



Block G, Hurlingham Office Park, Corner William Nicole & Republic Roads, Johannesburg, Contact person in Johannesburg, Mr. Charles Chiwara Tel +27 11 285 0079, fax +27 11 886 1381, Mobile +27 7226 43 242 E-mail Charles@tri-african.co.za, Contact details in Gaborone Tel +267 719 6 0518, Email elijahmunyuki@yahoo.com

Second Draft Final Report on the Development of a Family Policy in Botswana

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ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
AOABH	Assault Occasioning Actual Bodily Harm
AoJ	Administration of Justice
AU	African Union
BOFWA	Botswana Family Welfare Association
BNYC	Botswana National Youth Council
BURS	Botswana Unified Revenue Service
CSO	Central Statistics Office
GDP	Gross Domestic Product
PPP	Purchasing Power Parity
GoB	Government of Botswana
DSS	Department of Social Services
ECD	Early Childhood Development
FGD	Focus Group Discussion
HAART	Highly Active Anti-Retroviral Therapy
HIV	Immunodeficiency Syndrome
IMF	International Monetary Fund
IYF	International Year of the Family
KII	Key Informant Interview
M&E	Monitoring and Evaluation
NACA	National AIDS Coordinating Agency
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OVC	Orphans and Vulnerable Children
RADP	Remote Area Development Programme
SAPSSI	Social Arm for Psychological Support Initiative of the Salvation Army
TB	Tuberculosis
UN	United Nations Organisation
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Programme
WTO	World Trade Organisation

EXECUTIVE SUMMARY

A. Introduction

The Government of Botswana (GoB) with support from the United Nations Development Programme (UNDP) commissioned Tri-African Advisory Services to conduct a consultancy on the development of a national family policy for Botswana. This report includes the main findings of the study which form the substantive background and justifications for the Draft National Family Policy for Botswana.

A.1. Background

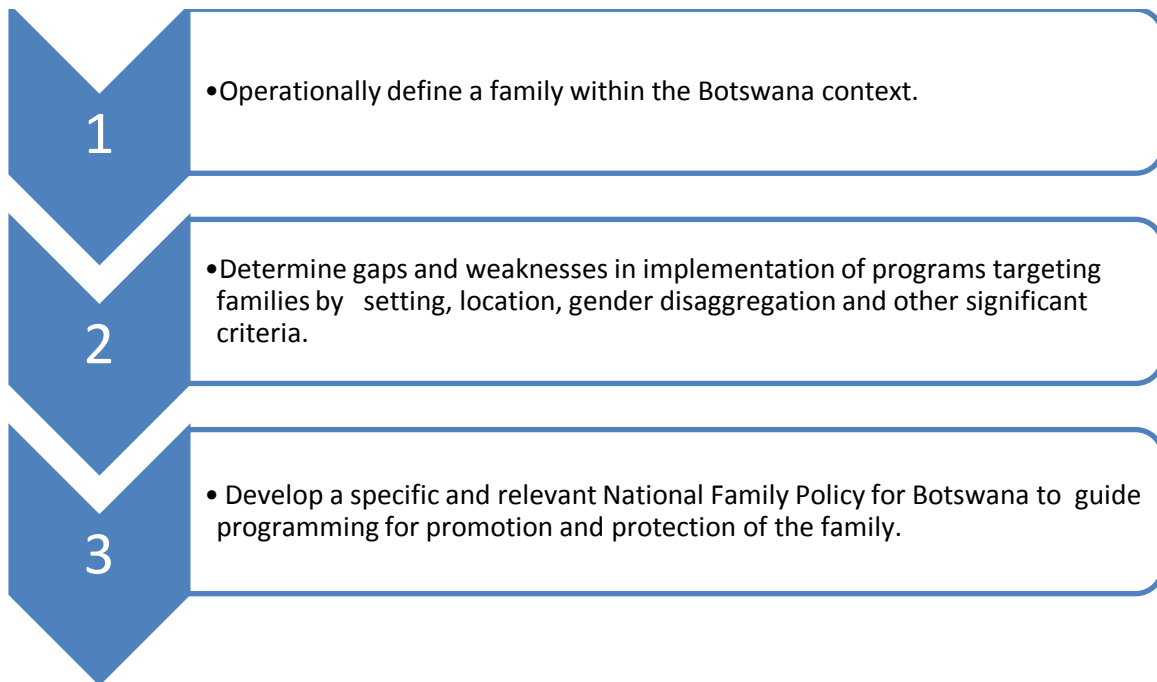
A family is a basic unit of society which plays a vital role in political, cultural and socio-economic development. Families in Botswana have been affected by environmental, economic, cultural and political changes as well as migration patterns, impacts of the HIV/AIDS scourge and changes in the traditional roles of women and men. The traditional extended family system is slowly diminishing because of these changes. Another major contributor to family problems and breakdown in family functioning is the increasing economic stress facing households. Many countries in the world are facing similar challenges that Botswana is facing to promote and protect healthy families. To address this issue the United Nations declared the year 1994 to be the International Year of the Family (IYF). As a UN member state, Botswana has the responsibility to ensure the wellbeing of the family by promoting and protecting its existence according to set guidelines.

In line with promotion and protection of families, the Executive Council of the African Union that Botswana is also a member of, adopted a Plan of Action on the Family in Africa.

In response to challenges faced by the family, Botswana realised the need to have a National Policy for the Family. The policy is expected to provide guidance in development of programmes which are directed towards improving the general well being of the family. It will also direct the implementation of all family related programmes undertaken by government and nongovernmental sector. Currently there is no clear policy guiding provision of family services in Botswana.

A.2. Project objectives

To address the challenges described briefly above the project has 3 key objectives as reflected in the figure below.



The specific terms of reference (ToRs) are attached further below.

A.3. Methodology

Due to the national nature of the project extensive consultations were conducted with local authorities, community leaders, members of Parliament, and other relevant entities such as government ministries, development agencies, private sector and civil society organizations to gather information. The study was:

- Representative of all Botswana regions, (North, South, East and West)
- Representative of different families groups;
- Different family age groups; and
- Representative of various settings: Urban Areas (Cities and Towns), urban villages, rural areas, including remote areas.

Hence the study covered all 10 administrative districts of Botswana (see *Annex 1*, Map of Botswana Districts) and was guided in terms of sampling of rural and urban settlements by *Annex 2* (Settlement Map of Botswana). However at all times the consultants were guided by the project management with respect to site identification and visits (see further below for details of areas visited).

Data identification and collection was based on a mixture of literature review, key informant interviews, interviews with ordinary individuals, and focus group discussions using both primary and secondary data sources. Fieldwork was utilised in order to conduct the informant interviews and focus group discussion, and where applicable, use was made of electronic communication such as e-mails to conduct interviews based on pre-defined questions.

A.3.1. Main objectives of family policies

Comparative perspectives on the design and delivery of family policies are useful in informing the initiative to develop a family policy plan for Botswana. The study examined the historical aspects behind the development of family policy in other countries, the experiences of various countries and regions with regards to family policy, and the nature of the issues contained in the policies. Lessons from around the world show that family policy are designed and adopted for a number of cross-cutting issues (which in this study were clearly identified by respondents in FGDs and KIIs). These include:

- *Poverty reduction and income maintenance;*

- *Direct compensation for the economic cost of children;*
- *Fostering employment;*
- *Improving gender equity;*
- *Support for early childhood development; and*
- *Raising birth rates.*

The extent to which any one of these aims or all of them can be adopted as part of a family policy obviously depends on the needs and resources of each specific country.

A.4. Overview of social support initiatives and the economy

Although the GoB has a number of initiatives utilising public resources for social needs these initiatives are not generalised, they are targeted at specific social groups and available on the basis of graded needs. The GoB operates the handful of social initiatives on the basis of the limited resources available for this purpose. The brief overview of Botswana's economy shows a number of pertinent issues to be noted in the context of developing a family policy, some of the socio-economic indicators also justify the need for a coordinated development and implementation of a national family policy. High unemployment, the prevalence of HIV/AIDS, the high incidence of poverty, and a relatively young population require a number of interventions that will stabilise social and economic structures. However the structure of the economy, primarily its low diversification also points to difficulties in harnessing public resources to expand the range of subsidies or economic incentives that support the family structure. The linkages with economic indicators are further elaborated below in the literature review and the comparative analysis of family policies. This mainly concerns the question of the kind of policies to be developed and the resource implications of such policies in view of current and projected economic indicators of Botswana.

A.5. Review of laws affecting the family in Botswana

The family as a unit is organised around various aspects that include social, economic, political, cultural and religious environments. While these may be regulated by state law and coordinated by recognised state institutions, it is important to realise that many relevant family aspects are organised around semi-autonomous social fields that are neither regulated nor recognised by the state but which are in many cases more powerful and more relevant to the family setting than state laws and state institutions. It is therefore important when analysing the legal framework on the family situation in Botswana not to lose sight of these settings and how they impact on the well-being of the family in practice. In most cases and despite being aware of their rights in terms of the law, family members are reluctant to exercise these rights if they may result in their alienation from the family and the community.

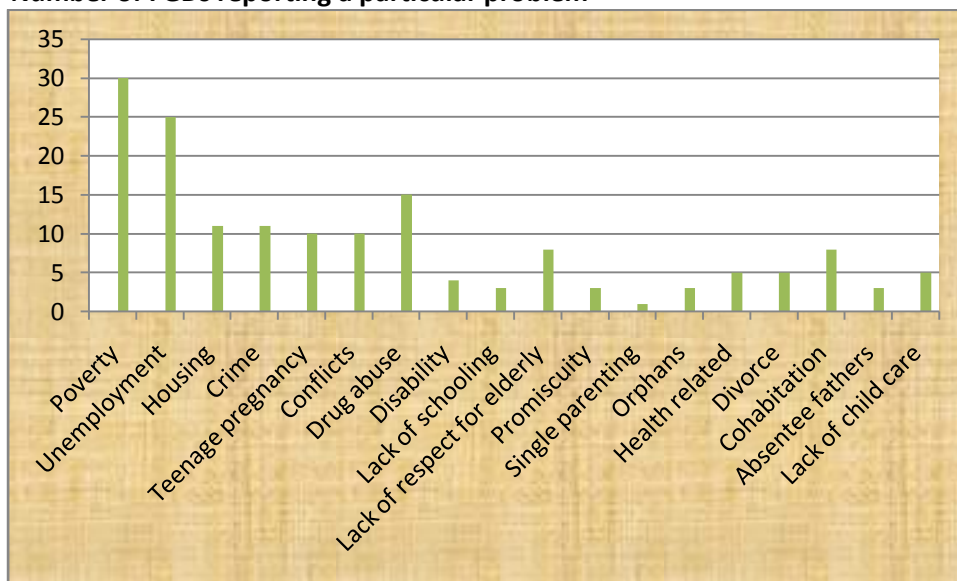
The study reviewed a number laws and customary practices which included: the *Constitution of the Republic of Botswana*; *Marriage Act*: Chapter 29:01; *Abolition of Marital Power Act*: Chapter 29:07; *Matrimonial Causes Act*: Chapter 29:06; *Married Persons Property Act*: Chapter 29:03; *Children's Act*: Number 8 of 2009; *Affiliation Proceedings Act*: Chapter 28:02; *Adoption of Children Act*: Chapter 28:01; *Wills Act*: Chapter 31:04; *Disserted Wives and Children Protection Act*: Chapter 28:03; *Domestic Violence Act*: Chapter 28:05; *Income Tax Act*: Chapter 52:01; and the *Employment Act*: Chapter 47:01. The main finding from this review is that Botswana has made considerable progress in coming up with family friendly legislation, even though several gaps still exist. Challenges include the lack of effective implementation of the various legislative provisions and this requires rectification if the law is to support a stable family environment in Botswana. This legal analysis has been informed by a review of applicable case law and literature, the analysis was further enhanced below by considering the opinions of stakeholders in the legal fraternity as well as members of the public as part of the situational analysis. The study also determined the level of ownership of the laws by members of the public and the level of awareness, understanding and utilization of such

laws. The relevance of traditional leaders and their law making power under a republic established under a constitution was also investigated, special regard being had to the peculiar position of chiefs who do not require any legal training yet administer written law in some cases. An evaluation of the institutional support structures required under any law relating to the family was also done along the same methodology.

A.5.1. Situational analysis of the family in Botswana

Participants in the FGDs were asked an open question in which they had the opportunity to discuss and list the major problems/concerns which affect their families. The graph below shows the number of FGDs reporting a particular problem within the family context in Botswana.

Number of FGDs reporting a particular problem



The bulk of the FGDs identified the related issues of *poverty and unemployment* as problems affecting the family in Botswana. *Poverty* was identified as the biggest problem within the family, with over **55%** of the FGDs identifying this problem. **46%** of the FGDs reported *unemployment* as a major problem. The two problems are related as they directly affect the livelihoods of the family. The box insert below illustrates some of the concerns raised by respondents in the context of poverty and unemployment.

A.5.2. Analysis of crime within the family context

Whilst the project identified the experiences of ordinary Batswana with respect to crimes within the family context the Botswana Police Service also provided their professional assessment of the situation. In particular the Police conducted a statistical analysis and presented data relating to a national snapshot of gender based violence (inclusive of sexual attacks) for July 2011. The Police also submitted data on sexual cases involving youths in the Northern Division (Police administrative description). The information is useful in the situational analysis of the family in Botswana and has practical input on family policy design.

The following points relate to the consolidated crime data:

- The most common crime reported above is **assault common** which makes up almost **50% of all reported gender based crime**. This is followed by another form of a crime involving physical assault, **AOABH** (assault occasioning actual bodily harm) which accounts for 18% of all reported gender based crime. Taken together, assault common

and AOABH account for **67% of the total gender based crime. Cases brought forward by July 31st** also show a predominance of **assault common (1,063 cases), AOABH (611), threat to kill (417)**, of the cases brought forward very few had been completed with respect to finalisation before the courts, the bulk were actually pending investigation, e.g. assault common had **974 cases pending investigation**.

- The second highest category of gender based crime is of a sexual nature. **Rape** represents the highest figure in this class and is also the third most reported crime. **45 rapes** were recorded thus making up **11% of total reported gender based crime**. This is followed by **defilement (12 cases)** and indecent assault on females (7). Rather suspiciously **no incident of incest** was reported in the given period, this may actually serve to reinforce the secretive nature of this crime and the fact that both perpetrators have an interest in keeping silent about it, and the families have an equal motive. With respect to crimes of a sexual nature rape also made up the bulk of cases brought forward with a total of **397 cases** of which **only 13 had been completed, 8** had been reported for **social support** and **324 cases** were still **pending investigation**. Similarly a high number **(137) of cases of defilement** were recorded as brought forward of which 47 were pending investigation. Again incest is suspiciously low (1 case) on crimes cases brought forward.
- The data shows that **women are more likely to be victims of gender based violence than men**. The total number of perpetrators of gender based violent crime was **490. Men accounted for almost 87% of the perpetrator of crime**. Females were victims of gender based violent crime 401 times and men only 162 times in the reported period. Thus females bear the brunt of gender based violent crime, making up **71% of the victims**. More glaring is the fact that **100% of the victims for murder in the reporting period were women**. However females were involved in affray as perpetrators in almost equal numbers as men. It should be noted that gender and intimate violence is rarely reported. Domestic violence is generally reported after it has occurred on at least seven occasions. At this point the violence has typically escalated quite drastically. Rape is on average only reported in about 10 to 15 percent of cases. This means that the vast majority of these crimes are not reported. Reporting of such crimes is hindered by the emotional state of the victims and well as the stigma and perceived and in some cases actual blame put on the victim for the violence.

A.6. Conclusions and recommendations

The communities, institutions and individuals consulted in the situational analysis of the family in Botswana were all convinced that a family policy should be put in place to address the myriad social ills identified as part of the analysis. This is in line with the GoB's own approach with respect to implementing its commitments in the context of the *AU's Plan of Action on the Family in Africa*. The report identified specific laws that require modification or adoption in order to create a conducive environment for a family policy in Botswana. Other key policy recommendations are as stated in the table below.

Subject	Recommendation
<p>1. Institutional</p>	<p>Strengthening the public institutions at the fore front of psychosocial services. This includes boosting the human, technical and financial resources within the DSS and other public departments.</p> <p>A major task is to re-orient current social work to focus more on psychosocial support in tandem with other responsibilities such as poverty alleviation assistance.</p> <p>At the GoB level, the DSS should partner with other departments to create a family law/policy reference group in order to enable the coordinated application of laws relating to the family as these are currently scattered across various departments.</p>
<p>2. Psychosocial support services</p>	<p>Access to psychosocial support services should be enhanced at both public and private sector levels.</p> <p>The quality of the services should be enhanced through the increase if clinical psychosocial services, the encouragement if multidisciplinary linkages between these services and other critical health professionals such as medical doctors and physiotherapists.</p> <p>The national health system must integrate psychosocial support issues.</p>
<p>3. Early childhood development</p>	<p>ECD should be an integral aspect of the family policy under which both public and private institutions provide accessible services.</p> <p>Regulatory interventions should be in place to ensure quality standards in the design and delivery of ECD curricula and learning environments.</p> <p>Tertiary education institutions should design and deliver standard courses for ECD teachers.</p>
<p>4. Care for the elderly</p>	<p>To avoid their isolation and encourage community cohesion, the possibility of creating day care centres for the elderly should be explored. This is opposite to the creation of Old Peoples' Homes which were viewed negatively in the situational analysis.</p>
<p>5. Pre-marital counselling</p> <p>5.1. Cohabitation</p>	<p>Pre-marital counselling programmes should be designed and implemented to enable couples to fully appreciate the demands, rights and responsibilities of a marital environment.</p> <p>A number of views expressed serious concern that cohabiting partners should be granted equal status to married partners after some period of time in order to offer some level of dignity and protection to such unions.</p>
<p>6. Rights of the disabled</p>	<p>Specific programmes should be in place to ensure that the vulnerable members of the community are protected, and social stigmas around disability are</p>

	addressed. The Government should consider ratifying international Conventions on the rights of the disabled and domesticating such conventions to elevate the issue of the rights of the disabled to law. Further, a <i>return-to-work</i> policy for those that are disabled in the course of their duties should be developed to ensure that they can continue contributing to the economy and sustaining their livelihood. The Employment Act is silent on this issue.
7. OVC	Key components of the policy should address the issues pertaining to problems faced by OVCs and how the system can be improved to cater for OVCs.
8. General incentives	Apart from fiscal incentives a number of incentives can be adopted to encourage the stability of the family unit. These include, housing, financial, employment related incentives. In particular, employers should be encouraged to establish day-care centres at workplaces where this is feasible in the context of health and safety regulations. Services industries may be good examples where pilot workplace day care centres can be established.
9. Family friendly infrastructure	Existing recreational facilities should be renovated where necessary. New basic infrastructure should be in place, in particular, in the remote areas where entertainment facilities are non-existent.
10. Community and Police cohesion	The Botswana Police Services should be further capacitated in terms of human, financial and other resources to enable more cohesion to be built with communities around the country, in particular in areas where such services are rudimentary, and where lack of trust has been identified as a problem between communities and the Police.
11. The Kgotla	This institution was viewed favourably as a key environment where family related issues can be addressed. Support to its officials (technical) should be enhanced to enable the institution to maintain its key role.
12. The media	Family policy programmes should be mainstreamed into the public and private media, in particular, entertainment can be designed on the basis of critical programmes from other countries as well as locally designed programmes that enrich the family environment, and that emphasise male responsibilities within the family context.

The necessary policy reforms should also be considered in the background of other relevant policy initiatives adopted by the GoB.

1. PROJECT OVERVIEW AND CONTEXT

1.1. Introduction

The Government of Botswana (GoB) with support from the United Nations Development Programme (UNDP) commissioned Tri-African Advisory Services to conduct a consultancy on the development of a national family policy for Botswana. This report includes the main findings of the study which form the substantive background and justifications for the Draft National Family Policy for Botswana.

1.2. Background

A family is a basic unit of society which plays a vital role in political, cultural and socio-economic development. Families in Botswana have been affected by environmental, economic, cultural and political changes as well as migration patterns, impacts of the HIV/AIDS scourge and changes in the traditional roles of women and men. The traditional extended family system is slowly diminishing because of these changes. Another major contributor to family problems and breakdown in family functioning is the increasing economic stress facing households. Those living below the poverty line especially poor single parent families which are predominantly female-headed households are the most affected. Family dysfunction sets in when poverty is combined with environmental stress and feelings of powerlessness and frustration, resulting in social ills.

1.2.1. *International Year of the Family*

Many countries in the world are facing similar challenges that Botswana is facing to promote and protect healthy families. To address this issue the United Nations declared the year 1994 to be the International Year of the Family (IYF). As a UN member state, Botswana has the responsibility to ensure the wellbeing of the family by promoting and protecting its existence according to set guidelines.

1.2.2. *Plan of Action on the Family in Africa*

In line with the objectives of promoting and protecting families, the Executive Council of the African Union of which Botswana is also a member of, adopted a Plan of Action on the Family in Africa.

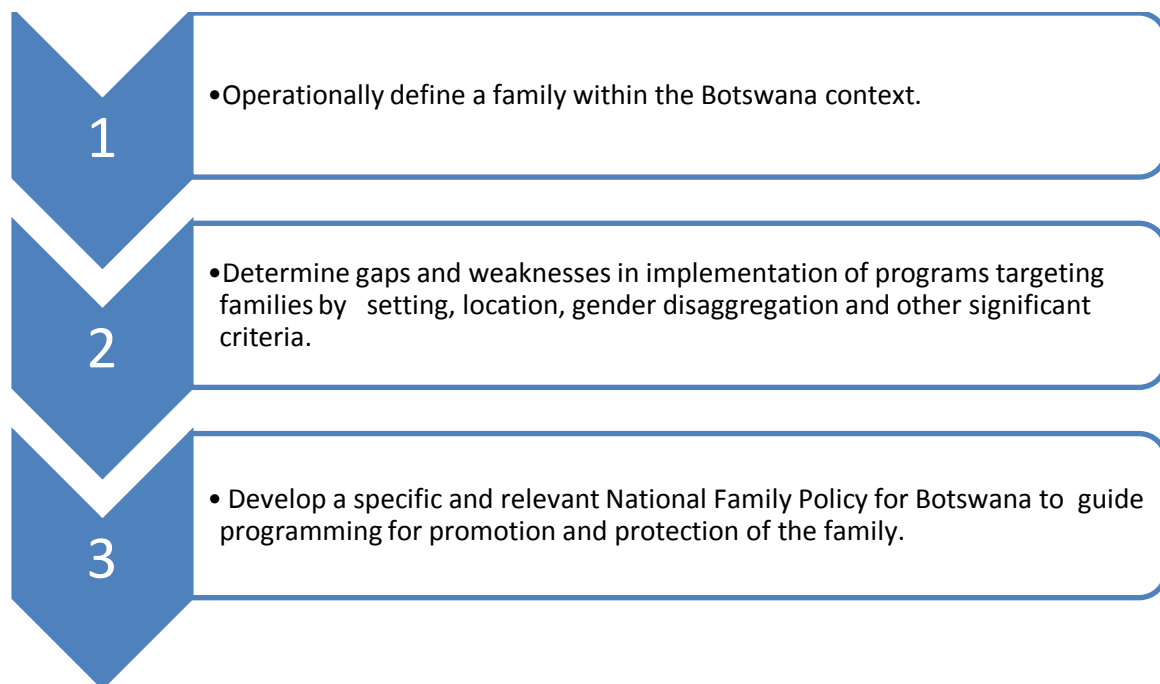
In response to challenges faced by the family, Botswana realised the need to have a National Policy for the Family. The policy is expected to provide guidance in the development of programmes which are directed towards improving the general well being of the family. It will also direct the implementation of all family related programmes undertaken by government and nongovernmental sector. Currently there is no clear policy guiding provision of family services in Botswana. The situation results in uncoordinated programming and extensive service gaps from government, private sector and civil society. The need for a clear family policy is imperative because there are many new demands and challenges on the evolving family. Families encounter problems such as alcohol, drug and substance abuse; communication and relationship challenges; marital conflict; lack of

preparation for marriage, parenting challenges; family violence; lack of family and community support networks; and family breakdown. Children are also traumatized by violence in communities. Furthermore, many women require joining the labour market for economic reasons; where they do so they rely on childcare outside the home. Such care is not always affordable or available, and this retards the economic progress of women in the country. It is in this context that the GoB decided that a review of the diverse challenges, needs and major concerns of families and existing laws is warranted as a basis for legal and policy reforms.

