoring processes.

3. Promote Advocacy, Communication and Capacity Development

The HR advisor will provide leadership and guidance in:

- a) The development and implementation of a national Communication and Advocacy Strategy for the Office of the Ombudsman,
- b) Identifying Capacity gaps, developing capacity building programmes related to human rights and their integration;
- c) Providing guidance on implementing capacity building activities to ensure sustained integration.

4. Maintain links with the United Nations Country Team, donor partners and international community

The HR advisor will:

- a) Facilitate and create linkages with the Office of the Botswana Ombudsman and other countries to identify opportunities for lesson and best practices to be learned from and between countries and identify other opportunities for staff to participate in international fora on human rights;
- b) Improve Coordination of UN/UNDP activities relating to human rights activities facilitated by other organizations;
 - a. Provide technical support to the UNCT on Human Rights, by ensuring the integration of some activities of the Office of the Ombudsman into UNDP country programme activities mainly those related to human rights.

IV. Impact of Results

The HRs advisor will contribute to the:

Output 2.3. Improved capacities to plan for delivery, identify and resolve implementation challenges and account for the delivery of quality interventions to deepen democracy outcomes and strengthen governance institutions.

V. Competencies

- Ability to mainstream Human Rights issues into national development planning processes.
- Significant experience in project development and management: developing project and proposals, work plans, monitoring, reporting and evaluation.
- Ability to communicate and express ideas clearly, logically and effectively, both orally and in writing.
- Initiate, develop and manage partnerships with government institutions, non-state actors and UN agencies, Ability to lead and work as part of effective team, willingness to prioritise and work under time pressure.
- Computer literacy and ability to prepare presentations and office technology equipment.

VII. Recruitment Qualifications

Education:

- Possess a recognized degree (preferably Masters level) in law or social sciences.

Experience:

- At least 7 years of relevant experience;
- Knowledge and work experience in Sub-Saharan Africa, ideally in Southern Africa for Government/Civil society/ multilateral/ bilateral organizations, work experience with the UN will be unique advantage;
- Good knowledge of the linkages between Human Rights and Development;
- Experience in project development and management, resource mobilization skills, and knowledge of UNDP

	project management systems; <ul style="list-style-type: none">• Strong interpersonal skills with ability to work under pressure and to establish and maintain effective work relationships with people of different cultural backgrounds;
Language Requirements:	Excellent command of English

ANNEX 5: PROJECT RISK ANALYSIS AND RISK LOG

#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Management response	Owner	Submitted, updated by	Last Update	Status
1	Limited opportunities for resource mobilisation		Financial	P = 2 I = 5	Scaling down; support in kind	PB	S: UNDP		
2	Co-financing difficulties		Financial	P = 2 I = 5	UNSDF mechanism through Ministry of Finance for projects supporting implementation of UNSDF	PB	S: UNDP		
3	Weak institutional capacity		Organizational	P = 5 I = 5	Institutional assessments (Customary Court, IMCTCP), support for design and establishment of new Units (Law Reform Unit, Human Rights Unit), mentoring and training of key staff, baseline assessments to support monitoring of progress and design of relevant interventions. Possible engagement with civil society organisations if NGO Council is not staffed.	PB	S: UNDP		
4	Poor monitoring and evaluation		Operational	P = 4 I = 5	Recruitment of M&E specialist to support; integration of M&E into Project Board mandate; integration of human rights into national monitoring and evaluation processes.	PB	S: UNDP		
5	Inadequate or delayed budget allocated for implementation of government priorities (eg Ombudsman Office, Law Reform Unit etc)		Operational and Strategic	P = 4 I = 5	Advice to Project Board members / implementing partners on likely cost implications and advice to seek budget allocation in time.	PB	S: UNDP		
6	Change of Presidency (2018) or elections (2019) result in change of government policy on key issues		Strategic	P = 2 I = 5	Project Board to monitor and advise on intention to implement / timing of relevant UPR commitments and Cabinet decisions and necessary revisions to work plans.	PB	S: UNDP		
7	Critical policies or legislation do not receive timely Cabinet approval or fail to progress in the legislative process		Regulatory	P = 5 I = 5	Ensure alignment of policies and laws with NDP11; regular briefing of relevant Ministers; communications around the initiatives.	PB	S: UNDP		
8	Civil society does not support or engage with human rights initiatives or support law reform to harmonise laws with human rights.		Strategic	P = 3 I = 5	NGO Council as implementing partner to garner support of civil society. Support to Ombudsman Office and OP Human Rights Unit and AGC on communications and consultation strategy to support engagement with civil society.	PB	S: UNDP		

9	Delays in staff recruitment may affect implementation		Operational	P = 3 I = 4	UNDP to develop TORs prior to project document signing and advertise on signature of project document and fill posts upon securing funding	UNDP	S: UNDP C: UNDP		
10	Delays within government in implementing Cabinet decisions (Law Reform Unit, OP human rights coordination - Human Rights Unit, Ombudsman's human rights mandate)		Operational	P = 5 I = 5	Project Board and IPs to regularly update UNDP project team on delays being experienced to allow opportunity for reprioritization and revision of work plan.	PB	S: UNDP		
11	Lack of alignment between project and annual planning of IPs resulting in weak commitment to project activities		Operational	P=3 I=5	Consultation in Q3 and Q4 2017 on project design to ensure relevance of activities; input from Project Board on Annual Work Plan (January each year) to support planning processes of each IP in March / April of each year.	PB	S: UNDP		
12	Congested government law revision programme delays efforts to integrate human rights into domestic law		Organisational	P=4 I=4	Support to Legislative Drafting Division to build capacity of instructing officers to submit detailed proposals for Cabinet approval to remove burden on drafters; integration of human rights based approach in all drafting	PB	S: UNDP		
13	De-prioritisation of activities by government		Operational	P=3 I=4	The project has been designed in a way that it can be scaled up or down depending on resources available and activities can be rescheduled according to government and IP priorities. The AWP will be realistic and adjusted according to changing circumstances on the ground, subject to approval of Project Board.	PB	S: UNDP		

ANNEX 6: PROJECT QUALITY ASSURANCE