1.3. Objectives

To address the challenges described briefly above the project has 3 key objectives as reflected in the figure below.

Figure 1. Key Project Objectives



Whilst not specified in the above figure, an investment plan for the development of family-friendly infrastructure is a necessary component of the third objective of the project and this will be addressed as part of the substantive report.

1.3.1. Project Tasks and Activities

The specific project tasks and activities are reflected in *Table 1* below.

Table 1. Schedule of project tasks/activities

Task/Activity	Description
1	Analyzing socio-economic and other changes affecting the welfare of families, taking into account available research, including reports of commissions and relevant working groups. The analysis should also include a comprehensive review of existing legislation, policies and regulations for the family to identify weaknesses, gaps and omissions, with respect to emerging needs, issues and problems.
2	Assess the level of access of individual families and individual members to psycho-social support and existing programmes for rehabilitation of those suffering from alcohol, drug and substance abuse, and other social challenges that may affect the welfare of a family.
3	Examine the role of fathers and mothers in family life and socialization of children in different regions of Botswana. Analyze the incidence of family violence, rape and sexual harassment in Botswana in relation to social and legal responses towards such practices.
4	Analyze the practicability of creating community resource centres on the family as focal points for information and dissemination of activities related to the family, gender equality, children rights and human rights.
5	Analyze existing public infrastructure that is favourable to family (parks, day care centres, sport facilities and entertainment centres), and propose an investment plan for the improvement of the said infrastructure, so that each village in Botswana has the minimum facilities to serve family activities.
6	Analyze institutional arrangements to enforce compliance with laws related to family, in particular, analyze the creation of an office at the Attorney General's Chambers in charge of enforcing family laws.
7	Analyze the feasibility of obtaining the commitment of churches and social clubs, private sector, civil society, NGO's and international partners to include family topics in their activities, on a current basis, with view towards raising higher levels of consciousness on the importance of the family for the future of Botswana.
8	Assess the levels of pre-marital counselling and strategies that encourage marriage.
9	Draft a National Family Policy /Framework and clearly state recommendations that will serve as a basis for developing a draft National Family Policy or Framework.
10	Draft a National Family Policy/Framework including an M&E component with a focus on, but not limited to the Plan of Action on the Family in Africa.

1.4. Methodological approach

1.4.1. Geographical scope

Due to the national nature of the project extensive consultations were conducted with local authorities, community leaders, members of Parliament, and other relevant entities such as government ministries, development agencies, private sector and civil society organizations to gather information. The study was:

- Representative of all Botswana regions, (North, South, East and West)
- Representative of different families groups;
- Inclusive of different family age groups; and
- Representative of various settings: Urban Areas (Cities and Towns), urban villages, rural areas, including remote areas.

Hence the study covered all administrative districts of Botswana (see *Annex 1*, Map of Botswana Districts) and was guided in terms of sampling of rural and urban settlements by *Annex 2* (Settlement Map of Botswana). However at all times the consultants were guided by the project management with respect to site identification and visits (see further below for details of areas visited).

1.4.2. Data collection and analysis

Data identification and collection was based on a mixture of literature review, key informant interviews, interviews with ordinary individuals, and focus group discussions using both primary and secondary data sources. Fieldwork was utilised in order to conduct the informant interviews and focus group discussion, and where applicable, use was made of electronic communication such as e-mails to conduct interviews based on pre-defined questions. Apart from desk research the consultants were also able carry out a market survey specifically for assessing the state of psycho-social support services in Botswana.

Primary data sources were utilised to identify the range of realities, perceptions, expectations and experiences from individuals and organisations with respect to the situation of the family in Botswana. Specific questions were designed to obtain data from key informants, individuals and focus group discussions. Using simple random sampling, the following individuals and groups were targeted for data collection:

- Youth;
- Men;
- Women

Key informant interviews were held with stakeholders that have critical relevance to the development and implementation of family policy in Botswana. These included professionals, community leaders, members of Parliament, and traditional leaders.

2. The Botswana Economy and Socio-Economic Indicators

2.0. Introduction

This project focuses on designing a national family policy for Botswana as well as an investment plan to assist the implementation of such a policy, through, for example, the provision of family-friendly infrastructure. A national family policy cuts across the entire economic spectrum, developing and implementing such a policy has an impact on the economy and also depends on the state of the economy as well. Below we discuss key aspects of Botswana's economy as these have a direct impact on the shape of the proposed family policy as well its implementation with respect to financial and human resources. As this is a contextual identification, a more detailed analysis of financial implications of a national family policy is provided for further in this report. We also identify and discuss key social indicators that have a direct relevance to the development of a family policy.

Table 2 below shows a number of selected socio-economic indicators for Botswana, these are intended to provide a quick overview of the country's strengths and challenges.

Table 2. Botswana Selected socio-economic indicators, 2002-08

(Per cent unless otherwise specified)

	2002	2003	2004	2005	2006	2007	2008
Miscellaneous							
Area ('000 km ²)	566.7	566.7	566.7	566.7	566.7	566.7	566.7
Population (million)	1.65	1.67	1.69	1.71	1.72	1.74	1.75
Urban (%)	55.0	55.8	56.6	57.4	58.1	58.9	..
Life expectancy (year)	46.6	47.5	48.3	49.1	49.9	50.7	..
Nominal GDP (US\$ million)	6,091.5	8,086.8	10,048.2	10,263.2	11,255.2	12,335.9	13,360.9
Real GDP (percentage change)	9.0	6.3	6.0	1.6	5.1	4.4	2.9
Real GDP, excluding mining (percentage change)	7.2	6.0	8.9	1.4	3.2	9.0	7.2
GDP per capita (US\$)	3,691.8	4,833.7	5,938.6	6,008.9	6,543.7	7,105.9	7,613.0
Annual inflation (percentage change of CPI)	8.0	9.2	7.0	8.6	11.6	7.1	12.6
Unemployment rate (%)	..	23.8	17.5
Share of real GDP							
Agriculture	2.0	2.2	1.9	1.8	1.7	1.8	1.7
Mining and energy	44.2	44.4	42.8	42.8	43.9	41.4	38.9
of which: mining	42.0	42.2	40.6	40.7	41.7	39.2	36.7
Manufacturing sector	3.4	3.3	3.3	3.5	3.4	3.9	3.8
Services	47.7	46.5	46.6	47.5	47.0	48.6	51.4
Construction	5.8	4.7	4.9	4.5	4.4	4.8	4.8
Trade, hotels, and restaurants	9.5	10.0	9.8	9.1	9.5	10.1	10.5
Transport, post, and telecommunications	3.2	2.9	2.9	3.2	3.4	3.6	4.0
Banks, insurance, and business services	10.0	9.5	9.3	10.0	10.2	10.6	11.8
General government	15.6	15.8	16.1	16.6	15.6	15.6	16.3
Social and personal services	3.5	3.5	3.7	4.0	3.9	3.9	4.1
Indirect taxes less subsidies	2.7	3.6	5.4	4.4	4.0	4.4	4.1
Public finance as % of GDP							
Total revenue, including grants			38.1	42.5	41.7	37.8	..

	2002	2003	2004	2005	2006	2007	2008
Tax revenue			34.5	38.4	38.4	34.1	..
Non-tax revenue			2.9	3.9	2.6	2.9	..
Total expenditure			36.9	33.6	30.0	32.8	..
Recurrent expenditure			29.2	27.0	24.3	24.5	..
Development expenditure			8.3	7.2	6.2	8.6	..
Net lending			-0.6	-0.6	-0.4	-0.4	..
Government balance			1.2	8.8	11.7	5.0	..

Public finance^a	(percentage of GDP)						
Total revenue, including grants	37.1	40.5	38.1	42.5	41.7	37.8	..
Tax revenue	31.8	35.3	34.5	38.4	38.4	34.1	..
Non-tax revenue	5.1	5.0	2.9	3.9	2.6	2.9	..
Total expenditure	40.8	40.7	36.9	33.6	30.0	32.8	..
Recurrent expenditure ^b	30.1	32.3	29.2	27.0	24.3	24.5	..
Development expenditure	10.9	10.6	8.3	7.2	6.2	8.6	..
Net lending	-0.2	-2.3	-0.6	-0.6	-0.4	-0.4	..
Government balance	-3.6	-0.2	1.2	8.8	11.7	5.0	..

Sources: WTO (2009) SACU Trade Policy Review, modified by authors from various sources e.g. Bank of Botswana (2008), Ministry of Finance (2011)

Below we discuss the various socio-economic indicators.

2.1. Economic performance, employment and poverty

At over US\$7,000 per head in 2008, Botswana's GDP is higher than the bulk of sub-Saharan Africa countries. The figure has been reached at an impressive rate of growth; only in 2002 the corresponding figure was US\$3, 600 per head. Mining and services have contributed most to domestic production, with the earlier averaging a contribution of 40.4%, and the latter 47.9% of GDP in the period between the years 2002-2008. However, mining activities are heavily dominated by diamond production and a significant part of the contribution of services to GDP has been general government services. Accounting for about 40% of the total labour force the public sector is only rivalled by the mining sector. The economy is dependent on diamond mining upon which the public sector depends for revenue.

Botswana has a high rate of unemployment. The Bank of Botswana (2008) estimated the rate of unemployed as 17.5% of the total labour force and noted that in addition to the unemployed, in 2005/06, about 17% of the labour force was reported as "discouraged job seekers" (i.e. available but not actively looking for jobs), most of them living in rural areas. (WTO, 2009). Dr. Keith Jeffries (2011) whilst noting that the unemployment rate is not well measured in Botswana estimates that the rate is around 25-30% of the labour force.¹

Though the country has a high GDP per capita than the bulk of sub-Saharan Africa income distribution is highly skewed (WTO, 2009).² Whilst the results of the Botswana Core Welfare

¹ Speech at the Botswana Society Public Forum Series.

² The *Gini* coefficient (a measure of distribution of income ranging from 0 to a maximum of 100) is estimated at 63 for Botswana. See IMF (2007). Former Bank of Botswana Deputy Governor, Dr. Keith Jeffries observes that the richest 20% of households in Botswana earn around 70% of the total household income. See above footnote.

Indicator Survey were expected in May 2011, the current estimate of poverty in Botswana is at 30.6% of the population. This figure was recently described by the Ministry of Finance as unacceptable by any standard.³

2.1.1. Lack of diversification and impact on development plans

One measure of assessing how diversified an economy is to analyse the proportion of manufactured goods in its total exports. *Table 3* shows Botswana's export profile in this context.

Table 3. Botswana proportion (%) of manufactures in total exports (2001-2007)

	2001	2002	2003	2004	2005	2006	2007
Total Manufactures	90.6	90.9	96.4	95.6	84.8	79.3	73.1
Iron and steel	0.1	0.0	0.0	0.1	0.1	0.2	0.1
Chemicals	1.3	1.3	0.4	1.1	0.8	0.8	0.8
5237 Carbonates, per carbonates	0.9	0.8	0.0	0.6	0.5	0.4	0.3
Other semi-manufactures	84.2	80.6	78.5	75.7	74.9	72.9	63.0
6672 Diamonds (excl. industrial, sorted) not mounted/set	83.8	79.7	77.7	75.1	74.4	72.4	62.5
Machinery and transport equipment	2.9	6.3	5.2	5.0	3.7	1.7	1.8
Power generating machines	0.0	0.0	0.0	0.0	0.0	0.0	0.1
Other non-electrical machinery	0.5	1.1	0.4	0.6	0.5	0.4	0.3
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Office machines and telecommunication equipment	0.2	0.2	0.1	0.2	0.2	0.2	0.2
Other electrical machines	0.1	0.9	0.8	0.4	0.3	0.2	0.5
7725 Switches, relays, fuses etc. for a voltage not exceeding 1,000 V	0.0	0.0	0.0	0.2	0.2	0.1	0.4
Automotive products	2.0	3.7	3.6	3.4	2.5	0.7	0.5

Source: WTO (2009)

Although manufactures make up an average 84.3% of exports (2001-2007) this does not necessarily imply that Botswana has a diversified export profile, the figure is dominated not by manufactures, but by semi-manufactures which in turn are dominated by a single product, diamonds which averaged 75% of the total of semi-manufactures over the same period. The dependence on diamonds in the Botswana export profile shows a low degree of economic diversification. When we calculate the difference between the average share of manufactures (84.3%) and the average share of semi-manufactures (75.6%) in Botswana's total exports over the seven year period (2001-2007); in this case the real share of manufactures in Botswana's total exports is 8.7%. This is a major challenge to Botswana and it has an impact on the sustainability of the country's development plans. Changes in global consumption patterns such as reduction in expenditure on luxury items such as diamonds evidently had a direct impact on the Botswana economy between 2008-2010, the resulting reduction in public revenue has a negative impact on Botswana's development budget where such issues as the cost of a family policy may be accommodated.

³ See Ministry of Finance 2011 *Budget Speech*, 7th February, Gaborone.

2.2. Demographics

In the 2006 Demographic Survey undertaken by the Central Statistics Office (CSO) the total population of the country was estimated at 1, 773, 240 (of which 59, 245 were non-Batswana), the population was projected to increase to 1, 776, 000 in 2008. Over 35% of the population is below the age of 15 years, while 59.5% is aged between 15-64 years and 5.2% is above 64 years (Botswana Review, 2010). The population is young, with the median age of 21.9 years; 22.7 for females and 20.7 for males. Although the data shows an increasing life expectancy (from 46.6 in 2002 to 50.7 in 2007), the trend is a decline from 55.6 years estimated in 2001.

Preliminary data from the recent census indicate that the population has now reached **2, 038, 228** persons. The full results of the 2011 census are still being processed at this stage.

In terms of population distribution more than 80% of Batswana reside in the eastern region which offer better land and water resources, the bulk of the population is concentrated in Kweneng, Central Serowe-Palapye, Gaborone, Central Tutume, Ngwaketse and Central Mahalapye districts.

Changes in Botswana's economic structure from a predominantly pastoral society to a mining economy have also led to changes in the nature of human settlements from a predominantly rural population to a growingly urbanising society with urban settlements (which include cities, towns and urban villages) now accounting for close to 60% of the total population. The urbanised population is concentrated in Gaborone, Francistown, Lobatse, Molepolole, Serowe, Palapye, Selebi-Phikwe and Maun.

2.3. HIV/AIDS

Measured as at the apex end of the HIV/AIDS pandemic the Botswana society faces a critical burden which the disease imposes on the state, community, companies, individuals and families. *Table 4* shows the aggregated and disaggregated HIV/AIDS prevalence data for Botswana.

Table 4. HIV/AIDS prevalence in Botswana (2009)

HIV/AIDS	
Estimated adult HIV prevalence rate (aged 15-49), 2009	24.8
Estimated number of people (all ages) living with HIV, 2009 (thousands)	320
Estimated number of people (all ages) living with HIV, 2009 (thousands), low estimate	300
Estimated number of people (all ages) living with HIV, 2009 (thousands), high estimate	350
Mother-to-child transmission, Estimated number of women (aged 15+) living with HIV, 2009 (thousands)	170

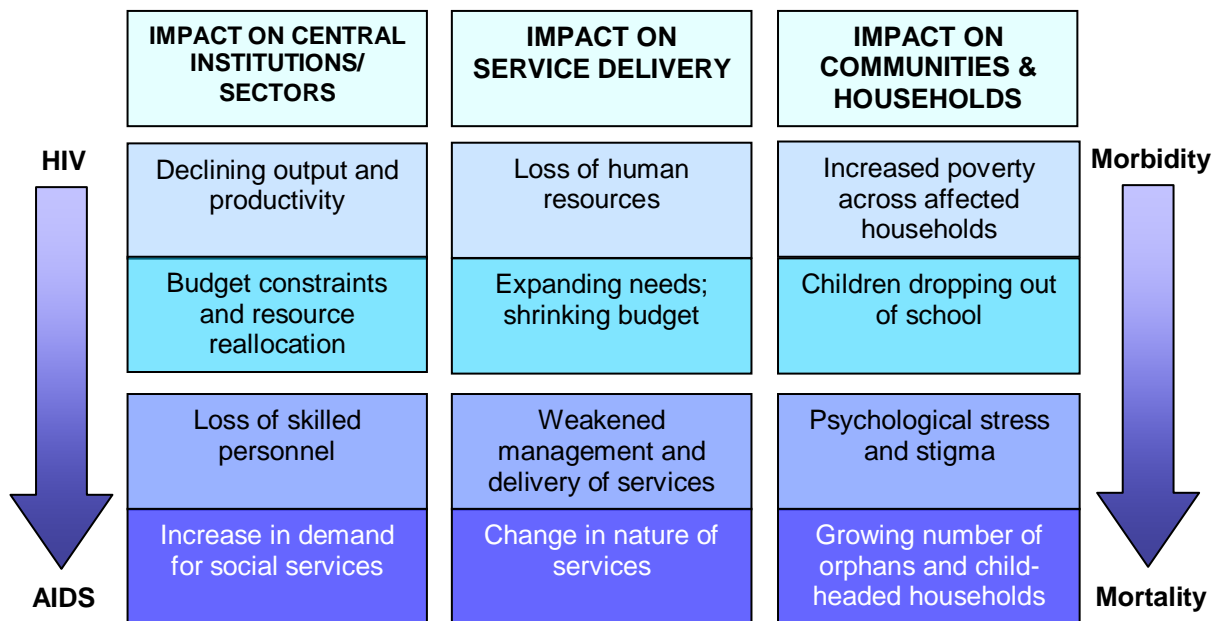
Paediatric infections, Estimated number of children (aged 0-14) living with HIV, 2009 (thousands)	16
Prevention among young people, HIV prevalence among young people (aged 15-24), 2009, total	8.5
Prevention among young people, HIV prevalence among young people (aged 15-24), 2009, male	5.2
Prevention among young people, HIV prevalence among young people (aged 15-24), 2009, female	11.8
Prevention among young people, % who have comprehensive knowledge of HIV, 2005-2009*, male	-
Prevention among young people, % who have comprehensive knowledge of HIV, 2005-2009*, female	-
Prevention among young people, % who used condom at last higher-risk sex, 2005-2009*, male	-
Prevention among young people, % who used condom at last higher-risk sex, 2005-2009*, female	-
Orphans, Children (aged 0-17) orphaned by AIDS, 2009, estimate (thousands)	93
Orphans, Children (aged 0-17) orphaned due to all causes, 2009, estimate (thousands)	130
Orphan school attendance ratio, 2005-2009*	-

Source: UNICEF (2009)⁴

The above data shows a comparatively high rate of HIV/AIDS prevalence in Botswana. Although there have been some remarkable progress made by the GoB and its partners with respect to reversing the HIV/AIDS pandemic the disease still presents major challenges to Botswana' socio-economic development. The pandemic places both financial and human resource burdens on the Botswana society, it further destabilises the family environment and through the loss of parents. The figure below summarises the effects of the pandemic on the community.

⁴ See http://www.unicef.org/infobycountry/botswana_statistics.html. However the consultants will make use of latest data from NACA on this section.

Socio economic effects of HIV/AIDS



Source: GoB (2007) based on Alan Whiteside's Presentation in Husain and Badcock-Walters (2002) Economics of HIV/AIDS Impact Mitigation: Responding to Problems of Systemic Dysfunction and Sectoral Capacity

Against the backdrop of HIV and AIDS impact, households are faced with increasingly difficult, often dire, situations to manage. Increased health care costs, loss of productive assets and incomes, stress and stigma, death of family members, among others, strain family management and coping mechanisms to the breaking point (GoB, 2007).

One of the unexpected and effects of HIV/AIDS that has not been planned for or appropriately addressed is the issue of emotional and psychological adjustment of children born with HIV/AIDS. Providers of psychosocial services are now faced with treating HIV positive adolescents who are not adequately prepared to deal with their HIV status beyond taking Highly Active Anti-Retroviral Therapy (HAART).

2.4. School enrolment

Access to pre-school education (a key component for early-childhood development and the release of mothers/women to pursue economic activities such as employment) has largely been left to the private sector and remains a challenge. Enrolment stands at 17%. Beyond early-childhood development Botswana shows very positive results. Government intervention is very visible from primary school onwards where the GoB commitment to provide all citizens with at least 10 years of basic education has seen primary school enrolments at 87.4%.⁵ However the missing 12.6% of enrolments may pose socio-economic problems.

⁵ See for example, *The State of the Nation Address by President of the Republic of Botswana*, 8th November 2010.

The fact that pre-schools in Botswana are predominantly privately owned means that only those with disposable income are able to truly afford pre-school and day care. While ten years of basic education is commendable, the country needs to look to providing pre-school education for everyone. Migration and the deterioration of the extended family has further exacerbated the problem of childcare. With fewer relatives willing or able to look after young children, and economic hardships forcing parents to work, lack of pre-schools may well result in an increase of street children whose parents are forced to leave them without adult supervision as they try to earn a living. Unsupervised children generally tend to engage in destructive behaviours, including early sexual experimentation and sexual assault.

Another advantage of having increased access to pre-school education is easier transition to primary school, both educationally and psychologically. Children learn basic phonetics and grammar in pre-school which gives them an added advantage in primary school. They also learn social rules and skills in pre-school that they apply once they start primary school. These advantages do not accrue to those children whose parents or guardians cannot afford pre-school fees and as such lack of exposure to such advantages has a negative impact on their future learning and earnings.

2.5. Existing social protection schemes

Given that a proposed national family policy may involve, in one form, or another, the use of social protection strategies funded by the government we discuss the experiences of the GoB in design and delivery of social protection. For the 2010/11 financial year, the GoB allocated a total of P298 million for cash allowances for pensioners, veterans and the destitute. *Table 5* below shows the range of social protection schemes available in Botswana.

Table 5. Examples of social protection schemes in Botswana

Scheme	Coverage
Old Age Pension	A monthly cash allowance is given to 90,579 citizens of 65 years and older to assist them in purchasing basic necessities.
World War Veterans	2,800 Second World War Veterans, or their spouses or children below the age of 21 years are given a monthly cash allowance.
Destitute Cash Allowance	Allows beneficiaries to purchase additional necessities that are not provided in the food basket scheme. As of June 2010 over 36,000 people benefitted from the programme.
Food Basket	To ensure basic nutritional support, 44, 695 orphans, destitute persons and Community Home Based Care patients benefitted from the monthly food basket assistance in 2010.
Ipelegeng	Provides temporary employment for up to 40,000 people per month, the figure is expected to increase to 50,000 in the 2011/12 financial year. In June 2010, a total of 3,144 youth in the Districts were engaged as Green Scorpions, 15, 264 in the Ipelegeng programme.

Source: compiled by authors from GoB, 2010

The above initiatives go some way towards poverty alleviation and eradication, and they also contribute to social stability through enabling poor households to survive.

2.6. Conclusions

Although the GoB has a number of initiatives utilising public resources for social needs these initiatives are not generalised, they are targeted at specific social groups and available on the basis of graded needs. The GoB operates the handful of social initiatives on the basis of the limited resources available for this purpose. The brief overview of Botswana's economy shows a number of pertinent issues to be noted in the context of developing a family policy, some of the socio-economic indicators also justify the need for a coordinated development and implementation of a national family policy. High unemployment, the prevalence of HIV/AIDS, the high incidence of poverty, and a relatively young population require a number of interventions that will stabilise social and economic structures. However the structure of the economy, primarily its low diversification also points to difficulties in harnessing public resources to expand the range of subsidies or economic incentives that support the family structure. The linkages with economic indicators are further elaborated below in the literature review and the comparative analysis of family policies. This mainly concerns the question of the kind of policies to be developed and the resource implications of such policies in view of current and projected economic indicators of Botswana.

3.0. Literature Review: Family Policy; Background Issues and Trend Identification

3.1. Defining the "family" unit

The concept of the family is one that has been there for many millennia, and is a social construct through which society is able to identify its members, either by name or association. It is therefore a construct that is defined and determined within a particular social and cultural environment in which it occurs. To this end, the definition of family is fluid and requires constant revision. For the purposes of this consultancy, the family will refer to a group of two or more people related by blood or marriage, or where no such relation exists have chosen by choice or circumstance to live together or associate as a family unit. This is adapted from Rothausen's (1999) definition of family that "There are diverse types of families, many of which include people related by marriage or biology, or adoption, as well as people related through affection, obligation, dependence or cooperation (p. 82)". This definition of family is adopted for this assignment as it encompasses the wide assortment of family units represented in Botswana and is sensitive to the various forms of family (i.e. nuclear family, single-headed family, foster family, adoptive family, child-headed family, and grand-parent headed family). It is also sensitive to the cultural definition of family, which often involves a large network of extended family and society. The extended family has been an important part of the family unit in Botswana, even where a nuclear dual-headed household exists. The HIV/AIDS pandemic has reinforced the importance of the extended family; statistics show that 42.5% of caregivers of Orphans and Vulnerable Children (OVCs) aged six to twelve are grandmothers, and other extended family members taking on guardianship of OVCs (Lucas & Johnas, 2010).

The family also occupies a critical role in Botswana's ideal vision of itself when it marks 50 years of independence, this is captured in the Vision 2016 document:

Family Values, Traditions and History

The family will be the central institution for the support and development of people in Botswana, and for the transmission of social and moral values. The strength of the family will have been reinforced in response to the rapid social changes that are sweeping the country, the region, and the world. The emphasis on a strong family unit will encourage responsible parenting and the institution of marriage. It will provide the social foundation for the eradication of problems such as the high incidence of teenage pregnancies, adultery, prostitution, street children and the spread of HIV.

3.1.1. Cultural factors

The impact on the family by the HIV/AIDS pandemic is one that is widely acknowledged and has been widely studied within the country. However, not as much research or literature exists on the impact of other factors that affect the composition and distribution of the family in Botswana. Separation, divorce, parental death, urbanization, single parenting, poverty, violence within the home (particularly of women and girls) all have an influence on the family in terms of its structure.

Culture is a factor that plays a major influential role in defining the family unit. In particular, culture guides what is accepted as a family unit as well as the roles of individuals inherent to the family. The Setswana culture is patrilineal and as such power within the family lies with male members of the family. In the nuclear family, the husband is head of the household and his authority is final. Within the extended family, paternal and maternal uncles make family decisions, particularly during times of death within the family as well as during marriage negotiations and mediation where marital dissension is reported. This power given to male members of the family is learned early in life and is taught and reinforced in traditional proverbs. These proverbs are used by traditionalists to give themselves ultimate power and decision making in their relationships. This is supported by Ntshwarang's (2010) research on gender violence and sexual risk behaviours in teenagers.

The Setswana culture accommodates forms of the family outside of the nuclear family. As such, the definition of family chosen here will be able to comply with Setswana culture. However, it should be noted that some smaller ethnic groups within the country may have a differing view on the family unit. Accordingly, the definition of the family used during in these places will be adapted to suit the particular cultural group.

3.2. Parenting practices and the family unit

The role of parents in the family unit is a key aspect of this assignment. Parenting has long been regarded as playing a substantively influential role in the family unit. Parenting has been studied relatively extensively by psychologists and its impact on infant and child development is well documented. The early parent-child relationship is seen as a very significant part of family life. The nature of the relationship is viewed as being fragile, and its possible pathological patterns are important in the development of the child's current and later identity. Parenting practices are greatly influenced by the culture within which an individual lives. Research on parenting practices in Botswana and its impact on the family has been very difficult to identify. However, the consultants were be guided by existing literature on parenting and theories of parenting and used those in the fieldwork to find out what the specific implications are for the family in Botswana.

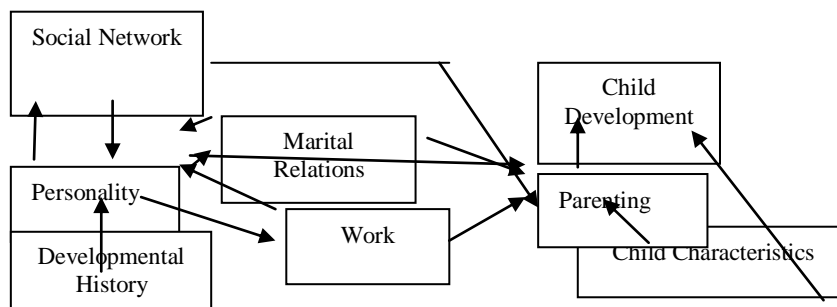
When evaluating parenting practices in Botswana the consultants looked at their fit with the five main strands of research on parenting: social learning theory; Bell's re-analysis; attachment theory; social network; and behaviour genetics. Social learning theory places emphasis on the observation of patterns of interaction, as well as the significance of parents as role models in the child's identification with adult-sanctioned norms (which are culturally embedded). Within this theory emerge four distinguished patterns of parenting: authoritarian, authoritative, permissive and non-conformist. Authoritarian parents value obedience and the forced imposition of their will. Permissive parents are typically non-intrusive but emotionally available, non-conformist parents are more controlling than permissive parents though they oppose authority, and authoritative parents encourage their children to be independent using a balance of love, discipline and rational explanation. This type of firm and responsive parenting used by authoritative parents elicits greater cooperation, higher social and cognitive competence and less delinquency in children. Research has shown that juvenile delinquency and other child behavioural problems tend to be higher among children of authoritarian parents. However, this finding is not seen in Asian and African- American families, suggesting that elements of cultural specificity play a role. The impact of these different parenting styles has not been explored in Botswana and this was researched during the fieldwork phase of the project through various FGDs. The consultants were able to identify attitudes to parenting styles and reactions on these styles especially from comments made about relations between children, parents and elders.

Bell's re-analysis is the second strand of parenting research that was assessed. It looks at the parenting as a whole system that does not look at the parent-child relationship as a series of bi-directional patterns of influence. The theory stresses that some parents unwittingly train their children to be manipulative, while at the same time some children elicit coercive behaviour from their parents.

Attachment theory was the third parent perspective that was looked at. Of relevance are the behavioural systems that are found within the parent-child dyad that develop to promote the child's survival, as well as instilling trust within relationships. The quality of parenting is vital to the child's current and future psychosocial functioning. Research has shown that continuities exist in an individual's attachments from infancy to early adulthood, as well as between the adult's own attachment constructions in pregnancy and the subsequent attachment relationships formed with their children (Lewis, 2005).

The fourth strand of parenting acknowledges parenting as entrenched within a complexity of factors forming the child's social environment, and the parent-child system and parenting styles should be understood within a network of other systems (i.e. extended family, non-familial relationships). *Figure 2* below highlights the different influences on parenting.

Figure 2. A model of the multiple influences of parenting and the family⁶.



Behaviour genetics is the last strand of parenting that was considered. The theory contends that there is a genetic component to parental responsiveness and affective engagement between the parent and child. In this area the consultants looked at particularly at “at risk” children and the parental responsiveness to such children.

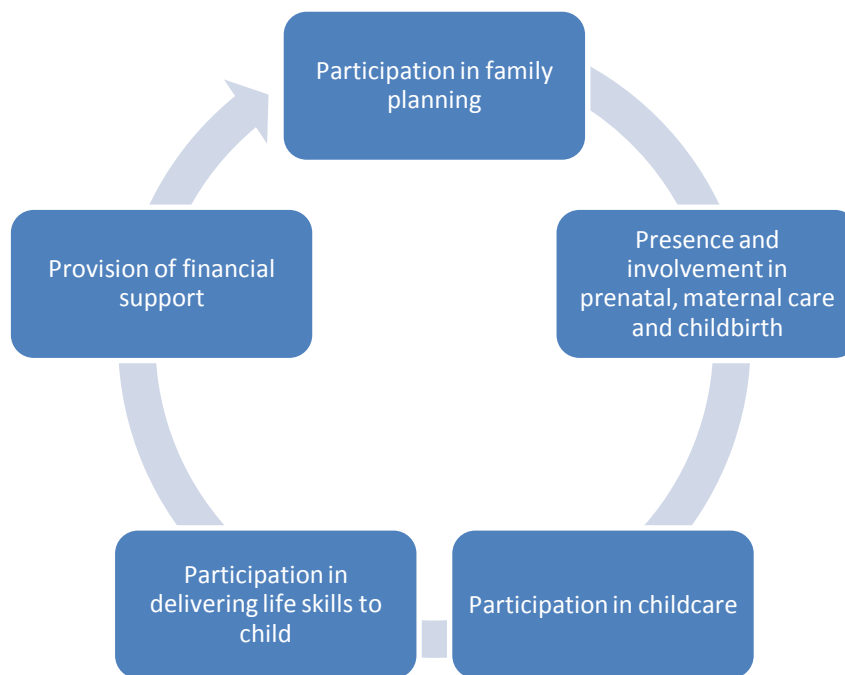
Parenting style is seen as greatly influencing child behaviour as well as child outcomes. To this end the role played by mothers and fathers was assessed. More often than not research focuses more on mothering. However, the impact of fathers in their children’s socialization and the children’s psychosocial outcomes has in recent years become an area of interest in psychological research. In particular, the level of paternal involvement in child care as well as the timing of this involvement has been shown to be a protective factor (Booth & Crouter, 2008). Analysis of the different types of family units and the emotional involvement of fathers will be assessed vis-a-vis families without paternal involvement and the subsequent impact on the family as a system and on the children.

Figure 2 was the starting point from which the family unit within the different districts of the country was looked at. The figure shows no particular beginning position and as such the multiple influences were analyzed as a multi-directional system incorporated in questions directed at FGDs and KIIs.

The consultants investigated the range of perceptions and practises regarding the role of men or fathers in the family. Following the UN (2011) we identify a number of parameters upon which to frame interview questions to identify the role of men and fathers in the family. Figure 3 below shows some of the parameters that were assessed in the course of identifying perceptions and realities on the role of fathers in the family. We adopted the view that fatherhood is a cycle within which we can assess certain perceptions on the specific roles assigned to men within the family context.

⁶ The determinants of parenting and family dynamics: a process model. *Child Development*, 255, 83-96.

Figure 3. Parameters on the role of fathers in the family context



Source: Authors based on UN, 2011

The Box insert below shows a comparative perspective on the role of the father in a legal context.

Box Insert 1: South Africa: engaging fathers to financially support their children

South African law recognizes fathers primarily as providers, not as caregivers, and Maintenance Act 99 of 1988 establishes that the biological father of a child, married or not, must maintain or support his child in proportion to his means. Men who do not make payments are criminally liable upon conviction to imprisonment for up to one year or to a fine, although this is very rarely imposed. For low-income or unemployed fathers, a compliance with maintenance rulings is a challenge, and the law provides limited support to them in their roles as caregivers. However, in addition to placing this strong emphasis on men's role in maintaining their children financially, the law now also explicitly recognizes unmarried fathers' rights, particularly in cases where mothers are unwilling or unable to raise their children. Children's Act 38 of 2005 provides that fathers who demonstrate involvement in their children's lives acquire full parental rights and responsibilities, and the default for custody in divorce is now shared custody. On the other hand, Basic Conditions of Employment Act 75 of 1997 provides only three days' paid leave per year for family responsibility for men, to be used at the time of the birth of a child or sickness or death of a family member. Existing policy in South Africa, as in many other settings, in terms of men's roles as caregivers thus fosters entrenchment of notions of women as primary caregivers and too often fails to support efforts to increase men's involvement in care work.

Source: UN 2011

3.3. *Developmental History and Psychosocial Services Support in Botswana*

An assessment of developmental history is relevant in the context of the analysis of the availability or otherwise of psychosocial services in Botswana. Developmental history is concerned with the how areas of one's childhood development have impacted in subsequent psychosocial adjustment. Developmental history typically begins with assessing the prenatal period (applicable primarily to mothers). Research has shown that prenatal stress has a strong impact on post natal development, particularly psychological and social development. Children born to mothers who were stressed during pregnancy are exposed to continuously high levels of cortisol which impedes brain development, with subsequent problems in learning, attention, general behaviour and specifically delinquent behaviour, concentration and moral reasoning and is seen consistently in psychological practice in Botswana. Within the category of developmental history we will also look at the impact of parental death. This area cannot be stressed enough in the context of Botswana given that the HIV scourge has left many children without one or both parents. Maudeni & Malinga (2010) have reported uprooting of children after parental death without their consent, separation from siblings, and that children have been denied attending the funerals of their parents. All of these, though in contravention of the Children's Act, are still commonplace and will have an impact on how other people interact with the child, as well as impacting on the child's psychosocial development. For those who are orphaned the role of the social worker is insensitive at some times and can play a detrimental role in the child's psyche. Lucas & Johnas (2010) report that distribution of uniforms and toiletries to needy orphans normally takes place at school in front of the entire school body (and in direct infringement of a "child's right to protection" as stipulated by the UN Convention on the Rights of the Child).

3.3.1. Significance of neonatal psychosocial support services

In looking at developmental history the consultants will suggest the establishment a psychosocial support system as part of the Ante-Natal Care provided for in government clinics as no such support currently exists and is vital to the enrichment of the family. This support system will be in the form of a nurse or counsellor providing emotional support to women identified as experiencing emotional disequilibrium during pregnancy, particularly single mothers who have been deserted by their partners. Additionally, women with physical problems during pregnancy as brought on by pregnancy complications or disability will also need to be catered for. If the family in Botswana is to have any chance of survival it needs to start at the stage where family begins, which is at the neonatal stage.

3.3.2. Support for Parent-infant attachment in Botswana

Although Tswana culture provides for the building of this relationship through the *botsetsi* period, changes in the closeness of the family mean that the support generally given to new mothers by other women within the family is not as it has been in the past. As such, women are having to bare more emotional issues surrounding being a parent by themselves. Prevalence rates of post-natal depression in psychological practice in Gaborone are comparable to those found in urban areas in Western countries. The lack of psychosocial

support to these women means that many children grow up without firm attachments, thus having a cyclical effect on the attachment to their own children. The significance of the parent-child attachment and parenting style on family cannot be stressed enough, and the formulation of any family policy will have to take this into account such that the policy allows for the facilitation of and enhances parent-child attachment, as well as allowing for the improvement of current parenting styles that are detrimental to children and the status of the family.

3.3.3. Disability in the family context

Tswana culture generally hides both physical and psychological disability. An assessment of the impact of disability on family and family dynamics and interactions will help to guide recommendations for programs and policies that aim to increase their visibility and improve the general quality of life for disabled individuals.

3.4. The role of Social Networks

The extended family has traditionally been the rock on which the family leaned on for emotional support. With urbanization and migration the clout of the extended family in family structure is rapidly diminishing. *Bogosi*, another traditionally Setswana phenomenon, is not as visible in the family. Moreover, it appears the role and impact of the extended family in child and family welfare services has been relegated to one of little significance (Lucas & Johnas, 2010).

3.5. Marital Relations and Counselling Services

Culture was mentioned earlier as playing a vital role in family. Male power within the marriage relationship, though abolished by law, remains deeply rooted in cultural language, dialogue, idioms and proverbs (Ntshwarang, 2010). This typically translates into the acceptance of gender and sexual violence. Ntshwarang (2010) has 21% of girls in his study reporting sexual coercion as sexual debut; this blights self-esteem and generally sets a lifelong pattern of sexual and emotional relationships that increase chances of psychological sequelae (Tlale, 2002). Another challenge is the widespread culturally accepted promiscuity of both genders.

Pre-marital counselling is a rare phenomenon in Botswana. Culturally post-marital counselling occurs in the form of "*go laya*". However, this is instructional in nature and does not allow for discourse that will aid the internalization of the message. Additionally, the instruction is rooted in a culture that emphasizes male dominance over women and does not support a psychologically healthy union.

3.6. Employment policies and the family

Paid work outside the home has become a necessity for almost all households. In two-parent nuclear families, it is very common for both parents to work outside the home. This

means that children are often left in the care of other people, and frequently these people are non-family members. Research in Western countries abounds on the effect of having mothers in particular working outside the home.

The amount of time spent at work by parents will also have an impact on the quantity of time spent with the family, with subsequent impact on children's development. In rural areas children also spend time doing work, often in the fields or cattle posts

3.7. *Child Characteristics and Child Development*

Children's role within the family is an important one and one that the UNCRC and the Botswana Children's Act aim to bring to the forefront. Culturally children are meant to be seen and not heard. Their contribution to major decisions affecting them is often non-existent, and often to the detriment of their character development.

"At risk" children is an area of particular interest as their impact on the family is typically felt by all family members in a very negative way. "At risk" implies an increased probability of poor outcomes (Rauh, 2005). Risk evidence will be based on retrospective analysis that takes into account children with school problems, disproportionately unfortunate childhoods (loss of family member(s), removal from the family home, being orphaned, neglect), and early health problems. Early health risks (prenatal problems, preterm birth, and prenatal teratogenic influences) and early family or social problems (family discord, poverty, low educational level of parents) have been shown to reliably predict later personality and behavioural problems. Research has shown that biological risks can change an infant's appearance or temperament in such a way that caregivers respond with less sensitivity or overprotection, thereby generating an atmosphere that is sub-optimal for childrearing. The child's psychological and physical resources are also reduced by biological risks, de-stabilizing their ability to self-regulate and hinder information-processing abilities, all functions that are vital for optimal character building and development. Social and cultural protective factors will be assessed, as well as how they tie in with existing programs for "at risk" children (Werner & Smith, 2001; Bronfenbrenner & Morris, 1998).

"At risk" children often end up in the criminal justice system. However, in Botswana, the juvenile system falls short of international standards that the country is supposed to uphold, primarily restorative justice, prevention and corporal punishment of juveniles (Semommung, 2010). These are areas of child development that typically influence risk behaviours and an assessment of them is vital to any family policy.

4.0. Identification and Review of Legislation on the Family in Botswana

4.1. Introduction

The family as a unit is organised around various aspects that include social, economic, political, cultural and religious environments. While these may be regulated by state law and coordinated by recognised state institutions, it is important to realise that many relevant family aspects are organised around semi-autonomous social fields that are neither regulated nor recognised by the state but which are in many cases more powerful and more relevant to the family setting than state laws and state institutions. It is therefore important when analysing the legal framework on the family situation in Botswana not to lose sight of these settings and how they impact on the well-being of the family in practice. In most cases and despite being aware of their rights in terms of the law, family members are reluctant to exercise these rights if they may result in their alienation from the family and the community. An understanding of these aspects is therefore necessary to ensure that legal and policy provisions are relevant and applicable to the lived realities of the people who are supposed to benefit from them. Below is an analysis of the various laws that have a bearing on the family institution in Botswana and their adequacy or otherwise in protecting the integrity of the family and its constituent members. In the next phase of this assignment close attention will be paid to the various interpretations of these laws by the Courts of Botswana and legal scholars.

4.2. Constitution of Botswana

The Constitution is the supreme law of any country. As such any aspects that are provided for in the Constitution take precedence over any other legislative provisions.

- i. Section 9 of the Constitution of Botswana promotes the protection of the privacy of the home. This is important because the home is the base for the development and wellbeing of the family.
- ii. The Constitution however does not specifically recognise the family as the basic social unit for the development of the country. Nor does it provide for the right to marry and found a family as enshrined in Article 16 of the Universal Declaration of Human Rights or Article 18 of the African Charter on Human and

People's Rights which states that the family shall be the natural unit and basis of society and that it shall be protected by the State through taking care of its physical health and moral wellbeing. Similar recognition in the country's Constitution can go a long way in ensuring more effective and targeted support for the family as a basic social unit that is important to the development of the country.

- iii. Chapter II of the Constitution of Botswana is the Bill of Rights, dealing with fundamental rights and freedoms of the individual. There is a huge gap in this Bill of Rights in that it does not prohibit discrimination on the grounds of gender or sex as is the case in many constitutions worldwide. Section 15 (3) of the constitution defines discrimination as "*affording different treatment to different persons attributable wholly or mainly to their respective description by race, tribe, place of origin, political opinion, colour or creed.....*", completely exempting discrimination on the grounds of gender or sex, yet these are grounds of discrimination that are prevalent in family situations in Botswana. The apparent discrimination on the basis of sex in the constitution was dealt with in the *Attorney General V Unity Dow* 1992 BLR 119, where the word 'sex' was read into the anti discriminatory clauses in section 3 of the Constitution. Further, the provisions that confer rights were deemed superior and all other provisions have to be read against these, they create a bill of rights though the constitution itself does not preface them as such. This was a watershed judgment that empowered women.
- iv. The licence to discriminate in terms of the Constitution is extended by exempting matters of personal law and in particular matters related to adoption, marriage, divorce, burial, devolution of property upon death as discriminatory in situations where they are applied. Personal law is the law most applicable to family situations and as a result such exemption leaves many people, especially women in family situations vulnerable to discrimination. Personal law in many cases has also become synonymous with customary law and it is widely accepted that in many cases customary law forms the basis of discrimination in family situations especially for women, children and young people within the family. This is therefore an issue that needs urgent attention especially considering the status

that Botswana has assumed globally as a champion of human rights and democracy. To demonstrate the hardships of discrimination on the basis of personal law, the High Court is currently seized with a case concerning the primogeniture rule found in the *Ngwaketse* custom and other customs, that stipulates that the youngest male inherits the homestead to the exclusion of the female siblings and older male siblings. In this case, *Edith Modisagape Mmusi and 3 others v Molefi Silabo Ramantele and The Customary Court of appeal, MAHLB- 000836-10*, the heir to the youngest male sought to evict his father's siblings on the basis of this rule, from a home they had lived in all their lives. Some of the parties sought to be evicted are close to 80 years of age and literally have nowhere to go. The Customary Court of Appeal upheld this practice on the basis that it is discrimination that is justified on the basis of Ngwaketse Customary law. The High Court is being asked to declare that this principle, although subsumed under the limitation under customary law, as not justifiable in a democratic society, for violation of the right to equal protection of law and the right not to be discriminated on the basis of sex, all things equal. The type of discrimination complained about in the *Unity Dow* case above, seemed, on the face of it, to be entrenched in the constitution as 'sex' was not specifically mentioned as a basis upon which no discrimination should lie. This case demonstrates that the Constitution can be widely interpreted to suit modern dictates in democratic societies. Discrimination on the basis of sex or gender has far reaching consequences for the welfare of the family in our society. When such discrimination occurs, the primary caregiver of the children (being the mother) is limited in her ability to take care of the physical and emotional needs of the family. The constitution of the country should therefore outlaw discrimination in any form to accord equal rights and opportunities to all citizens.

4.3. Marriage Act: Chapter 29:01

This is a 2001 Act and applies to civil marriages, religious marriages and customary marriages in Botswana.

- i. Section 6 of the Act seeks to protect the economic welfare of minor children by ensuring that their inheritance and maintenance rights are secured before a surviving or divorced mother or father remarries. This is important to ensure that the children have the necessary resources that they require for basic needs as they grow up such as shelter, education, health, food and clothing amongst others. Provision of such basic necessities also protects children from social ills such as child prostitution, trafficking, child labour and street life. However, the abuse of inheritance and maintenance rights is still very prominent. This calls for closer monitoring of such activities by a governing body that is well resourced to deal with such issues. The DSS is currently overwhelmed and understaffed to deal with this, and partnerships with private sector providers should be established.

- ii. Section 10 (i, ii, iii) explains the monogamous nature of civil marriages under this Act and the fact that entering into another marriage contract during the subsistence of a civil marriage constitutes an offence of bigamy. This helps to protect the basic unit of the family institution and the rights that accrue to the spouses and children of the marriage in terms of maintenance, support and inheritance. Similar provisions are however not available for customary and religious marriages thereby subjecting the family unit in such settings to disruptions and interference that comes with concurrent relationships. Adultery for example does not exist under customary marriages, where a man who engages in another relationship is considered to be courting in preparation for taking another wife. A woman married in terms of customary law however still commits adultery if she engages in another relationship during the subsistence of such marriage. This places the burden of the protection and stability of the family unit on the woman and not similarly on the man. Ideally adultery provisions should apply in any form of marriage that is recognised as such in the country. This recognition should be given on the understanding that broken and dysfunctional families are not conducive for the full developmental potential and wellbeing of children. This is also important in light of the HIV/AIDS scourge that has seriously impacted on the family in Botswana as parents die leaving behind

young children to either care for themselves or be cared for by elderly grandparents. Many social ills often follow children in such circumstances.

- iii. Men continue to exercise marital power over their wives in customary and religious marriages. This limits women's potential to acquire property such as houses and land or to apply for bank loans or enter into any contracts as they need the husband's consent to do so. This continuation of such practices highlights the need for education on the rights and privileges of marriage by all parties entering a customary or civil marriage. To establish and facilitate such education for people entering a marriage agreement, customary marriages also need to be documented in a similar manner that civil marriages are. Not only will the abuse of power be curbed by such monitoring and education but the children's well-being and rights are also protected.

- iv. Sections 14 and 15 deal with the protection of mentally disabled persons and minors to ensure that they are not exploited in the name of marriage. A critical provision in this regard is that the Act places the minimum age for marriage for both boys and girls at 18 years, subject to parental consent and at 21 without parental consent. In other countries such as Zimbabwe, the age limits for marriage are different for boys and girls (16 and 18 respectively) thereby discriminating on the grounds of gender and exposing girls to exploitation and premature marriages that can negatively impact on their wellbeing and development. Known impacts of such discrimination are that girls drop out of school, have children that they cannot properly look after and acquire HIV at an early age. The age limit in Botswana, commendable as it is however applies only to civil marriages and no such limits are provided for in customary or religious marriages. This means that effectively children can marry at an early age if they are contracting religious or customary marriages.

- v. The inclusion of all types of marriages in the country in one Act ensures effective administration of the marriage system. In addition, though not effective, it is also an attempt to show that all marriages are important regardless of the system under which they are contracted. Other countries provide for civil marriages in one act and religious and customary marriages in another thereby giving one

form of marriage a perceived superiority over the others. The provision for registration of customary and religious marriages also helps to place certainty on the existence of such marriages and protect the spouses and children of such marriages in the event of death, divorce or separation. In some countries in Africa, it is not a legal requirement to register customary marriages and this presents a number of challenges relating to recognition of such marriages. For example unregistered customary law marriages are only recognised for certain purpose like inheritance, custody, guardianship and maintenance issues but are not recognised as marriages at law resulting in women losing out upon separation in relation to sharing of property. Article 16 (2) of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) urges state parties to take measures to make marriage registration compulsory including through legislative provisions and therefore the direction taken by Botswana in this regard is in compliance with its obligations under this Convention.

4.4. Abolition of Marital Power Act

This piece of legislation takes away the husbands marital power over his wife and their property and further removes the restrictions such power placed on the legal capacity of the wife. It also abolishes the common law position of the husband as the head of the family. It further makes provision for the domicile of married women and the guardianship of minor children and related matters.

The Act has a retrospective effect to marriages in community of property. It gives equal powers to the husband and wife to deal with the joint estate. Consent of the other spouse is needed for all transactions touching on the estate of the parties. Where such transactions are carried out without the consent of the other party and the estate joint suffers, an adjustment would be made in favour of the other spouse, during the subsistence of the marriage, or upon the dissolution of the joint estate. Consent is however not required in the ordinary course of the parties vocations or in dealings on a stock exchange. Provision is made for relief by the courts for the suspension of spousal consent. Consent can also be dispensed with where necessary. The Act also sets out permutations regarding litigation. Spouses married out of community of property have joint and several liability in respect of necessities for the joint estate. A party who has contributed more has a right of recourse against the other for the extent of that contribution. Where property is acquired jointly it shall be dealt with as if the marriage was in community of property.

4.4.1. Domicile

Previously the domicile of a woman and children was tied to that of the husband. This Act abolishes that position. The domicile of a woman is now determined based on the same factors upon which the domicile of a man is determined. The domicile of a child is determined with reference to the domicile of the parent the child is mostly closely connected with. Where a child resides with one of the parents, unless the contrary is shown the child's domicile shall be that place of residence.

4.4.2. Guardianship

Parents have equal guardianship rights over minor children and their consent is required where the child is adopted, contracts a marriage, is removed from Botswana, and for any dealings with respect to immovable property vesting in the child. The parents also need to agree on issues concerning the child's education and immigration issues.

It is necessary to determine the objectives that underpinned the formulation of this legislation. This law challenges age old traditions and beliefs of Botswana in the patriarchal system practiced since independence. It is in direct contrast to the customary law that holds that the man is the head of the family. Further, it is in contradiction of some fundamental religious beliefs. It therefore brings into sharp focus, the issue of duality of laws.

4.5. Matrimonial Causes Act

This deals law with divorce and ancillaries, nullity of marriage, presumption of death and other issues. It vests primary jurisdictions over these issues in the High Court and only applies to marriages contracted under the civil law and specifically excludes application to marriages contracted under customary law. The Act also creates subordinate matrimonial Courts. Whether the President on the recommendation of the Court Justice has ever appointed any judicial officer to hold a subordinate matrimonial court is an issue for investigation. These courts have the same jurisdiction as the High Court except they have no jurisdiction when it comes to the validity of marriages or divorce and have no power to make any order of presumption of death and dissolution of marriage. The High Court has supervisory jurisdiction over the subordinate Courts.

4.5.1. Divorce and Ancillaries

Under this Act, the sole ground on which an action for divorce can be instituted is the irretrievable breakdown of such marriage. Section 15 of this Act sets out four factors that need to be proven to evidence the irretrievable breakdown of the marriage namely; adultery, desertion for a continuous period of two years immediately preceding the commencement of the action, unreasonable behaviour, living apart for a continuous period of two years immediately preceding the commencement of the action accompanied by the consent of the defendant. These factors have to be proven for divorce to be granted, and such proof necessarily entails allegations of fact that place the other party in very bad light.

The court handling the divorce has the power to determine property rights of the parties, custody of the minor children and the maintenance of such children. In assessing suitability for custody for the parents, the court can order a professional evaluation of the parties by social workers. In all cases of custody, the paramount consideration is the best interests of

the child. There is no automatic shared custody upon divorce as obtains in other jurisdictions. The parties have to prove their suitability for custody if no agreement has been reached on the issue. Courts have, in appropriate circumstances, awarded custody to men. The court is guided by the standard of living of the parents when making a determination of maintenance payable. The court can also make orders for spousal maintenance and orders for alimony in cases of judicial separation. The Act restricts the institution of divorce proceeding before the expiration of two years from date of marriage unless exceptional hardship or depravity is proven. In the case of emotional or economic abuse, proving such hardship may be difficult. These time limits discriminate against women as they are often the ones who have to prove hardship or depravity. Psychosocial support service providers have cited this as a reason women stay in relationships that are detrimental to their emotional well-being and in some cases threaten their lives when they are forced to legally remain in marriages they want to get out of. Once again this highlights the need for education on all aspects of marriage before parties enter into any agreement.

4.5.2. Nullity of marriage

The Act also makes provision for the nullity of marriage under section 22 thereof on the grounds stated therein; a marriage on proof can be considered void from the beginning in which case it is deemed never to have taken place as long as factors stated in section 22(2) are proven. In other cases a spouse has the election to have the marriage declared void on any one of the factors listed under section 22(3). A glance at some of these factors, (e.g. that someone suffers from a communicable venereal disease) shows that they are not in concert with the HIV/ AIDS policy on anti-stigmatization and encourage a break-up of families. A lot of strides have been made by the government to destigmatize of HIV/AIDS and an evaluation of the provisions hereunder, on the ground will be undertaken, to determine their relevance as well as their effect on other policies geared towards building the family.

This study examined the instances of divorce and separation in Botswana based on official statistics. The impact of the manner of dissolution of marriage during and post divorce, will be evaluated to determine whether post divorce, the parties retain cordial relations especially where children are involved. In Botswana courts use the adversarial system in which parties compete to tarnish each other to prove or disprove the breakdown of marriages. There is however, room for the parties to come to settlement on all issues. It is in fact a legal requirement that parties attempt settlement and set out clearly the steps taken to settle and areas and particulars of disputes. The question is whether this system promotes good relations post divorce or whether it entrenches prejudice with the children being caught in between. The viability for the introduction of family and divorce mediation will be examined. Post divorce counselling for the parties and children will also be explored.

4.6. Married Persons Property Act

- i. The Act recognises the contribution of unpaid domestic work in the acquisition of property of economic value. This includes looking after the family, home and other household chores. This is in recognition of an accepted tenet that unpaid

work in the private domain (especially by wives) helps members of the family (especially husbands) to participate in work in the public sphere which allows these members to acquire money and other assets of economic value. The benefits of the economic worth of these assets therefore have to be shared between husbands and wives who contributed whether directly or indirectly towards their acquisition.

- ii. This recognition is of benefit especially to women who before the amendment of the Act in 1990 could not get much out of matrimonial property at divorce if they could not prove that they contributed in monetary terms towards the acquisition of the matrimonial property.

4.7. Children's Act: No 8 of 2009

- i. One of the main objects of the Act is the promotion of the wellbeing of children, families and communities in Botswana. It also recognises that the responsibility to raise and ensure the wellbeing of a child rests with the family, community and government and that families and communities should be supported by government in their endeavours to bring up responsible and well adjusted children. The recognition that children need families to thrive is an acceptance of the importance of the family institution in the development of the community and the country.
- ii. The Act however recognises that whilst ideally children should grow up in families, there are situations where they grow up in different settings for various reasons. The reasons for such situations include orphan hood, neglect by parents and guardians, inability by families to look after their own children due to financial constraints, drug and alcohol abuse or general neglect
- iii. As such it provides for institutional structures for alternative care of children outside the family setting including foster homes, children's homes and schools.
- iv. In all situations the best interest of the child as enshrined in the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child are paramount .The Act contains a Bill of Child Rights, thereby building on and elaborating on the rights that children are accorded in international law. Botswana is one of the few countries on the African continent to clearly include a

bill of rights in a children's act. This is an indication that the rights of children are taken seriously in the country. Challenges may still remain though in terms of customary law in that according rights to children in the traditional African society is generally regarded as a licence for children to be disrespectful of parents and adults and to engage in immoral behaviour for which parents have got no control. As such even with legislative provisions, the situation on the ground may not accord these rights to children hence the need to educate families and communities that giving children their rights is not synonymous with loss of control over the children by families and communities.

- v. The rights to know one's parents, to be cared for by parents and to receive appropriate parental guidance are provided for in Sections 13 and 14 of the Act. Their effective implementation will help in maintaining family ties even in situation where parents are not physically living with their children.
- vi. Part VIII establishes Children's Courts, an important institution in ensuring that cases involving or affecting children are dealt with expeditiously and do not have to queue with all other cases that are brought before the courts. Specialist Courts like the Children's court are by their nature expected not to be as overloaded as ordinary courts. In addition, in many cases specialists courts do not stick to cumbersome and complicated procedure as normal courts would do, making it easy for people before the courts to understand and participate in proceedings even without the representation of a lawyer. This is helpful especially in situations where children are involved in the proceedings in one way or another.
- vii. Offences under the Act include exposing children to harmful traditional, cultural and religious practices. This provision is particularly important to Botswana as an African country in that children have been abused, exploited and corrupted in the name of custom, religion and tradition. Some of the harmful practices that can be perpetrated on children include forced and early marriages, female genital mutilation (FGM) and substance abuse e.g. smoking of dagga. While FGM and substance abuse may not be a big problem in Botswana, forced and early marriages remain areas of concern especially in traditional and religious circles.

- viii. As one of their duties, the Act requires parents to instil in children a sense of respect and value for the family and institution of marriage. This is an indication of the importance that the family institution is given in the Botswana society. However such teaching to children at an early age should be carefully done to enable children to understand that despite the importance of the family and the institution of marriage, they should not as they grow up stay in or tolerate unworkable, violent or abusive marriage relationships. Such socialisation usually affects women in marriages as they are taught from an early age to accept that a marriage should be endured despite the difficulties that they may encounter in the marriage.
- ix. The Act prohibits discrimination against children on various grounds including sex. Sex based discrimination is the most prevalent form of discrimination against children in the family setting in Botswana as in many African countries. In many situations, the boy child is accorded better rights and opportunities compared to the girl child. For example, in situations where resources are inadequate, preference is given to the boy child in accessing education. Girl children are also required to perform household chores before and after school, whilst boys are allowed more time to study. The existence of this provision and its enforcement should therefore be emphasised in any appropriate settings to ensure that girl children are accorded equal care and treatment within the family.

4.8. Affiliation Proceedings Act

This Act provides for the determination of paternity of children and for the making of orders for the maintenance of such children and related matters. A child is defined as any person below the age of 18 years.

4.8.1. Maintenance

In terms of this Act any person who has custody of a child can apply to a magistrate's court or designated customary court for the provision of maintenance from either parent or both. Proceedings under this Act are undertaken free of charge and court process is served by a member of the Botswana Police Force free of charge. Orders under this Act have effect as if they were a civil judgment of the magistrate's court and are enforced in like manner. The Act also provides sanctions, including imprisonment, for the abuse of maintenance provisions for children. The orders made under this Act are not final and are subject to change depending on the circumstances of the dependant or the parent.

4.8.2. *Paternity*

Where the court is satisfied upon the production of evidence that an alleged party is the parent of a child it makes such a determination and order maintenance as it deems meet. The High Court, which is the upper guardian of all minors, in terms of the common law, has jurisdiction to determine issues of maintenance of children, paternity and any other issues respecting children. The payment of fees is not excluded at the High Court.

The effectiveness of these different fora in the protection of the interests of the child would be investigated with reference to the number of cases handled by each forum. An assessment of the income bracket and standard of the parties that utilize each court would also be determined to see as well as the level of compliance with the orders of court in each instance. We would also determine whether enforcement mechanisms in place are effective and the level of institutional support like revenue services for collection of maintenance orders. Field work would reveal the level of utilization of these provisions geared towards the protection of children and the reasons for such findings.

This Act is complemented by the **ENFORCEMENT OF MAINTENANCE ORDERS ACT, CAP 20:04**, which makes provision for the enforcement of maintenance orders from the High Court and subordinate Courts. Wilful failure to comply with maintenance orders attracts criminal sanctions with the penalty of imprisonment. The police come in as enforcement agents and are not involved at the stage the order is secured. This consultancy would investigate whether the police understand their role in view of the fact that the laws under which maintenance orders are sought and granted are not within their purview. The effectiveness of the sanctions would also be evaluated, as well as the impact of the sanctions on the relationship between the parent at fault with the enforcing parent and the child.

4.9. Adoption of Children Act: Chapter 28:01

The Act allows for the adoption of children in prescribed situations. This helps to provide homes, care and support for children as well as promote their wellbeing. The Act is particularly important for orphaned and vulnerable children as well as other children in need of care in Botswana. Adopted families can help in providing love, care and economic support for children in difficult circumstances.

4.10. Wills Act

This Act proscribes procedure for the making of a will. The procedures set out are fairly straightforward. Cases in which a will is executed outside Botswana are also provided for as well as exceptions that affect certain vocations like force. A will, as a document that records the wishes of the person making it, makes issues of property devolution a lot easier and helps preserve the fabric of the family. Disputes over property are common and very divisive. The scale of family disputes over property might indicate that there is insufficient awareness of this law. It may also be a question of access of legal services which have been

shown to be out of reach of most members of the public. These issues will be interrogated with the benefit of input from stakeholders being members of the public, lawyers and administration of justice. The provisions of this Act should be read in conjunction with other laws on inheritance.

4.11. Succession Act (Rights of the Surviving Spouse and Inheritance Family Provisions)

This is another Act whose provisions make reference to wills. Persons making wills must be made aware of these provisions. This Act makes provision for the devolution of property on a surviving spouse and children for persons married in community of property and out of community of property, where the deceased spouse did not leave a will or left a will dealing with only part of the estate. Where in a will enough provision was not made for the maintenance of a surviving spouse or a child, the courts may, on application by such person, make reasonable provision for the maintenance of that person, after consideration of the size of the estate and the deceased's reasons for making the disposition made in the manner made. Time limits are set for the making of such applications, regard being had to the wisdom of winding up matters relating to estates within a reasonable time so that families concerned can go on.

This Act does not apply to estates administered in accordance with customary law. Property and Inheritance issues affect a lot of families in Botswana. The challenge with Customary Law is that it is unwritten and differs from tribe to tribe; it is therefore difficult to address issues of inheritance at Customary Law with a common solution. There is also the challenge of record keeping as in some cases, the division of property is not recorded and disputes arise with heirs. The Administration of Estates Act sets up an office of the Master of the High Court who is charged with the administration of estates. In terms of this Act, the master, in consultation with the heirs to the state and creditors, appoints a person or persons who would prepare an inventory of the estate and with the oversight of the master, facilitate distribution of the estate to certified creditors and heirs. Any legal proceedings concerning the estate will be brought in the name of such person in their capacity as the executor or executrix, as the case may be. The heirs inherit in accordance with the portions set out in the Succession Act mentioned above.

This process is very vital as it settles many disputes over property and ensures that heirs are not deprived of their inheritance unduly. The master is also empowered to make provision for the maintenance for minor children from the estate, where the deceased bore the responsibility of maintaining them, whether they are legitimate or illegitimate children.

4.12. Deserted Wives and Children Protection Act CAP: 28:03

This act makes provision for the maintenance of deserted wives or children, and sets out circumstances under which a wife or child would be considered deserted. A complaint can be made to a magistrate by the wife, or any responsible party on her behalf, or, in the case of children, by a person having custody of the child or any responsible person on the child's behalf. The husband or father would be given audience and the court, after an enquiry,

would make a suitable order in the circumstances. Such order would be subject to variation on proper grounds.

Adultery by the husband is one of the factors that fall for consideration in deciding whether a wife has been deserted or not. If desertion is established on other grounds, and it is found that the wife committed adultery, she forfeits the right to maintenance under the Act. What is interesting however is that a finding of adultery under this Act shall not be evidence of adultery except for proceedings under the Act. Abuse of alcohol is also one of the factors that can be used to establish desertion as well as acts of cruelty. Alcohol abuse is very topical in Botswana and the standard applied by the courts in determining whether one is a drunkard or not would be instructive in determining the level of desertion in Botswana. An evaluation of the interventions made to combat alcohol abuse and their effectiveness would be made. Orders under this Act are enforced through the Enforcement of Maintenance Orders Act. The institution of proceedings hereunder is done free of charge and members of the Botswana Police Service are mandated to serve process. The orders are subject to variation if the circumstances of either party, material to the making of the order, change. The proceedings may, at the discretion of the Magistrate, be held in camera.

4.13. Domestic Violence Act: Chapter 28: 05

The purpose of the Act is to provide for the protection of survivors of domestic violence and attendant matters. The act is critical in that violence in the home or between and amongst husbands and wives, intimate partners, parents and children and other people who stay within the same household has to be stemmed to enable the home to be conducive for the wellbeing of the family. A violence free home allows for the growing and optimal development of children and the protection of the welfare of parents and other adults within a household or family set-up.

A challenge however is that under customary law, men still exercise marital power over their wives and are “entitled” to “chastise” their wives if they are perceived to have wronged them. The chastisement is usually in the form of beating. Since this is generally acceptable within communities that observe customary law, especially rural communities such abuse is rarely reported. In the same vein, children can also be beaten by their parents as a form of punishment thereby perpetuating domestic violence.

In addition, despite the existence of the Domestic Violence Act, the country has over the years experienced a spike in cases of murder between intimate partners, commonly known in the country as “passion killings”. Whilst women sometimes kill their male partners, the majority of victims are women thereby calling for introspection by the relevant authorities

to identify the reasons for this situation despite legal provisions that protect victims of domestic violence.

4.14. Income Tax Act: Chapter 52:01

- i. In terms Section 32 (2) (b) of the Act, value of any free passage by air, rail, road or sea provided for an employee, his wife/husband or his or her dependent children pursuant to the terms of his or her employment is not taxable. This encourages families to stay together in the event that a wife or husband is deployed for duty in an area outside their normal area of residence.
- ii. On the other hand, taxation on residential quarters provided by an employer to an employee as provided for in Section 32 (1) (d) can act as a disincentive for provision of decent accommodation for employees and their families by an employer.

4.15. Employment Act: Chapter 47:01

- i. Part XII of the Act deals with the employment of females and attendant issues. This part will be assessed in light of its adequacy in allowing female employees to maintain a healthy balance between family and work life without being unfairly discriminated against
- ii. While the Act in Section 113 (2) allows a female employee a minimum of 12 weeks' leave of absence from work due to maternity confinement, this provision is clawed back by Section 113 (5), which requires an employee to be paid only 50% of her basic salary during the period of confinement. The figure is relatively small especially considering that other countries in the SADC region have adopted a 100% salary payment requirement to women during their periods of confinement. Increasing this figure is important because the female employee is more in need of financial resources during such period because of the attendant health requirements for herself and the child. The new child is also an addition to the family who requires additional resources in order to survive. Where it is considered that such payments would place a considerable financial burden on employers, the government should put in place social protection policies that ensure that women employees are not severely constrained financially during their periods of confinement.

- iii. In terms of Article 11 (2) (b) of the Convention on the Elimination of all forms of Discrimination against Women, state parties must put measures to ensure that women are not discriminated against on the grounds of pregnancy and in particular that they should introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.
- iv. Positive provisions in the Act include that women employees cannot be demoted or lose any of their benefits or promotion opportunities due to confinement. In addition women employees who wish to breastfeed are given two 30 minutes breaks in a working day for a period of 6 months to allow them to breastfeed their children. However this provision should be assessed in light of the World Health Organization standard period for breastfeeding, which is currently set at a minimum of 2 years so that families are able to raise healthy children.

4.15.1. Related Issues

- i. The Act does not provide for paternity leave for fathers. The general direction being taken by many countries in the world is to allow for such leave. This is in recognition of the fact that child bearing is a social function and that both men and women should be involved in the caring and upbringing of their children. In addition, it is in the best interests of the child to be cared for by both parents in the formative days to encourage bonding between the child and both parents
- ii. Section 41 of the Act provides that a contract of employment entered into by one person is not binding on the family unless it specifically provides for that. This helps to protect family members from exploitation by unscrupulous employers for example through forced labour in the event that the contracting family member fails to perform his/her duties or by being forced to pay compensation to the employer for breach of terms of employment by a contracting family member

4.16. Employment of Children

- i. Part XI of the Act places stringent conditions on the employment of children and young persons and requires that in any situation where such child or young person is employed, his/her best interests shall be paramount. The Act particularly places the importance of parental/guardian consent where a child is

employed and the fact that any child so employed must be able to freely return to his/her family after work if he/she so wishes. This allows for the child to be cared for and be protected by the family.

4.17. Conclusion

Botswana has made considerable progress in coming up with family friendly legislation, even though several gaps still exist. Challenges include the lack of effective implementation of the various legislative provisions and this requires rectification if the law is to support a stable family environment in Botswana. This legal analysis has been informed by a review of applicable case law and literature, the analysis is further enhanced below by considering the opinions of stakeholders in the legal fraternity as well as members of the public as part of the situational analysis. Below the study also determines the level of ownership of the laws by members of the public and the level of awareness, understanding and utilization of such laws. The relevance of traditional leaders and their law making power under a republic established under a constitution is also investigated, special regard being had to the peculiar position of chiefs who do not require any legal training yet administer written law in some cases. An evaluation of the institutional support structures required under any law relating to the family is also done along the same methodology.

In the final analysis, the totality of these factors will inform the recommendations to be made.

5.0. SITUATIONAL ANALYSIS OF THE FAMILY IN BOTSWANA

5.1. Introduction

The project team conducted fieldwork in all the administrative districts of Botswana. The purpose of this fieldwork was to gain information on the experiences and expectations of ordinary Batswana and key informants with respect to the situation pertaining to the family. Through FGDs, individual interviews and interviews with KIIs, the researchers were able to acquire critical information on the family situation in Botswana as well as expectations, based on this situation, of what kind of interventions a national family policy may include to deal with problems within the family context and to improve upon the positive aspects of the family unit in Botswana. This chapter serves to summarise the experiences of ordinary Batswana and KIIs with respect to the family unit, and to identify their expectations of a national family policy.

5.1.1. *Issues investigated and geographical scope of the fieldwork*

In both FGD and KII engagements, researchers flagged key issues to guide the discussions. *Box insert 2* below shows the range of issues that were flagged in the context of FGDs and individual interviews. The specific questions are found in the annexes of this report.

Box insert 2: Issues investigated in FGDs

1. Perceptions of problems within the family unit.
2. Community and legal responses to the problems.
 - 2.1. Adequacy of community and legal responses.
3. The role of mothers and fathers in the family unit;
 - 3.1. Problems with role delivery
4. Access to social services;
 - 4.1. Awareness of psychosocial support services;
 - 4.2. Value of psychosocial support services.
5. Incidence of crime in the family unit.
6. Perceptions on the concept of family unit leisure time.
7. Existence, state, and awareness of family friendly leisure infrastructure;
 - 7.1. Child-care facilities.

This section summarises the responses made under each area as described in the above box insert. *Table 6* below shows the communities where fieldwork was conducted in Botswana.

Table 6. Areas where fieldwork was conducted in Botswana

District and settlement	Justification	Number of KIIs	Number of FGDs
Chobe			
Pandamatenga	Traditional farming community, different lifestyles	-	1
Kasane	Urban families, diverse livelihoods, mixed racial settings	2	1
Ngamiland	W4		
Maun	Urban centre	1	1
Gumare	Peri-urban set up	2	3
Xakao	Remote rural set up	1	2
Sehithwa	Distinctive ethnic groups (e.g. Herero)	1	1
Ghanzi			
Ghanzi Town	Urban set up, diverse	1	-
New Xanagas	Rural village set up	1	1
Kagcae	Remote rural set up	1	1
Kgalagadi	W3		
Ukwi	Rural set up	1	1
Tshabong	Urban set up	2	1
Bokspits	Border/rural set up	1	1
Bogogobo	Small remote set up	1	1
Bray	Farming community	4	2
Southern	W2		
Jwaneng	Urban mining community	4	1
Mabutsane	Rural/peri-urban, stop over for international travellers	-	3
Good Hope	Rural village	2	-
Kanye	Large urban village	3	-
Ramatlabama	Border settlement	2	3
Lobatse	Key informants (High Court)	3	
South East	W1		
Ramotswa	Village community		1
Tlokweng	Border/urban village	3	2
Mogobane	Village, Key informants (Police Training College)	3	1
Gaborone			
Various locations and surrounding	Capital City, diverse urban community, Key informants	37	1
Kweneng	N1		
Molepolole	Urban village	-	2
Maboane	Farming community	-	1
Ngware	Rural settlement	-	1
Kgatleng	N2		
Sikwane	Border town	-	1
Mochudi	Mixed urban, rural, traditional village	1	2
Kgomodiatshaba	RADP settlement		1
Central	N3		
Bobonong	Village	1	1
Mahalapye/Palapye	Urban/rural villages	-	2
Selibe Phikwe	Mining community	4	2
Serowe	Large village set up	1	1
Lentswelemoriti	Village set up	-	2
Letlhakane	Village set up	-	1
Tutume, Mmashoro, Xere, Morema,	Village set up	2	6
North East			
Francistown	Urban set up, diverse community	1	2
Siviya	Village set up		
Nlapkhwane	Village set up		
Jakalasi	Village set up	2	-
Totals		88	54

Key aspects of the fieldwork are as follows:

- A total of **88 KIIs** were conducted across Botswana, in all administrative districts a KII was conducted;
- Key informants in the districts included:
 - Community leaders such as chiefs, headmen/women;
 - DSS employees such as social workers;
 - Local Government officials;
 - Community health professionals;
 - Non-governmental organisations;
 - The Botswana Police Service; and
 - The Judiciary.
- **42%** of the KIIs were done in Gaborone due to the fact that as the capital city, the city has the headquarters of most key government, private and non-governmental institutions. The institutions engaged in Gaborone were diverse and they included (See annexes for a full list of institutions and personnel interviewed at the national level):
 - Government Departments;
 - Religious organisations (primarily umbrella bodies of Christian and Muslim beliefs);
 - Family welfare NGOs;
 - Human rights advocacy groups;
 - NGOs advocating for the rights of the disabled; and
 - Youth interests organisations.
- A total of **54 FGDs** were held across all the administrative districts of Botswana. Due to the dominance (proportionally) of KIIs in Gaborone, the research team concentrated on areas outside the capital city for the bulk of the FGDs. As shown in *Table 6* above the researchers visited very diverse communities within Botswana and targeted remote settlements, mining communities, large and small villages as well as urban centres of Botswana. A number of settlements were sampled due to their specific characteristics, such as the religious communities in Lentswelemoriti, or the Herero community in Sehithwa. Key features of the FGDs were as follows:

- The researchers interviewed groups of **elders** (made up of both sexes), groups of **women**, the **youth** (made up of both sexes), **men**, and groups of **adults**;
- The FGDs varied in numbers of participants, however on average each group was made up of **7 participants**. The highest number of participants in an FGD was recorded in **Bobonong** where up to **25 young people** participated in one FGD.
- In total the project surveyed the views and expectations of **466 respondents** across Botswana.

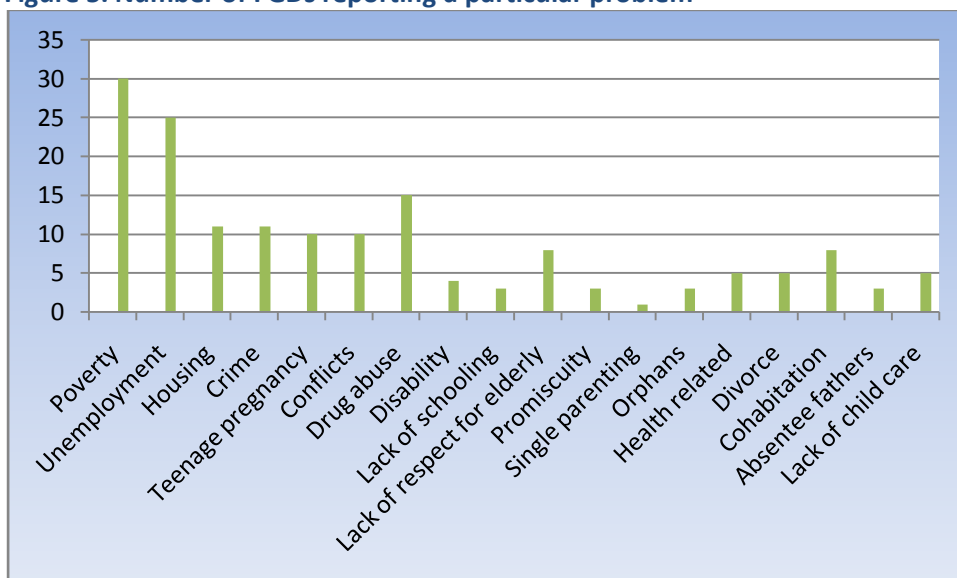
The results of the FGDs survey are reported below.

5.2. Analysis of FGDs survey

5.2.1. Problems affecting the family in Botswana

Participants in the FGDs were asked an open question in which they had the opportunity to discuss and list the major problems/concerns which affect their families. The graph below shows the number of FGDs reporting a particular problem within the family context in Botswana.

Figure 5. Number of FGDs reporting a particular problem



- The bulk of the FGDs identified the related issues of *poverty and unemployment* as problems affecting the family in Botswana. *Poverty* was identified as the biggest problem within the family, with over **55%** of the FGDs identifying this problem. **46%** of the FGDs reported *unemployment* as a major problem. The two problems are related as they directly affect the livelihoods of the family. The box insert below illustrates some of the concerns raised by respondents in the context of poverty and unemployment.

Box insert 3: Concerns raised over poverty and unemployment

- *“We have hunger and poverty here, the government is not helping, we were given cattle but they were eaten by lions.” (FGD in Kagcae)*
- *“We have no water, no electricity, no income. We used to have a lion in the game reserve which attracted a lot of tourists and that gave our community money, but then the lion was taken by the people from the National Parks.” (FGD in Ukwi)*
- *“There is unemployment here, the Ipelegeng program doesn’t pay enough and it mostly hires the youth.” (FGD in Area W, Francistown)*
- *“Females illegally jump the border to have children with South African men so that they can be compensated because every child born in South Africa earns R260 monthly.” (FGD in Ramatlabama)*
- *“Too many people depend on the food basket, some people even adopt orphans who are relatives in order to benefit from the food basket scheme.” (FGD in Bray, Hereford)*
- *“Social workers give orphans and the needy their food rations and school uniforms in full view of their peers, this victimises children. At 18 years old orphans are cut from the orphans programme when at most times there is no one to support them.” (FGD in Mabutsane)*
- *“We do not work, we do not have money, we do not have water, no electricity, the VDC has no money to assist. When we say we want to work we are told we too old for that, they want people who are below 35 years of age.” (FGD in Bogogobo)*
- *“The cattle we were given were all eaten by lions, there is hunger and poverty here, we do not have jobs. Some of us Bakgalagadi are discriminated against when government is giving help, we are told to go where our parents come from but we were born here. The government only wants our votes but help is far.”(FGD in Kagcae)*

The above examples reflect the level of desperation that some communities face, more ironically in the context of this study is the allegation that some females in **Ramatlabama** illegally cross the border in order to be impregnated by South African males in the hope that they can benefit from a family/social policy incentive of another country. Whether or not the resulting children actually get considered for such benefits is doubtful in view of the administrative issues surrounding social grants as these are not available to just anyone who has a child in South Africa. The alleged cross-border sexual activities also exacerbate the HIV/AIDS problem and counter any local efforts to stem the pandemic as there is no incentive for protected sex since pregnancy is the desired outcome. The areas reporting poverty as a problem within the family are reflected in *Table 7* below.

Table 7. Areas reporting poverty as a problem affecting the family unit

District	Settlement
Ngamiland	Xakao, Maun, Gumare
Chobe	Panda, Kazungula
Ghanzi	New Xanagas, Kagcae
Central	Mmashoro, Tutume, Palapye, Letlhakane
Kweneng	Molepolole, Maboane
South East	Tlokweng, Ramotswa
Kgalagadi	Bokspits, Bogogobo,
Southern	Ramatlabama, Mabutsane
Central	Selibe-Phikwe

NB: Red colour denotes areas also reporting alcohol abuse as a family/community problem

- The third biggest problem recorded was *drug abuse* which was identified as such by **15 FGDs or 28%** of the total FGDs. The specific drug mentioned as causing family problems was predominantly *alcohol*. Areas reporting alcohol abuse as a problem within the family setting were **Jwaneng, Kgomodiatshaba, New Xanagas, Selibe Phikwe, Ramatlabama, Xere, Tlokweng, Bokspits, Kagcae, Maun, Gumare, Xakao, Mabutsane, and Bray**. It should be noted that the bulk of the areas reporting poverty as a problem are also represented in the list of areas reporting alcohol abuse as a problem within the family unit (See *Table 7* above). The experiences quoted in the box insert below show that there are linkages between unemployment, poverty, alcohol abuse, and family conflicts and the breakdown of relationships and cultural norms. The identification of alcohol abuse as a particular family and community problem cuts across all the FGD types (youths, the elderly, and adults). The co-existence of poverty and alcohol abuse is noted worldwide, where alcohol and other drug abuse is more prominent in impoverished communities. This highlights the need for employment creation, skills development programmes, social skills programmes for youth, fully functioning and equipped recreational centres where children and youth are able to socialize, learn life skills, play and entertain in a safe environment. The most effective way of curbing alcohol and drug abuse is by providing options to young people such that they do not take up drug and alcohol usage. Youth generally default to these substances because there is a lack of alternative forms of entertainment. This could be addressed by the introduction of youth centres which house games rooms, libraries and reading areas, gym equipment, outdoor courts for ball games, parks and the like. These do not necessarily have to be government run. Government may provide the physical structures and then tap into the private and parastatal sector Corporate Social Responsibility schemes for the maintenance of the facilities. This not only removes responsibility from the government but also fosters community involvement in the facilities.

Box insert 4: experiences with alcohol abuse

- *“After drinking couples fight, some end up on separation, and some do not, most of the time they do not break up completely but keep fighting. At least early this year (March) our traditional brew was not allowed in the village. This made a great difference in the way beer is consumed.” (FGD with the elderly in New Xanagas)*
- *“Sometimes parents send their children to buy beer and cigarettes which the children end up drinking and smoking.” (FGD with youth in Selibe Phikwe)*
- *“Some parents go out for binge drinking. We are afraid that AIDS is going to close doors if the selling of liquor and drinking of liquor is not properly monitored. Most of the youths go to depots and bars. In the past parents were the only ones who were allowed to drink, if the parents got drunk they were perceived to have fallen ill, but nowadays children just say “daddy is drunk”.” (FGD with the elderly in Ramatlabama)*
- *“We do not have jobs. We are hungry, there is a lot of teenage pregnancy. Youth indulge a lot in substance abuse.” (FGD with youth in Bokspits)*
- *“There is too much drinking of alcohol here.” (FGD with adults in Maun)*
- *“We are poor, we have no jobs, as a result we simply indulge in substance abuse.” (FGD with youths (BaMbukushu community) in Xakao)*

The above results do not mean that alcohol abuse is a problem only in the areas reporting it to be a problem. It could well be that those FGDs which did not identify alcohol abuse as a problem view it as normal, however in the context of this study it is important to take note of the various experiences in the communities with respect to alcohol and substance abuse and their effects on the family. Linkages between the proposed family policy and the current debates on policy responses to alcohol consumption and abuse should take into account some community specific issues such as those identified in the box insert above.

- *Crime and Housing* ranked equally in terms of the number of FGDs identifying these issues as problems in the family context. **11 FGDs** (20%) identified crime as a problem, and similarly **11 FGDs** identified housing as a problem affecting the family. Crime was ranked as a problem although not much detail was provided as to why this was the case, however this lack of detail was resolved in further questions as the FGD questionnaire specifically asked whether respondents were aware of any crimes within the family context. The incidence of crime within the family is discussed further below. Housing and the related issue of access to land were reported in Francistown, Palapye, Maun, Bray, Kazungula, Ramatlabama and Tsabong. *Table 8* below reflects the nature of the problems reported.

Table 8. Areas reporting housing/land as problems within the family

Area	Nature of problem reported
Palapye(Lotsane Ward)	“There are conflicts within the extended family set up due to land and housing problems. Distribution of plots takes time to be approved and surveyed plots are expensive, we end up living in large family numbers and this causes fights at most times.” (FGD with adults)
Francistown (Area W)	“We have bad living conditions due to the bad state of the housing, our families quarrel with landlords often, the issue has even been referred to the local councillor who hasn’t called for a meeting.” (FGD with youths)
Kazungula	“We do not live well, we lack proper accommodation, some families have up to 9 members living in the same room, children and adults.” (FGD with adults)
Ramatlabama	“We cannot stay with our partners, we find it easier to visit them and come back because not all of us can afford to build houses to stay together with our partners.” (FGD with youths).
Tsabong	“People still build their houses near their parents’ homes or inside their parents’ yards, there is no privacy in terms of accommodation, sometimes children share the houses with the elders in the family.” (FGD with youth)
Bray	“We need land for farming and settlements but we don’t have it. Our village is in the middle of farms, there is no space for settlements.” (FGD with adults)
Xere	“Parents sleep with their children in one room, children end up copying what we do.”

As reflected above, housing and land shortages create further specific problems within the family unit. These include conflicts within the family as a result of over crowdedness; exposure of minor children to adult conduct which would otherwise be private and subsequent corruption of minors morals, and lack of privacy even amongst adults which also creates moral problems. These problems do not create conducive environments for stable family relationships and appropriate child upbringing.

- Respondents were asked on their perceptions and experiences of *crimes within the family*. The bulk of the respondents in the FGDs did not report any particular incidents of crime within the family. The few examples where some detail was provided are reflected in *Table 9* below.

Table 9. Incidence of crime within the family

Area	Nature of crime
Tshabong	“There is a lot of <i>domestic abuse</i> within cohabiting couples, but these are cases are never reported.” (FGD with youth).
Bray	“There is too much <i>defilement</i> which is never reported. There is no order, sexual harassment is everywhere in Hereford.” (FGD with youth) “WE feel workshops should be carried out in farms as there is a lot of sexual harassment and <i>sexual abuse</i> . Youth and children are abused equally.” (FGD with youth).
Tlokweng	“There are cases of <i>rape</i> , mostly committed by boys. They are never reported.” (FGD with adults)
Francistown	“There have been cases of <i>incest</i> , some have been reported to the police, but most people prefer to keep this within the family.”
Tutume	“A family friend attempted to <i>rape</i> our niece, the matter was dealt with by the police.” (FGD with adults).
Mabutsane	<i>Sexual abuse</i> of young people was noted as a problem, it was however noted that relatives hide evidence in cases such as rape, making it difficult to bring culprits to book. (FGD with adults (teachers)).

From the responses it appears that non-reporting of crimes within the family is an issue which serves to minimise the extent of the problem. Concerns expressed in **Bray** regarding the *sexual abuse* of children and young people in general require further attention as this may indeed be as widespread as the respondents reported. There are linkages between perceptions of crime within the family, the role of the police, and the adequacy or otherwise of the legal responses to crime within the family. These linkages are discussed further below.

- *Teenage pregnancies* were reported as a problem within the family by more than **18%** of the FGDs. Areas identifying this problem were **Francistown, Mmashoro, Maboane, Phikwe, Ramatlabama, Xere, Gumare** and **Bray**. In **Mashoro** an FGD with a group of adults reported that due to simple delinquency and the need for financial support many teenagers end up having sexual relations with elderly men referred to as “*sugar daddies*”. An FGD with a group of youths in **Bray** noted that teenage pregnancies were a problem in the area, these produced unwanted babies, looked after by unemployed teenage girls who are also out of school. However the youths in **Bray** reported that although they considered teenage pregnancies as a problem most parents in the area did not see this as a problem.
- **18%** of FGDs also reported *conflict in the family* as a problem; this category is also related to issues such as alcohol abuse, lack of income, poverty, and access to land and housing, misunderstanding within extended families due to issues such as property and inheritance disputes. *Table 10 below* summarises some of the issues creating conflicts within the family.

Table 10. Areas reporting intra-family conflicts and issues of dispute

Area	Issues
Mabutsane	Dissolution of property, inheritance, maintenance
Palapye (Lotsane Ward)	Land disputes
Serowe	Inheritance
Mmashoro	Disagreements with in-laws (general and inheritance)
Jwaneng	“Parents have natural hatred on our men” (Youth FGD)
Lentswelemoriti	Lack of cooperation within families
Moremi	General in-fighting
New Xanagase	Inheritance
Ngware	Money
Tsabong	Food, inheritance, domestic abuse, jealous, selfishness
Gumare	Children not respecting parents (FGD with group of teachers)

As reflected in *Table 10* above family conflict over *inheritance* and *property* is one major concern in the areas identified above. This problem might be as a result of a lack of understanding of the general customs or laws of Botswana with respect to succession in particular and the law of practice in general. Such disputes are likely to have a long-term impact on the family and in practice; they actually cause complete breakdowns in family relations.

- **11%** of the FGDs reported general *lack of respect for the elderly* as a problem within the family and communities. Areas reporting this problem were **Gumare**,

Francistown, Pandamatenga, Selebi-Phikwe, Xakao, and Xere. Lack of respect for the elderly was identified as a problem mostly by FGDs involving the elderly; however the same observation was made in Gumare by an FGD made up of school teachers. The elderly form a critical part of the communities around Botswana and it is essential to analyse some of the underlying reasons for the perception/reality that the young do not respect their elders. However the issue is directly related to child and human rights in general, these two issues and their effect on elderly-young relationships are discussed further below. This perceived lack of respect for the elderly provides evidence that the family structure is changing in Botswana and the reduced importance of the elderly and extended family.

- *Cohabitation* was identified as a problem within the family by only **8 FGDs**, others did not view cohabitation as a problem, or had no particular opinion about it; however this provoked extensive of debates across the country, even in those places where the respondents did not consider cohabitation as a problem. Hence it is not the statistical significance of those FGDs reporting cohabitation as a problem, but the perceptions and practices around cohabitation and their implications on the family unit and on marriage in particular that are important. Given the range of experiences and cultural practices encountered in these debates it is important to capture the opinions expressed therein. Further, cohabitation was also discussed in the context of *why some of the respondents opted not to marry* at all, one oft cited reason why the respondents opted not to get married was *prohibitive bride prices or magadi/lobola*. First we identify those areas where cohabitation was viewed negatively and the reasons why it was viewed as a problem.

Table 11. Areas identifying cohabitation as a problem

Area	Reasons
Mmashoro	"Most children do not encourage cohabitation because their parents keep changing partners." (FGD with youth)
Tsabong	"It is very common here but: There is a lot of domestic abuse in cohabiting families, especially those staying outside the extended family. Partners cheat, there are passion killings." (FGD with youths)
Bray	"Many people stay and cohabit in the farms more than in the village. Many of us accept cohabitation, people cohabiting are taken as family in the village. But its not good because even children as young as primary school students cohabit in Bray. They copy this idea from their elders. They then get pregnant while they are still young." (FGD with youth)
Lentswelemoriti	"Cohabitation should be not be there. It brings out unwanted children." (FGD with adults)
Kgomodiatshaba	"Cohabitation is a problem here." (FGD with adults)
Ramatlabama	"We don't cohabit but we prefer to visit each other often. Culturally people will be surprised to see people cohabiting. Cohabiting is done by a certain tribe that has been co-opted into our village." (FGD with youths, but see <i>Table 13</i> below)
Gumare	"Cohabiting is a major problem here. People cohabit for support and not for love. (FGD with youth)"
Tlokweng	"We do not support cohabitation. Children in cohabiting families are poorly disciplined."

Table 12 below shows the areas where cohabitation is not viewed as a problem at all and the reasons why it is accepted as part of the family situation. It should be noted that in some areas different views on cohabitation were expressed.

Table 12. Areas where cohabitation is not viewed as a problem

Area	Remarks
New Xanagase	“Many people here live together and work together but they are not married. We only have two or three families that went through legal marriage here.” <i>(FGD with elders)</i>
Ramatlabama	“Cohabiting was there historically, but it was controllable as this taken as marriage. The two cohabiting partners told themselves in their hearts that they are married. They will raise their kids together and their children grew very well. Many of them just got married now through the help of their children. The children used the woman’ surname and there was no problem with that. Everyone knew that it is a man’s mandate to support his children, men went out working in the mines and ploughing, everyone was taken care of. Few people will go out leaving their families for good. Cohabitation never caused us any problem at all.” <i>(FGD with elders, but see above opposing experiences in the same village)</i> “The problem we have is of money. One may have a woman only if he has money. Marriages are based on how much one makes. We don’t marry because we don’t have cash.” <i>(FGD with youth)</i>
Sehithwa	“Our grandparents were married, but there are few cases of marriage these days. The cause of this is unemployment. We all wish to marry but we don’t have money to marry. We wish cohabitation could be deemed as marriage. If people stay together for at least 5 years without much conflict they should be labelled as family.” <i>(FGD with youth)</i>
Tsabong	“We feel cohabitation is not bad as long as the couple understand each other. Cohabitation is better than living as a single parent. Weddings are very expensive and our parents cannot afford them.” <i>(FGD with youth)</i>
Xakao	“Cohabitation does exist in Xakao. Those who are capable of building houses for themselves can do so and cohabit. There are people who cohabite for 15 years and just separate afterwards.” <i>(FGD with elders)</i>
Xere	“There are no legal marriages in Xere. We only cohabit. We have only one woman who was married some years ago. If two people love and relate well, they build a house and stay together without getting married. Then start to have children. This is normal to all of us, we consider those people as a family. No <i>patlo</i> , no <i>bogadi</i> , no <i>nothing done before cohabitation</i> .” <i>(FGD with elders)</i> “In our culture there is no cheating. If a man has a new girlfriend he doesn’t waste time, he divorces instantly and joins the new girlfriend. If it is hard to live with the new woman he goes back to the first woman. The first woman will just accept the man back if she doesn’t have a man by the time he comes back. No-one is referred to as a concubine here, every union between woman and man is a marriage.” <i>(FGD with elders)</i> .
Gumare	“Cohabiting should be legalised. Bride price should not be compulsory and the Government should regulate bride prices. People should also be allowed to marry without paying the bride price.” <i>(FGD with youth)</i>
Otse	“It is not a problem because two heads are better than one in the house.” <i>(FGD with adults)</i>

- The above views and experiences are important in addressing perceptions and realities around cohabitation. Clearly there is no one overall or common view with regard to cohabitation in Botswana. What is important to note in the context of a family policy design is the following:
 - In some communities cohabitation is viewed as a cultural taboo, however, as in the context of **Ramatlabama** village, those who view cohabitation as taboo also live alongside another ethnic group which has historically practised cohabitation as a norm.
 - Some respondents consider cohabitation as a breeding ground for unwanted and ill-disciplined children, fraught with conflict, and open to abuse.
 - Respondents interviewed also consider cohabitation as a survival option, where some couples enter into this arrangement purely out of the need for support.
 - In some communities marriage is loosely defined, for example, the elderly FGD in **Xere** considered any union between man and woman to be marriage; the concept of cohabitation does not arise in this case.
 - There are a lot of misconceptions on the legal status of cohabitation. Most of the respondents who made comments on the legal aspects assumed that the law actually bans cohabitation, and were of the view that of cohabitation should be legalised as a policy response. These misconceptions need to be addressed in a policy context. However it is also important to note that some respondents would like a situation where the amount of time spent in cohabitation credited towards the automatic classification of such a union as a marriage. Whether this suggestion is addressed towards the customary marriage system or the civilian system is not clear, but it has policy implications that should be considered.
 - Significantly some FGDs, particularly the youth considered cohabitation as a compromise entered into because they cannot afford to pay the bride price which is a cultural norm amongst the Batswana and most Bantu communities in Sub-Saharan Africa. Failure to raise the bride price was also raised as one key reason why the young do not marry, or why they end up cohabiting. Further, suggestions were made by the respondents that the Government should regulate this practice of *magadi* or *lobola* by setting prices. These sentiments should not be ignored in the policy context as they clearly come out as stated reasons why the young are not marrying, and why they sometimes opt for cohabitation or staying single. Equally significant is the

fact that by making such suggestions, young people within Botswana are questioning some age-old cultural practices involved with marriage, specifically the concept of bride prices. It is apparent in these suggestions that some practices may no longer apply absolutely given the changing socio-economic values and realities in Botswana.

- However, implicit in some of these suggestions is the misconception that one cannot marry without paying the bride price, this is clear in the suggestions that the Government should give people the option of marrying without paying the bride price. The misconception arises from a failure to appreciate the difference between custom (under which *magadi* is derived as a practice) and the common law which makes no such demands or practices. If marriage is to be promoted as part of a family policy then such misconceptions should be diluted by regular community education on both customary and civilian marriage regimes.
- A total of **8 FGDs** conducted with adults and the elderly in particular reported that the young generally lack respect towards the elderly members of the family and the community. Areas reporting this problem were **Bray, Xere, Maboane, Francistown, Moremi, Pandamatenga and Xakao**.

Table 13 .concerns over lack of respect for the elderly

Area	Issues raised by Respondents
Xere	“Children don’t respect us, they can even insult their parents.”
Francistown	“There is no respect because the parents themselves lack respect.”
Moremi	“There is lack of respect, leading to a disorganised community.”
Pandamatenga	“There is no respect because of children’s bad manners of children.”

The above concerns are expressed in general terms; however they are also linked with other problems identified above, further, as will be discussed below, elders expressed concerns that the young are abusing their individual rights.

- Other problems identified in the family context were:
 - *Health-related*. This largely related to health problems (HIV/AIDS, TB and cervical cancer). Areas reporting health-related problems **were Maboane, New Xanagas, Xakao and Xere**. The Maboane FGD was particularly concerned with health problems affecting the elderly and the lack of community and family support. In Xakao respondents in an FGD with the elderly were concerned over alleged delays by nurses in dispensing ARVs resulting in elderly patients failing to take their medication on time.

- *Divorce.* High divorce rates were identified as a problem by FGDs with adults and the elderly in **Francistown, Jwaneng, Xakao** and **Xere**. This issue is discussed further below in the context of KILs with the judiciary in Botswana.
- *Absentee fathers/lack of childcare/Orphans.* FGDs with adults and the elderly in **Moremi, Kgomodiatshaba, Xere, New Xanagas** and **Selebi Phikwe** reported lack of proper child care within families. In Moremi the elders noted that they often are left to take care of children, but they do not have the necessary skills and resources to teach children ordinary life skills. In New Xanagas an FGD with the elderly was particularly concerned about the fact that many children in the area are not well supported because their fathers are not known, a situation where grandparents are left alone to carry the burden of raising the children was a further concern. FGDs in Bray and New Xanagas reported *orphaned children* as a problem within the communities, and in **Bray**, respondents noted a worrying trend where relatives adopt orphans just to benefit from the food basket scheme which the government offers to orphaned children. Whilst this trend may be occasioned by poverty it is worrying as the possibility that the assistance which is designed for the orphaned children may not actually end up being enjoyed by the intended beneficiaries.
- *Lack of schooling.* A number of FGDs reported that children were not attending school for a variety of reasons, in **Maboane** an FGD with adult respondents noted that children were dropping out of school, sometimes due to the need for money for school fees. The **Kazungula** adult FGD reported a general problem of children simply not attending school, no specific reasons were given for this scenario, an FGD (**Gumare**) with a group of teachers noted that children were not regularly attending school because their parents keep moving from one cattle post to another thereby negatively affecting school attendance rates, another FGD with teachers in Gumare linked poor school attendance rates with lack of parental care in cases where parents spent more time away from their children either at workplaces in urban centres or cattle posts, in this case children would be left behind alone without any parental pressures to go to school. In **Ukwi** an FGD with adults reported that children *“just do not like going to school”*. The fact that a low number of respondents reported lack of schooling for children as a problem reflects Botswana’s high enrolment rates for primary and secondary schooling. However the problem should not be minimised in view of its localised nature.
- *Single parenting.* Despite the existence of single parent households across the districts, this issue was only identified as a problem by one FGD in **Bobonong**. It may well be that single parent households have become so

common that they are no longer regarded as a problem but as a reality of the family situation in the districts. Indeed in some discussions respondents actually noted that it is less complicated to be a single parent than, for example, to be in a cohabiting situation (e.g. FGDs in **Lentswelemoriti** (adults) and **Tlokweng** (youth) where respondents suggested that one becomes more responsible as a single parent, and that planning family matters is much easier when one is alone as opposed to when they are acting as a couple.)

- *Disability.* **4 FGDs** in **Ramatlabama, Pandamatenga, Kazungula** and **Bray** reported disability within the family as a problem. In Ramatlabama the respondents reported that the disabled were not getting any assistance. The FGD in Bray noted that disabled people within the community are not being attended to and are never given any moral support. Although disability was not highlighted by a lot of FGDs it is a problem within the communities and the fact that few respondents identified it as such may be indicative of the marginalisation of disabled people. The needs of the disabled are very different from other able-bodied persons and they need to be properly identified in the family policy context.
- *Arranged marriages.* An FGD with a group of youths in Sehithwa raised the problem of arranged marriages. The youths were of the view that this is a feature of the *Baherero* community and an old tradition. They noted that:

“Engagements are arranged by parents while the children are still young. Many of the children marry within this community. This is not what we tolerate, as youth we need to create our own love relationships, we want to exercise our freedom of choice. This is because in the current family set up it is hard to find out if a partner will behave well in the future, more especially in this era of HIV/AIDS.”

- *Human rights.* One issue identified as a problem within the family context related to the rights of individuals within the community and the family. A number of FGDs specifically reported that human rights for women and children created problems within the family and were a source of conflict through perceived lack of respect brought about by women and children exercising their rights. In some cases as described below, human rights are perceived as an actual threat to the family, specifically to marriage as one of the foundations of the family. The examples below are pertinent.

Table 14. Areas reporting human rights as a problem within the family

Area	Issues raised
Ramatlabama	Taking a second wife- "If ever a man found a second wife he would talk to the first wife, as long as they agreed, marriage negotiations would take place for the ,man to bring the new wife home. The first wife would be in charge of bringing the second wife home. Surprisingly these people were able to share daily duties accordingly. Nowadays this is difficult because of human right. The government praises human rights, these rights have brought many problems in our families. So it's going to be hard to end family problems. Gender equality has brought serious damage. " Working women- " Women going to work have brought problems in today's families. The wife or " <i>mosadi</i> " meant someone who remained behind. It is a direct translation of " <i>Mo-sa-di</i> ". The husband or " <i>monna</i> " meant someone who goes to find food for the family. Women were very submissive, and even respected taboos." (FGD with the elderly)
Panda Rest Camp	"Children have no respect for adults and parents because of children's rights". (FGD with the elderly)
New Xanagase	"Gender equality is a problem." (FGD with elders)
Mabutsane	"Children do not know how to apply their rights responsibly thereby causing conflicts between them and their parents." (FGD with adults).
Mabutsane	"Women are wrongly empowered." (FGD with adults)

- The complaints raised against human rights (for women and children) within the family context emanated from FGDs with elderly or adult respondents. Although not prevalent across Botswana, the comments raise questions about changing traditions and perceptions about "the proper" place for women and children in the family and society. The respondents quoted above had negative views about "human rights" and strong perceptions about the supposed effects of human rights over the family unit. It should be noted that according to the comparative review of family policies done above, one of the key aspects of a family policy is to enable women to balance work and family demands, but according to one of the FGDs quoted above, the fact that women are now going to work is actually a problem on its own. It is critical that these perceptions should be addressed positively if a national family policy is to be developed and implemented across Botswana as some communities have very different views of what other communities take for granted as key aspects of a modernising society. In particular, sensitisation of communities on individual liberties is critical if the otherwise positive aspects of human rights systems are to be fully respected within Botswana. The complaints made by respondents under this question clearly show tension between entrenched traditions (e.g. requiring submissive women and children) and changing norms of society (with emphasis on individual rights).

5.2.2. Community responses to identified problems

The project sought to identify the kind of response options that respondents adopt to the problems identified above. The key question was where respondents reported their problems, and secondly this was followed up by a question addressing the adequacy or otherwise of the response options. The question related to specific problems within the

family unit. *Figure 6* below summarises the class of institution/source of advice that respondents in the FGDs resorted to in order to address their problems.

Figure 6. Sources of advice on problems within the family

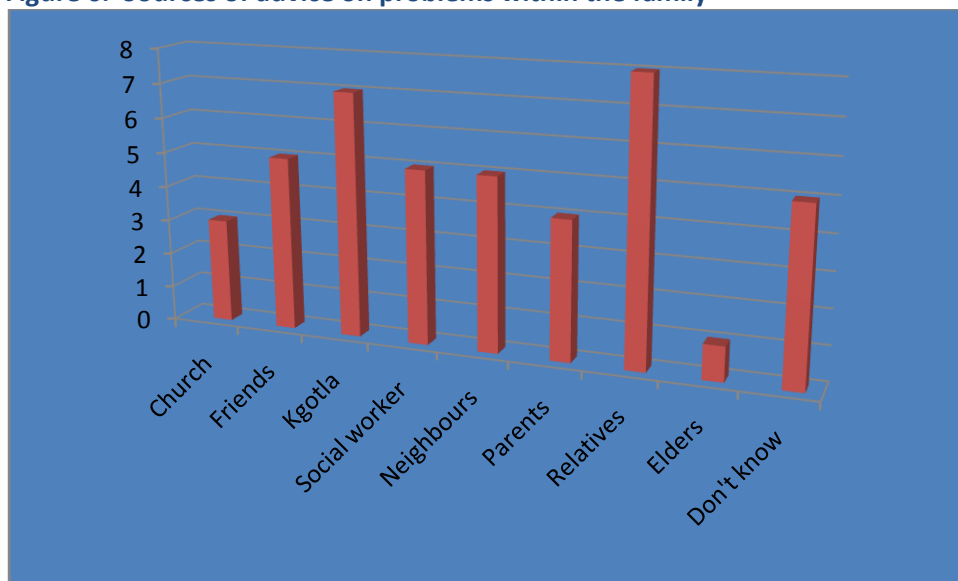


Table 15 below shows the areas reporting reliance on a particular source of advice on family related problems.

Table 15. Source of family advice by area

Source of advice	Areas reporting
Relatives	Bray, Gumare, Tlokweng, Otse, Palapye, Kgomodiatshaba, Lentswelemeriti, Tsabong, Xakao
Social Worker	Gumare, Mmashoro, Jwaneng, Kazungula, Moremi, Pandamatenga.
Friends	Tlokweng, Otse, Tutume, Ramatlabama
Neighbours	Tutume, Lentswelemeriti, Pandamatenga, Selebi Phikwe
Parents	Bobonong, Jwaneng, Gaborone, Ngware.
Kgotla	Mabutsane, Mmashoro, Tutume, Kgomodiatshaba, Ramatlabama, Xakao, Xere
Church	Tlokweng, Serowe.
Don't know where to turn to	Francistown, Selebi Phikwe, Ramatlabama, Xere, Palapye
Elders	New Xanagase

- A number of issues arise with respect to response options for family problems:
 - The highest number of **FGDs (8)** reported resorting to approaching *relatives* for help and advice. However, *neighbours* and *friends* also occupied a prominent role as sources of advice or help (**5 FGDs each**), an equal number of FGDs reported that they seek professional advice from *social workers*. But a worryingly equal number of FGDs reported that they *do not know where to turn to* when faced with the kind of family problems reported above. **7 FGDs** reported that they refer the matters to the *Kgotla*. The reference to the *Kgotla* represents the second highest source of assistance and reinforces the fact that the *Kgotla* is still regarded as an important institution within the

family context. **4 FGDs** preferred to deal internally with their problems by discussing them with their *parents*. Those who do not know where to seek help or advice represent a sense of desperation and helplessness which should be addressed, a number of these respondents simply stated that they just give up and do not know who to approach. Whilst the bulk of the FGDs seemed aware of the major sources of psychosocial support, those who do not know where to turn to present a major problem which requires intervention within a family policy design.

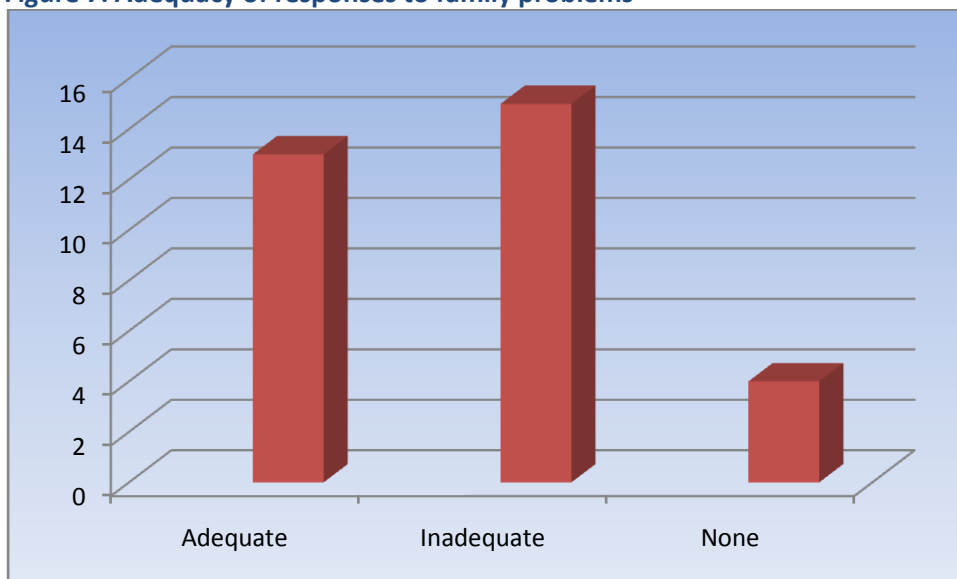
- Only 1 FGD reported resorting to *elders* to address family problems. It appears that as a source of advice or help within the family, elders are no longer particularly relevant. The relatively smaller role played by elders in this context contrasts sharply with the preferences for friends and neighbours as sources of assistance. The marginalisation of the elderly in the quest for solutions to family problems is evident in the following comments which hold in contempt neighbourly intervention in family disputes:

“Traditionally marriage was marriage, not these stories you hear about these days. Family matters were kept within the family, these days people in the next doors get involved in issues that are not theirs.” (FGD with a group of elders in **Ramatlabama**.)

“We tell the elders in families to help with some solutions. But these days elderly uncles are not very active in settling disputes.” (FGD with a group of elders in **New Xanagas**.)

- *Adequacy of responses to family problems.* Respondents were asked to comment on the adequacy or otherwise of the responses they received on requests for assistance or advice when confronted with family problems. The question related to the kind of services expected from institutions such as the police, kgotla, social workers or clinics. *Figure 7* below shows the number of FGDs ranking these services.

Figure 7. Adequacy of responses to family problems



- A higher number of FGDs (15) reported that the services received in response to family problems were *inadequate* than those who were satisfied with the responses (13). **Four FGDs** reported having **no such services** whatsoever in their communities. *Table 17* below shows the actual areas providing responses on the adequacy or otherwise of the level of support received with respect to family problems.

Table 16. Responses to family problems by area.

Areas reporting adequate services/responses:

Tlokeng, Mabutsane, Palapye, Francistown, Serowe, Ramotswa, Maun, Mmashoro
Kgomodiatshaba, Moremi, Phikwe, Sehithwa

Areas reporting inadequate services/responses:

Ramatlabama, Ngware, Jwaneng, Kazungula, Xere, Tutume, Bobonong, Letlhakane, Bray, Panda, Xakao, Maboane, Gumare,

Areas reporting non-existence of services

Lentswelemoriti, New Xanagas, Bogogobo, Xakao

Table 17 below shows some responses regarding the adequacy or otherwise of the services provided in response to problems within the family.

Table 17. Comments regarding family support services

Area	Comment on services
Bogogobo	"We do not have a police station , no social worker, no counsellor, no transport, no entertainment. We have one clinic where the nurse is always away. " (adult FGD)
Bray	"The social worker is never available , there are some disabled persons who are never attended to and never given moral support." "The social worker never gives follow up responses, he gives us more stress rather than reducing it. We don't trust him." (youth FGD)
Xakao	" There is one clinic with staff shortages but the nurses have no respect for the villagers. We even fail to take ARVs because the nurses do not give the pills on time. They use harsh words and only attend to very sick persons at lunch time. They also report late for work." (elderly FGD) " The nurses use vulgar language , if you have to go to the clinic you think twice. Elderly people are not helped. Police are not that helpful. Social workers do not help the worst affected, they are selective." (elderly FGD). "The police are slow to react to family issues, they don't provide counselling, they only react if people stand up or intervene." (elderly FGD) "No use in asking for counselling from social workers as the social workers don't welcome us here , so we hardly ask for counselling from them. The VDC also help when we are having problems at home, the only problem is that they like involving social workers. " (elderly FGD)
Bray	"The police only like assisting white people. " (youth FGD) "The police do not like attending to family problems. " (youth FGD)
Lentswelemoriti	"It is hard to see a social worker in this area, the social worker has never been to this area. If we have any problem we have to travel far to Motlabane and Semolale." "There is one health post with nothing inside except one nurse , we get help from a mobile army clinic but it is 10km away." "The police post is 50km away. " (adult FGD)
Ngware	"We have to travel 84km to Molepolole or 68km to Letlhakane to get police services. There is only one social worker for the village. We have no transport, no communication." (adult FGD).
Jwaneng	"The police offer security and sometimes they offer guidance. But they always

	come late to attend to family matters, they come when the problem has worsened. " (youth FGD)
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As shown above there are areas where family support services are not existent. The extremes are shown in the above table. Areas reporting adequate service provision in response to family related problems are largely urban areas or urbanised villages, whereas the opposite is the case with remote rural settlements. We note below the emerging issues around service delivery:

- *Role of the Police in addressing family problems.* This is a key issue identified above, respondents in the FGDs quoted above generally felt that the police reacted slowly to family problems and only acted when the situation escalated. This may not necessarily show reluctance to act on the part of the police, the problem may lie with the nature of the general duties the police are trained to deliver; which may not specifically deal with the complex social problems within the family unit. Some comments about police bias towards white people may relate to poor communication between the police and the youth as in the case of **Bray**. However the situation is made worse where a community has no accessible police assistance and has to resort to travelling long distances as reported in **Lentswelemoriti** and **Ngware**. What comes out clearly in the comments above is that **police presence, police cohesion** with the communities, **police sensitivity** to complex social dynamics within the family unit, and **access to the police** where they are not immediately present within the community are necessary issues to be addressed for the police service to support the family unit. The issue is also dealt with further below with respect to the role of the police in implementing and enforcing family related laws (see section on legal analysis).
- *Role of social workers in addressing family problems.* As shown above, there are areas where respondents noted that they do not have access to social workers, or that there is a limited number of these professionals to address their family problems. Other respondents like those in the elderly FGDs in **Xakao**, and the youth FGDs in **Bray** reflect deep mistrust between the community and social workers. In part the scenario represents **limited human resources** for social work in the districts (KIIs with the DSS confirm this further below), and the **need for better relations** to be developed between communities and professional social services providers. A family policy requires both **resources and community trust** if its implementation is to be regarded as a success.
- *Awareness of the existence of psychosocial support services.* In addition to the above points it is important to note that there was a general awareness that social workers provide psychosocial support services such as counselling to address problems within the family. There seems to be general awareness of

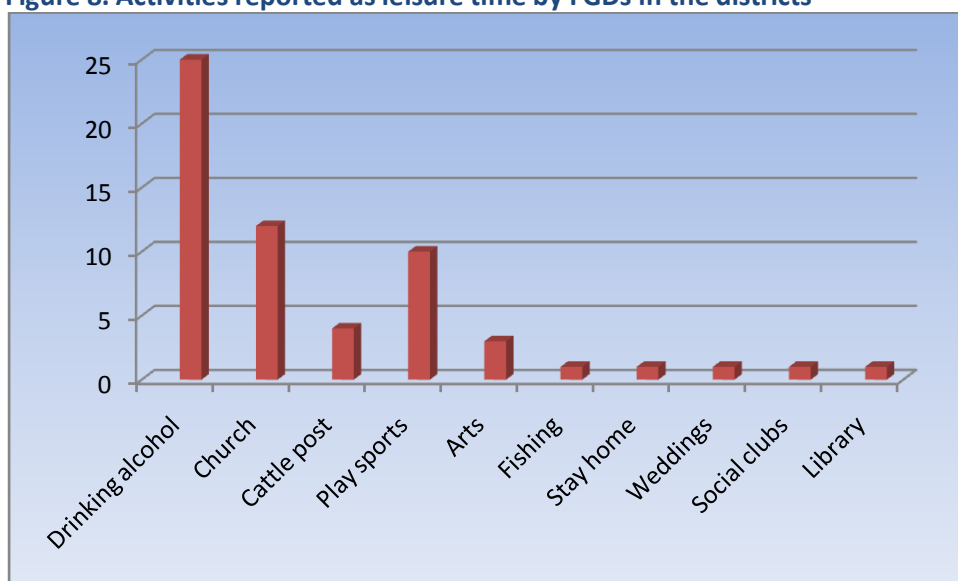
what psychosocial support services cater for, however for reasons cited above, which include access, staff shortages etc, respondents do not always utilise professional psychosocial services when they are required. A key emerging issue is that some respondents in the FGDs were not aware of what psychosocial support services are about. **8 FGDs** reported that they **did not know what social workers do** or what psychosocial support services cater for. The FGDs concerned were conducted in **Mabutsane, Phikwe, Ramatlabama, Sehithwa, Xere, Letlhakane, Palapye, and Molepolole**. This requires some intervention, for example, through **public education on what psychosocial support services are about**, such an intervention should be part of a broad framework of the proposed family policy.

- *Role of health professionals.* Health related needs of the communities and families interviewed above received mixed ratings with respect to how they are addressed. Whilst generally clinics and health workers are readily available in most areas within Botswana there are specific areas where this is a problem. The problem relates to the availability of healthcare, that is the physical infrastructure as well as the human resources. Some areas identified above **lack both clinics and health staff**. In other areas, as in **Xakao** the limited healthcare services are not well regarded due to reported **poor relations** between the community and the professionals. To address this situation it is critical to **cultivate better professional/community relations** through the responsible departments, e.g. Local Government and Health. This is critical to the development and implementation of a family policy in Botswana.

5.2.3. *The concept of family leisure time.*

Respondents in the FGDs were asked what about the kind of activities they engage in when they are free. The question was meant to get experiences from the respondents on what they consider to be leisure in the family and individual context. *Figure 8* below shows the number of FGDs reporting a particular activity as leisure.

Figure 8. Activities reported as leisure time by FGDs in the districts



As reflected above, the highest number of **FGDs (25)** reported that they **simply drink alcohol** as a recreational activity. Less than half of these FGDs reported engaging in sports as recreation/leisure activities. Whilst about 12 FGDs cited going to church (some three times a day, e.g. in **Lentswelemoriti**) as a recreational activity). Activities that may ordinarily (in other contexts) be considered as recreational (arts, fishing, sports, social clubs) had the lowest number of FGDs reporting them as leisure pursuits. In almost all FGDs respondents noted that there is a lot of alcohol consumption taking place in the districts. No FGD viewed this as a positive engagement. *Table 18* below shows the areas reporting engaging in a particular activity for leisure.

Table 18. Activities identified as leisurely engagements by area

Activity identified as leisure	Area
Drinking alcohol	Bobonong, Bray, Palapye, Serowe, Jwaneng, Tutume, Kgomodiatshaba, Maboane, Moremi, New Xanagase, Ngware, Pandamatenga, Phikwe, Ramatlabama, Sehithwa, Xere, Bokspits, Tlokweng, Mabutsane, Letlhakane.
Church	Serowe, Letlhakane, Lentswelemoriti, Maboane, Moremi, Ngware, Panda, Phikwe, Bobonong, Palapye, Molepolole.
Playing sports	Letlhakane, Mmashoro, Kgomodiatshaba, Maboane, Ramatlabama, Tshabong, Bokspits, Bray, Mabutsane.
Arts	Mmashoro, Lentswelemoriti, Kazungula, Ukwi
Staying home	Kazungula, Ramatlabama, Letlhakane
Going to Library	Bobonong, Molepolole
Fishing	Sehithwa
Weddings	Pandamatenga

As noted above, **alcohol consumption** was identified as the **mainstream recreational activity**. This was not specific to particular areas or districts but was the case across communities in Botswana, the only exception was **Lentswelemoriti** where respondents

stated that there were no bars or particular drinking places around. Most FGDs reporting alcohol consumption as the recreational activity were youths, but others were made up of adults and the elderly. The identification of alcohol consumption as the general recreational activity confirms the general concern of the Botswana authorities that there is widespread and unhealthy consumption of alcohol and that this is a national problem. Further this result tallies with the earlier section above where respondents were asked to identify problems within the family context, and **alcohol abuse** was noted as the **third biggest problem affecting the family** (see *Box insert 4* above where some experiences with alcohol are identified). The following issues also emerge from the responses:

- Respondents did not generally justify alcohol abuse, but they noted related issues such **unemployment and poverty** as some push factors towards alcohol abuse. Whilst some FGDs reported that they drank alcohol in bars, a number reported that they simply do so in alcohol depots.
- The **lack of recreational facilities** and programmes was one major point cited as providing the background for the young and adults to indulge in alcohol for recreational purposes. There were areas with no particular recreational facilities or programmes in place. These were **Lentswelemoriti, Maboane, Pandamatenga, Sehithwa, and Bobonong**. In Maboane the researchers noted the existence of a community hall which was disused as the roof had fallen in, and in Bobonong an FGD with a group of youth noted that although they had a park in the area it was only open on Saturdays but only for weddings. The lack of recreational facilities in these areas provided a stark contrast to the situation in Phikwe where the researchers identified a number of parks, gardens, and a state of the art public gymnasium equipped with plasma television sets. However it should be noted that even with relatively abundant recreational facilities, alcohol consumption as recreation was also identified as a problem in Phikwe. Alcohol abuse is a problem in both urban and rural set ups. The key point to note here is the lack of options in those areas where no particular public facilities are available for leisurely engagements.
- Alcohol abuse as noted in the FGDs as well as some KIIs highlights the need for recreational facilities targeted to the surrounding communities. The fact that Selebi Phikwe identified alcohol consumption as recreation in a town where recreational facilities are present highlights the fact that the facilities are not being used by the relevant people. Having facilities in and of themselves does not translate into their use, particularly since community members are often not sure of whom the facilities are for or how they are to be used. The FGDs highlighted the fact that recreational facilities are not targeted towards the community in the immediate vicinity. Community involvement in the development and upkeep of such areas will likely increase their usage.

- Some respondents noted that parks in their area were used for other purposes – citing weddings as an example. This is not only the case in Bobonong. Parks in Gaborone are also used for concerts and religious meetings. The use of such facilities without the consent and involvement of the community reinforces the view that such facilities are not for them.
- Whilst **sports** were identified by a minority of FGDs as leisurely engagements these were **limited to mostly football**, respondents noted the positive aspect of sporting activities but also noted the generally limited (in terms of quality and quantity) nature of the available facilities.
- Apart from places such as **Gaborone, Francistown, Phikwe** and other major urban centres, the researchers did not identify recreational facilities that generally cater for family leisure time in most of the districts visited. Even in Gaborone only three parks were somewhat managed. The majority of the parks in the capital are largely unkempt, and many are downright neglected. Swings, jungle gyms and other potential play areas for children were either in a very poor condition or not functional. Play forms a very vital part of early socialization – it is through play that children are able to act out and internalize the values that they will carry with them through most of their lives. Research shows that play, particularly socio-dramatic play (social play with others), aids in cognitive and language development, creativity and role taking. These are all important aspects optimum development. This type of play is often seen in nursery schools where children of like ages play together. In the absence of nursery schools and recreational parks, and particularly where socio-economic disadvantage is present, socio-dramatic play occurs less frequently and is less complex. The point relates to **accessible and affordable facilities catering for all age groups within the family unit**, an extreme example of this facility may be **Lion Park** which is situated at the outskirts of Gaborone.⁷ Lion Park, however, is privately owned and therefore access to the park is limited to individuals within the higher income bracket. The box insert below further highlights the family infrastructure gap even in the capital city, Gaborone.

Box insert 5. Recreational facilities gap: Gaborone examples

The majority of respondents mentioned that a key missing link in the community are the lack of and poor managed recreational facilities. Even the community itself (FGD) highlighted the fact that their communities do not have recreational facilities. This prompted the consultants to look around the capital city to get a sense of the state of recreational facilities. There are many standing structures in place in most neighbourhoods in the country. However, the state of the majority of these structures is deplorable. To cite a few examples, in *Tsholofelo Park* the swings, merry-go-round and jungle gyms are hazardous to children yet there is no signage

⁷ Extreme due to the fact that this is actually an upmarket establishment catering for the urban middle class and upwards, even this example does not really address the general urban classes in Gaborone, it is accessible for the motorised population and also for those with the extra income to spare, at roughly P50-60 per head, the facility is not cheap.

or personnel to ensure that children do not use the facilities. There is a shrub in the park on which many panties hang on, deliberately put there and changed every weekend. It is not clear what prompts individuals to hang their underwear on this shrub. Walking around the park one is almost certain to find used condoms, lots of broken bottles of alcoholic beverages and people lying on benches smoking marijuana (despite the fact that this park is less than 2 kilometres from a police station). There is a pond/lake in the park that is not fenced off and green with fungus. This is a drowning hazard, especially in a park not manned by park personnel.

But there is a lot of potential in *Tsholofelo Park*. By working with the Department of Environment biodiversity could be added to the lake/pond to clear the colour of the water. Private and parastatal companies could be approached to donate park equipment (swings etc.) under long-term and sustainable arrangements. In addition, paddle boats can be sought from donors to be rented out to park visitors to generate revenue that will be used towards park maintenance. Park management can be outsourced privately, but with participation of the community as well. It is vital to get community involvement (e.g. cleaning up, policing etc) to sustain a safe park – when the community feel that the park belongs to them they are more likely to police it and ensure that it is not denigrated. Garnering community support and private financial support will relieve the pressure from the councils, who have to wait for government to allocate funds to them. Alternatively, funds collected by the town councils (levies etc) must then directly go back into the council instead of being sent to central government. By decentralizing, recreational facilities can be looked after much better.

A second example of a dilapidated recreational facility is the park in *Extension 10* and basketball court in *Extension 12*. The Extension 10 park has grossly overgrown weeds, the height of which covers some of the facilities. The park is not usable and is an eyesore. Yet this park is in the middle of a residential street sandwiched between two homes. The Extension 12 basketball court has weeds growing out of the concrete, the poles are bending over, and the hoops are no longer existent. This is in stark contrast to the new park in Extension 12 which regularly has council personnel on the premises watering the lawn for instance.

Community parks and centres should be places where families can go to spend time together where all family members can be together and enjoy themselves. When children are occupied and able to play in safe environments, they are less likely to be drawn to mischievous behaviours or take up drinking alcohol as adolescents.

For adolescents, community halls could be used as places of entertainment that keep them occupied and away from boredom. Community halls can be used to have sponsored movie nights where Parental Guidance classified movies are screened for free. Funds can be sourced privately to purchase simple equipment such as retractable projection screens. Video arcade games can be rotated among community centres of each city for games nights. Community drama groups can be set up and perform plays on some weekend nights or school holiday nights, as well as debates, career talks, chess competitions, traditional dance competitions, poetry nights. These activities can be piloted in specific areas before being rolled out.

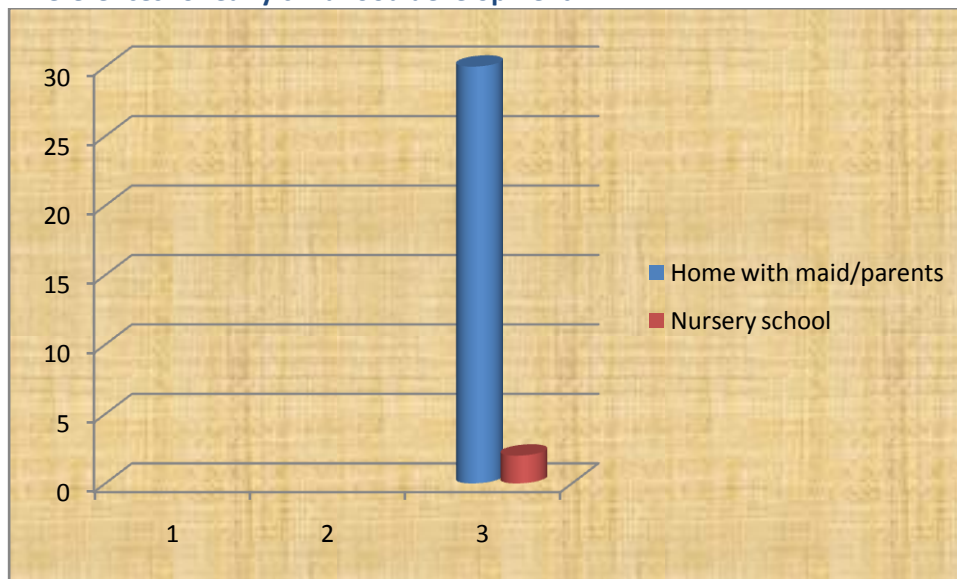
Recreation is an important part of family bonding. Many individuals favourite or fondest memories involve family gatherings of some sort. When something is done to encourage such bonding a strong message will be sent about the importance of strengthening and maintaining the family in Botswana.

Source: Consultants observations, August 2011

From the above analysis it is clear that there are linkages amongst several issues; unemployment, poverty, alcohol abuse, recreational facilities and the situation with the family in Botswana. It is also important to note **the link between actual and planned public and private responses to the alcohol problem at a national level and the proposed family policy.**

- *Early childhood development.* Respondents in the FGDs were asked how they prefer their pre-school age children to spend their time, this involved options of keeping the child at home with a parent or a domestic helper (maid) or sending the child to a pre-school or nursery. The results are shown in *Figure 9* below.

Figure 9. Preferences for early childhood development



30 FGDs (93%) preferred to have the child in a nursery or preschool as this helps with early childhood development. Only 2 FGDs opted to keep the child at home during the day, the reason proffered was that it was cheaper to do so as **preschool is expensive**. Key issues emerging from these discussions were:

- The FGDs reported that the existing childcare facilities were privately owned and run as businesses. This has direct implications on the cost of early childhood development. A further question was asked on the affordability or otherwise of pre-schools. Of the 14 FGDs who answered the question 12 reported that they could not afford the cost of the private childcare facilities, only 2 FGDs (Francistown and Phikwe) reported that they could afford the cost of the facilities.
 - Whilst the FGDs reported that the cost of day care facilities was between P50-P2,500 per month (reflecting the extremes in costs) some respondents considered a low of P10 as expensive. An FGD with a group of youths in **Bray** reported that their parents had pulled children out of pre-school when a fee of P10 was imposed saying that they could not afford it. Whilst this is an extreme example, the general view was that pre-school is unaffordable.
- The presence of day care facilities varied between areas surveyed. Respondents in Phikwe reported that they were aware of at least 22 pre-schools. On the other hand 7 FGDs reported that they did not have a pre-school or nursery in their communities. These FGDs were recorded in **Lentswelemoriti, Maboane, Ngware, Panda Rest Camp, Ramatlabana, and Moremi**. In **Xakao** the FGD reported that the children attended

nursery school under a tree, in **Xere** the nursery school was under construction, in **Bogogobo** there was no teacher at the nursery school, whilst in **Hereford** the FGD reported that the nursery school was not operational.

- There is a clear desire by respondents to send children to pre-school, however this is hampered by cost implications and lack of facilities. An added advantage of the availability of pre-school education is the ability of parents, particularly mothers and single mothers in particular, to continue with paid work and be able to continue earning a living. As the situation stands, a single parent from a low income bracket is forced to quit working to take care of their young child(ren), thereby entrenching them further in the poverty cycle. Early childhood education is also advantageous when children enter primary school. The bulk of the facilities reported by the FGDs are privately owned. The importance of early childhood development is apparent from the desires of the respondents, it is also important for a family policy to reinforce this aspect by encouraging the **development of public and private child care facilities** and **assisting poorer communities** to enable them to expose children to early learning environments. This is an area where the department of education can collaborate with the DSS to **develop and roll out such a programme of early childhood education as part of a family policy** within Botswana.

The issues identified above should also be read in light of the results derived from interviews with key informants across Botswana. Below the report identifies the key issues and the institutions which made the submissions.

5.3. KEY ISSUES IDENTIFIED BY KEY INFORMANTS

5.3.1. *District Level Issues*

Due to the fact that KIIs in the districts deal with issues that may be specific to the family and communities they work in, the report summarises key issues arising from the KIIs at a district level and subsequently deals with the rest of the KIIs. Due to the range of different issues arising from each area it is necessary to go into some detail by summarising the key issues identified by the KIIs in certain areas as a sample of the areas surveyed. This will enable a fuller appreciation of the circumstances pertaining to the communities surveyed. *Table 19* below identifies the range of issues that were raised by district level KIIs in the context of the situation pertaining to the family in Botswana and the proposed family policy.

Table 19. Summary of key issues raised by district level KIIs

Area/District	Key issues raised
Ramatlabama	<p><i>Cohabitation.</i> This existed in the past and it was kept under control. Cohabitation is increasing and it is bringing up family problems.</p> <p><i>Marriage out of community of property.</i> This is western culture. This concept does not show love instead increase conflicts in our homes.</p> <p><i>Gender Equality.</i> A man should be the head and the woman should submit. A man should help a woman whenever needed although this was not done in the past.</p> <p><i>Challenges in our family.</i> The community does not understand the concept of human rights. Our area has no access to local stations such as BTV and radio stations.</p> <p><i>Recommendation.</i> The family policy should be disseminated in simple language through kgotla meetings (Designation of KII-traditional leader).</p> <p><i>Challenges.</i> Orphans experienced a lot of abuse especially in extended families. Family members don't report cases of sexual and physical abuse as they fear societal discrimination. Sometimes neighbours report abuse to the relevant authorities.</p> <p><i>Cohabitation.</i> Many people leave under poverty datum line thus leading to growing rates of cohabitation. People cohabiting should be deemed married after sometime. Physical abuse is common in cohabiting families.</p> <p><i>Maternity leave.</i> Full salary should be paid to avoid financial distress in families.</p> <p><i>Homosexuality.</i> Rights of Homosexuals should be respected.</p> <p><i>Maintenance.</i> Single mothers do not claim maintenance because they fear to be bewitched.</p> <p><i>Programs and structures available.</i> NACA and other programs do take some short visits in the village.</p> <p><i>Dissemination of the policy.</i> Family policy should be introduced through the extension workers, kgotla meetings, clinics, workshops. It should also be disseminated through radios and televisions.</p> <p><i>Implementation.</i> All stake holders involved in family programs should assist in monitoring the policy implementation</p> <p><i>Other Recommendation .</i>The family policy should promote both modern and traditional families. (Designation of KII-Community Development Officer).</p>
Goodhope	<p><i>Experiences in dealing with families.</i> Women complain much about husbands drinking. There is discrimination and lack of respect towards people with mental disturbance. Children disrespect their parents.</p> <p><i>Abolition of marital power Act.</i> This has brought more harm than good. Men feel they have been stripped off their power and status in the home.</p> <p><i>Cohabitation.</i> This causes many conflicts which later result in passion killings.</p> <p><i>Homosexuality.</i> It is a disorder that should not be allowed at all.</p> <p><i>Recommendations.</i> There is need to revive culture with activities that will give youth initiatives to run their own families. Single female headed parent with children not maintained by their fathers need to be educated and empowered. Fathers have to be made aware of their importance in the upbringing of their children. There is a need for Juvenile courts for increasing number of delinquent children. The brewing of alcohol at home should be abolished as it models bad behaviour on the children.</p> <p>(Designation-Traditional leader).</p>
Kanye	<p><i>Success and challenges of modern families.</i> Generally families are able to achieve more in current set up than in the past. Working parents spend little time with their children.</p> <p><i>Single mother headed family.</i> This type of family is increasingly becoming more successful. Mothers become educated with the potential to succeed.</p> <p><i>Absence of fathers.</i> It is important to have fathers in families, especially in raising a boy child. This helps these children to be able to become good fathers in the future. Mothers cannot adequately teach them how to be good fathers.</p> <p><i>Maintenance.</i> There is need to understand that African men are naturally default. Mothers</p>

	<p>are usually the ones who are privileged to stay with the children regardless of anything. Many men complain that the money is not used accordingly.</p> <p><i>Homosexuality.</i> We cannot say anything about homosexuals raising children because we have never been given a privilege to witness such families. The main concern is to see children raised well, not who marries who.</p> <p><i>Cohabitation.</i> There is no problem with cohabitation; in fact it is a solution to many family problems. It helps a couple to understand one another. Human beings are born selfish. They will always fight, married or not.</p> <p><i>Human Rights.</i> People should understand that we are still on transition. People are still not used to hear children raising their displeasure. If children are left unprotected, abused children end up building sour families. This will work right in the future.</p> <p><i>Counselling in Marriage.</i> Pre marital counselling is insufficient. That's why many people got surprises in marriages and marriages don't last. There is need for counselling after divorce. Everyone should see counselling as something normal and important.</p> <p><i>Traditional Court (Kgotla) versus high court.</i> Kgotla is not as neutral as the High Court. Psychologically people respect traditional Kgotla more than high court.</p> <p><i>Paternity Leave.</i> Men should be given paternity leave in order to take part in raising their children. They need to be attached to their children as well.</p> <p><i>Dissemination of the policy.</i> It should be disseminated through all government organs.</p> <p><i>Recommendations.</i> The policy should be informed by the realities on the ground. That is the development, and knowledge of what is relevant today. The family policy should recognize children's rights and different kinds of marriages. The policy should work in harmony with the existing policies (Designation- Principal District Development Officer).</p>
Jwaneng	<p><i>Challenges in marriages.</i> Most people indulge in marriages for the wrong reasons, such as marital gains, long time relationship, and church pressure, without the exact knowledge of what really marriage entails. Lack of such knowledge causes high rates of divorce.</p> <p><i>Pre marital counselling.</i> This is done inadequately. District Commissioner needs a workshop on counselling skills. Most people come to the D.C with marital problems such as abuse, threats and being deserted.</p> <p><i>Availability of programs.</i> There are no programs to enlighten people about the laws regulating the family. People do not come to Kgotla meeting called by the D.C and town clerk.</p> <p><i>Cohabitation.</i> Society needs to be addressed on issues concerning Cohabiting, and discrimination of people affected by HIV/AIDS.</p> <p><i>Public Awareness.</i> Public servants need to be informed and educated about polices, acts and laws. They will in turn teach the public.</p> <p><i>Dissemination of policy.</i> The policy has to be disseminated through the media, house of Chiefs, District Commissioner, and Councillors.</p> <p><i>Implementation-Family Service Centres</i> that guarantee confidentiality have to be established. (Designation-Deputy District Commissioner).</p> <p><i>Challenges in families.</i> These include incest, poor socio economic status, baby dumping, HIV/AIDS prevalence, maintenance issues, Malnutrition in abandoned children, rejection of people who are epileptic and mentally disabled and limited capacity of orphanages.</p> <p><i>Reporting of Cases.</i> Most of cases are referrals from Social & Community Development office, hospitals, courts and police stations.</p> <p><i>Cohabitation.</i> This is the core of many problems. It should be recognized as marriage within six months.</p> <p><i>Dealing with family problems.</i> Problems must be dealt with in family courts before being sent to legal courts.</p> <p><i>Dissemination of the Policy.</i> The policy should be discussed at Kgotla meetings family meeting, seminars, and forums print and electronic media and at village development committees and also in prisons. <i>Recommendations.</i> Homosexuals should never be allowed to marry. There should be recreational facilities to avoid family problems. Men should be given paternity leave. Cultural identity must be upheld. <i>Law</i> should be in English and Setswana. (Designation-Social Worker, Mpule Home).</p>
Tlokweg	<p><i>Experiences in dealing with families.</i> The disabled children are disadvantaged; they are not taken seriously, all because of their mental or physical disabilities.</p>

	<p><i>Working with disabled persons.</i> Disabled are mostly engaged in sports and handy jobs</p> <p><i>Structures assisting families.</i> This include retired nurses and youth organization.</p> <p><i>Public Awareness.</i> Policy must be advertised all over public places, Kgotla and schools. (Designation: Teacher Aid special Education)</p>
Sehithwa	<p><i>Children's rights.</i> Child-line is causing a rift between parents and children. Children misbehave and say they are being abused if disciplined. Child-line, child labour, children's rights have to be scrutinised to determine how they can best help the family.</p> <p><i>Developments.</i> Developing Sub Districts would help create jobs. Lack of developments creates boredom on the children. Most of the unemployed are single parents without child maintenance (Designation: Traditional Leader)</p>
Maun	<p><i>Challenges in the Families.</i> These include domestic abuse and cohabitation.</p> <p><i>Resolving family problems.</i> Cohabitation should not be allowed. Pastors should be introduced to schools.</p> <p><i>Empowerment of Traditional Leaders.</i> The government must empower traditional leaders. They should be involved in all aspects of family. (Designation: Traditional leader)</p>
Gumare	<p><i>Families in Okavango.</i> They still believe and practice their culture.</p> <p><i>Challenges in our families.</i> This include negligence of children, teenage pregnancies, illiteracy and ignorance in people. Children don't know what is wrong and right.</p> <p><i>Cohabitation.</i> This should be discouraged.</p> <p>Maintenance. It doesn't solve anything; the main interest is the presence of fathers for child development.</p> <p><i>Programs offered to assist families.</i> These include economic empowerment, rehabilitation, early childhood care and education and Counselling, Orphan care, RADP, Child welfare, Destitution, Child protection, gender.</p> <p><i>Counselling.</i> We admit that all beneficiaries should go through counselling. Currently counselling is done where necessary.</p> <p><i>Standing structures and organizations.</i> This includes BOFWA, Counselling Centre, Trusts, and economic empowerment groups.</p> <p><i>Public Awareness.</i> There is need to intensify education and family visits. Family policy should be written in both English and Setswana. Children should be taught about family set up and its importance from early age setup.</p> <p><i>Recommendation.</i> Divorces should be discouraged, the country should aim at bringing people together taking exceptional cases into consideration. (Designation. Principal Home Economist)</p>
Xakao	<p><i>Challenges in the families.</i> Youth commit crimes that are not reported. Teenage pregnancy is a problem. Polygamy is a common problem that negatively affects children.</p> <p><i>Challenges for the police.</i> Shortage of transportation our area.</p> <p><i>Recommendations.</i> The policy should have a component for educating the public on issues affecting families. (Designation: Station commander)</p>
Gantsi	<p><i>Tribes in Botswana.</i> Some tribes define the family in a unique way. All the policies geared towards helping the families do not work with these families. They make work very difficult for the civil servants. Policies should be done taking that into consideration</p> <p><i>Cohabitation.</i> Some tribes cohabit in extended families. Cohabitation should be considered as marriage.</p> <p><i>Dependency on food basket.</i> Some people think it's their rights to benefit from government handouts.</p> <p><i>Challenges with the families.</i> When children run away from school their parents hide them from authorities. This limits the children's access to education.</p> <p><i>Children's rights.</i> There is a lot of child labour. Some children are born and never registered. Some tribes/families culturally do not have a sense of responsibility towards one another and their children.</p> <p><i>Standing structures assisting families.</i> There is RADP and Rehabilitation programme helping destitute, rural dwellers, needy students and orphans with health, food and toiletry.</p> <p><i>Projects geared at improving family welfare.</i> Projects should not be imposed on people. Workers and the community should be oriented towards upcoming projects dealing with</p>

	<p>families. <i>Recommendations.</i> The uniqueness of tribes should be considered. An open-ended policy should be introduced first to see how people respond to it (Designation: Community Development Officer)</p>
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The above is a sample of the key issues raised in the district level KIIs. In summary, the major issues raised at the district level by the KIIs were:

- *Alcohol abuse.* Respondents noted that the abuse of alcohol and other drugs was a major problem in the communities;
- *Marriage and marriage property regimes.* A number of KIIs noted that the reason why young people increasingly opt not to marry is because of *high bride prices*, suggestions were made for the regulation and reduction of bride prices. For those inclined to marry, the KIIs recommended that *pre-marital counselling* should be introduced to help young people to appreciate marriage and what it entails. This suggestion also included the need for the capacity of marriage officers in the districts to be improved through on the job training on counselling and legal issues. Further the KIIs generally viewed modern marriage property regimes as divorced from local culture; in particular the concept of *marrying out of community of property* was viewed negatively;
- *Family conflicts.* The problem was identified and blamed on a number of related issues such as lack of respect for the family unit, child delinquency, and other disputes. Some KIIs recommended the creation of *family courts* which should operate differently from the adversarial system that defines the civil court regime;
- *Cohabitation.* This was seen by a majority of respondents as a problem that bred conflict within the family and between partners. Some respondents suggested that cohabitation should be deemed as marriage to avoid problems related to property disputes and other conflicts;
- *Disabled people.* A number of KIIs focused on the lack of proper care and support for the disabled individuals and their families.
- *Incest.* This was identified as an issue which was common but hardly reported or discussed.
- *Teenage pregnancies.* Respondents noted the proliferation of early sexual relations in teenagers and the subsequent rise in teenage pregnancies as a problem in the family context. Added to this was the related matter of *maintenance*, a number of respondents noted that single parents hardly bothered to claim maintenance for a number of reasons including ignorance, lack of access to legal advice, and poverty of the fathering partner;

- *Human rights.* Women and children in particular were cited as a problem in that they allegedly abuse their rights by disrespecting tradition.
- *Homosexuality.* Although there was no actual evidence that homosexuality is being practiced in the districts concerned a number of respondents raised the issue in the family context. A few of the respondents who did so supported the rights of same sex partners to raise a family, however the majority of the KIIs were vehemently opposed to such moves and pointedly argued that a family policy should not include same sex partnerships or their rights.
- *Child labour.* This practice was identified as a problem in some districts, particularly the remote farming and rural communities.
- *Children not attending school.* Although this report noted the high level of primary school enrolment in the country some KIIs were concerned about the fact that some children abscond from school, and with the help of their parents, manage to hide from public officials who would have been sent on errands to bring these children to school. This problem is unique to certain districts as identified above, it should not be ignored because it is linked with the problem of child labour, lack of employment opportunities and dependency in later life.
- *Recreational facilities.* The need for adequate and accessible recreational facility was raised as a necessity that would help young people to move away from alcohol and substance abuse.
- *Unique ethnic groups.* A number of KIIs recommended that the heritage and practices of different and unique ethnic groups in the country should be taken into account when crafting and implementing a national family policy; and
- *Dissemination of the family policy.* KIIs noted the significance of existing social structures such as the *kgotla* as important fora for the dissemination of the proposed family policy.

Whilst there are some differences, the report notes that the issues raised by the KIIs in the districts are generally similar to most of the issues identified by ordinary people in the FGDs with respect to the situation affecting the family in Botswana.

5.3.2. Submissions of KIIs in Gaborone

As it is the capital city, Gaborone is home to a diverse range of institutions and individuals catering for a variety of public, private and non-governmental communities and interests. In order to reflect this diversity the report also identifies these communities and summarises their submissions on the family situation and their expectations of a family policy. Key issues raised by the respondents are reported below in summarised versions of their verbatim submissions. The report again emphasises the need for this approach as it shows in

comprehensive detail the important points raised by key stakeholders within Botswana. The congruence and divergence of views submitted can only best be captured by treating them in more detail than a generalised summary would achieve. Some of the views would appear controversial to other sensibilities, the report nevertheless captures them as they do represent genuine interest in contributing to the shape and substance of the proposed family policy. To allow for a quick identification of key concepts we highlight some of the submissions in bold.

5.3.2.1. Religious community

The Muslim Supreme Council

- Islam recognises the importance of the family as the foundation of society. The respondents noted that the family concept goes beyond the immediate members of husband, wife and children to encompass other people depending on the circumstances such as their need for help. Although Islam does not encourage **polygamy**, men are allowed to marry up to four wives, the family policy should encourage marriage of up to four wives.
- The respondents raised concern that the family unit no longer has respect as people have forgotten about its value, hence the public needs to be reminded and educated about **family values**. In this case the Muslim Society established Women and Youth wings to provide support on family matters.
- The family policy should recommend early introduction of **family related subjects** in schools in order to empower young people to grow up into better parents.
- The family policy should cater for people of **varying religions**. The respondents added that Muslims are not given recognition in Botswana as they are in a minority but this should be addressed as the policy should address the needs of various cultures, religions, ages and races since Botswana is a mixed society.
- Islam supports the President's stance on alcohol, the family policy should discourage parents from drinking in front of their children, however it is better to have an **alcohol free nation** as the social costs of alcohol are very considerable in terms of harm caused to individuals, families and communities.

The Botswana Council of Churches (and an example of one of their members' submissions and experiences)

- The Botswana Council of Churches (BCC) is an umbrella body of all Christian churches in Botswana that seeks to advance the values of Christianity in society as well tackle and respond to the social needs of the country;
- Different churches have got different social intervention programs and the church is a legally recognized institution for starting a family (marrying). The word family can be used in different context, even a church congregation can be referred to as a family, that is why some churches are referred to as family of God. It is important to talk about the family because all social support systems start with the family hence the need to strengthen it.
- The church they has handled issues of broken families and divorces which he says are prevalent in Botswana. **Divorces** have gone up by 30% according to statistics recorded in their member churches which is worrisome and is a sign of a society in dilemma. The main causes of divorces are more economic than social, issues of handling wealth and distribution in the family.

- BCC through its churches arranges **marriage seminars** for couples as a way of strengthening marriages, they also provide **counselling services**. However **men are not forthcoming** in such issues especially when it comes to counselling, which poses a major challenge to the spread of HIV/AIDS.
- Besides other mainstreaming organizations like NACA, churches should be empowered and **resourced by the government** to tackle some of the social ills that the government cannot tackle on its own.
- The *Children's Act* should be strengthened and issues of paternity should clearly come out.
- The BCC is in favour of **paternity leave** to promote better parenting. Government should come up with **incentives for married couples** especially the newly married, in terms of housing. A **housing scheme** should be put in place that guarantees a house for married people and on a case by case basis those who are not married but have a family to raise. The policy should recommend that civil society groups carry some of the social work done by government on government funding because the **social workers are overwhelmed** hence they are not as effective as they should be.
- There should be a public education programme on the family policy as well as a monitoring and evaluation component.

Box insert 6: The Social Arm for Psychological Support Initiative of the Salvation Army (SAPSSI); summary of submissions on experiences and views on family policy issues

SAPSSI works with children and youth to help them deal with family issues. They organize kids clubs and kids camp to Mokgolodi Game Park and in-school education programs, they build skills of kids to become leaders and they also involve parents.

The family is a basic support system for children as children need support of adults whereas adults have knowledge and skills to choose how to live.

The SAPSSI has dealt with issues related to financial, emotional, shelter, basic needs, substance abuse leading to HIV/AIDS. However the world is moving towards a nuclear family as people focus more on economic issues, both parents have to work. People now live in a materialistic world and materials keep parents away from their children for longer periods than before.

Children need to be educated because they do not know who to turn to for help and there is no longer active hands-on parenting. Parents need to sit down and talk about issues with their children and as a family, there should be open communication in the family.

There are more **social workers** on the ground but they are **addressing issues wrongly** and there should mechanisms to report child abuse. Social workers and police, sometimes fuel **"secondary victimization"** for those who report cases of abuse and this should be addressed. Because there is no specialized social work emphasis should be on **clinical social work**. Pouring of resources is not enough but proper training of service providers does the trick.

There are many forms of child abuse like people who sell food baskets to buy alcohol, resulting in children not benefiting from the food basket scheme. There also various forms of child labour which are difficult to define in some cultures because some communities justify that they will be giving children life skills.

Government can also come up with some **child allowances** of some sort for poor families but measures should be put in place to ensure the money is not abused. She suggests that there should be **tax rebates for families**, taxes could be worked on how much a couple contributes to taxes. There could also be **property tax exemptions** for couples.

The policy should introduce **educational insurance** for all who have children to cater for post secondary education as it is done in countries like Canada.

Parenting should involve **pre-natal and post-natal care classes for couples**. There should be **special social workers for the elderly** and they should be provided with transport to health facilities. There should be **ambulance rights for the senior citizens**. Government should **subsidize professional services** rather than leave it in the hands of the private sector.

People should learn more about marriages through flyers and other media like the *Daily News* where journalists can highlight on one family issue on a daily basis.

Greater attention should also be extended to the **disabled** as they are vulnerable, a **social worker** should be **attached to every disabled person**, who will be accountable for their welfare.

There should also be toll free numbers for social workers to attend to issues in society; and the establishment of **parenting centres** for families where information can be obtained on best practices. There should be a **Child Protection Agency** and a **Foster Care System** as well as **Elderly Protection System**. Police should keep case histories as evidence has shown that before a passion killing is committed the person will have made an attempt to report the matter to the police.

Source: Interview with SAPSSI official, 2011

5.3.2.2. Non-Governmental Organisations

The Botswana Council for the Disabled

- The organization should be credited for the creation of the disabled people's office at The President's Office in order to create more social safety nets for the disabled in Botswana;
- There should be **equality in the family** and rights of members of the family should be respect despite age to avoid abuse of power by one part;
- **Disability** in the family is so disturbing because in one way or the other the whole family has to react to that, others disapproving and other accepting which leads to the discrimination of the family of the family unit leaving the family to cope with their demise. Most of the times, **rights of the disabled are usually violated right at family level**;
- The Policy should therefore give rights to children with disabilities to make choices and to marry and make families and not to sterilize them as is the case with many families. There must be acceptance and inclusion of the disabled in family activities as well as in employment and in education;
- The policy should promote family values and many should be **compelled by law to marry after impregnating a woman**, this would create responsibility among men folk. It should be **illegal to have children outside some form of marriage**;
- There should be **housing incentives** to help and develop family units in the country especially interventions for people with disabilities; and
- The policy should be housed in a strategic ministry and extracts of the policy should **be incorporated into the school curriculum**.

Botswana Family Welfare Association

- BOFWA was started in 1988 as an NGO that encourages **Planned Parenthood**. Its mandate has evolved to tackle family life education. This picks on values of families and parents to make the right information available to children. It also help capacitate parents and to tackle issues of teenage pregnancies.
- A family has to have two parents. The family policy should ensure that people are held responsible for "every sperm that they produce". **Responsibility should be from conception** until parenting is done and the child is grown up.
- Parents are failing to perform their role by **hiding behind children's rights**. And there is confusion because the youth want to be free from parental control when they are still dependent on their parents. Women are empowered enough to take their rightful position in society but they are suppressing themselves. **Women's rights activists** are confusing people and they are pulling each other down.
- In caring for the old people **old people's homes are not ideal** because for Africans they serve to disintegrate the family. Instead there should be Day Care Centres for the Old and Children but at the end of the day they should go home to their families. Productive people should take care of themselves; Batswana should learn to be givers not takers always, there is too much dependency and people should be weaned off it.
- The **clinical component** of counselling should be spelt out clearly in the policy so that any social interventions have a clinical component.

- There harmonization of policies and **reorientation of social workers** so that the refocus on their duty **rather than dispensing food baskets**. Social workers should **concentrate on psychosocial support** component of their job. They should know how to treat social beneficiaries which is not the case at the moment in hospitals and clinics, where they are traumatizing patients.
- Government needs to **accept** new trends like **gays and lesbians** and should learn how to deal with it because we cannot deny it. This is because the world has become some open space and society because of technology. And some of our neighbours have embraced gays which makes it difficult for Botswana.
- Government should introduce a **mandatory pension fund** for everybody like for a National Social Security that every worker will contribute to. There should also be **family benefits** of some sort to encourage better families. But just taking money is not parenting; we do not want to see absentee fathers. And young girls should be taught good parenting not taking children to their mothers as way of bringing up a child, they are always absent.
- **Every family should have a copy of the policy** especially new couples as part of their preparation for having a family. When adopted, it could be measured by putting in place an M&E system. It should also set targets to see whether it has reached the desired audiences. Partners in the implementation should be identified and targets set and they should give reports on progress. Relevant financial, human and physical resources should be provided for the policy to be a success.

Women's Shelter

- Women's Shelter provides counselling services to victims of gender-based violence. They also provide temporary shelter to those victims and run economic empowerment projects.
- The family builds society together and provides the social support network needed. Issues of support trust and parenting are at the core of the family. Parenting should be taken seriously and people should seek support in terms of parenting, if possible **government should put programs** to that effect.
- Just as the TV has a manual so should be parenting. People are creating families without understanding what is expected of them.
- Domestic violence issues are caused by lack of communication in the home and the organization has dealt with over **500 cases of domestic violence** this year alone. The main issues that come out in most cases are power struggles in the family between couples. Women are always treated as minors by their partners. In the same vein men are not prepared to come for counselling when there is a need unlike their female counterparts who report most of the cases handled by Women's Shelter.
- The Women's Affairs Department deals with mainstreaming issues but their programs are lacking in parental training and psychosocial support.

Emang Basadi

- Emang Basadi is a women's rights organization, which was formed in the 1980s as a pressure group on women's rights and also had the mandate to interrogate laws that discriminated against women and children. It has since evolved with the change of time to include issues sensitizing communities on laws and cultural practices that are discriminatory against women.
- One of their successes as that of the amendment of the *Citizenship Act* which did not allow women to pass own their citizenship to their children automatically as men did in case of someone married to a foreigner (*The Unity Dow case*). They have also done the Women's Manifesto which helped push a number of women into positions of power and politics in Botswana through the political education project.

- They would like to see the family policy complementing their efforts to put gender on the national agenda just like HIV/AIDS. Botswana has signed many conventions on the empowerment of women but they are not being adhered to.
- A lot of broken families have been caused because men think they can do as they wish, they can marry and divorce at will and they can move in and out of the marital home as they wish. This has fuelled the spread of HIV/AIDS.
- Emang Basadi would want to see all laws being harmonized to have one **definition of a child** as compared to what is in place now where child is defined differently under various laws of the country. There should be stiff penalties for child abuse or not taking responsibility for one's child.
- It should also deal with co-habiting, whether to recognize it after some period of time as marriage or just outlaw it, whichever is in the best interests of both parties and the children born out of it.
- The **lobola issue** should also be addressed in the policy; it has **become commercialized** and it has become a **source of conflict in the family**, men feel they have control over women because they paid lobola, it should revert back to being a token of appreciation. This is **why most people choose to co-habit**.
- The policy should also address the issue of **marital rape**, establish government **training programmes for married couples** and recommend the establishment of a **Children's Court**.

Ditshwanelo- Centre for Human Rights

- Ditshwanelo is a human rights organisation mainly focused on advocacy for change of laws that are mainly discriminatory against indigent persons. They also do counselling for victims of abuse of various sorts.
- People prefer to go to organisations like them because the **police and social workers are not user-friendly** especially police stations. There is no confidentiality in dealing with issues in those places like police stations. There should be special people and social workers to deal with issues at police stations.
- Ditshwanelo always encounters issues of **inheritance, divorce, disputes between parents, misunderstandings between parents and children, violence in homes, defilement, and incest**. The other greatest issue that they deal with on a daily basis is that of cohabitation in which some partners take advantage of it knowing that there is no law that covers it, so one can easily be manipulated in the process. **Cohabitation should be legalised** after some period of couples having stayed together.
- The policy should eventually bring all the laws on family into one under the auspices of the **Family Act**. There should be a **Family Court** in every village. There should be social workers in police stations and courts of law. Even at customary law level, the **chiefs** should have **basic knowledge of the law** so there should be basic training of chiefs in law. The organisation had such an outreach programme but it was curtailed due to funding challenges.

5.3.2.3. Botswana National Youth Council (BNYC)

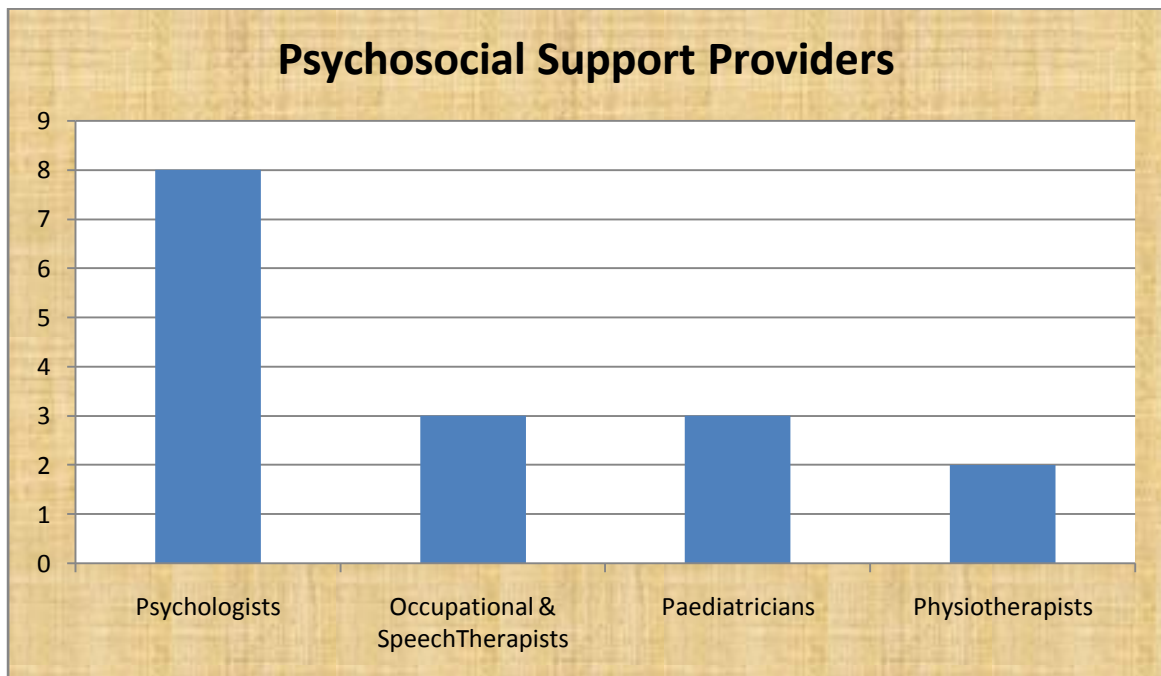
- BNYC is a national organisation created by government to take the interests of the youth on board in national planning. BNYC deals with youth empowerment issues.
- The traditional family structure was supportive and inclusive of a lot of members. The family structure is redefining itself towards individualisation and narrowing to the nucleus structure due to globalisation. The disintegration of the family structure is a sad reality. As a liberal society Botswana condones single parenting and children outside marriage.
- Issues of **cohabitation** and **unemployment** are prevalent among the youth when people cohabit for a certain period of time that should be recognised as Common Law marriage.
- Issues of **lobola** are not a hindrance to marriage but there is no role modelling towards marriage in Botswana families, hence people do not place any value to marriage.

- The government has created a culture of dependence and entitlement and it is now very difficult for the family to take back responsibilities.
- There should be **deliberate policies that support people in marriages** and have stable families. There should be **incentives such as housing for new couples**.
- The government should take **family as a priority** for everyone and give the necessary support within family set-ups. This could be done through well designed campaigns targeted towards family building and building of marriage institutions.

5.3.2.4. Private Sector Psychosocial Support Professionals

KIIs were held with private psychosocial support practitioners in Gaborone. Their responses provide insights on a number of issues which include the family situation in Botswana and family policy designs. Key informant interviews conducted with psychosocial service providers comprised primarily of allied health professionals, all except two who have worked in both in government and non-government departments and organizations. Such individuals were chosen as they were better placed to have a more holistic view and experience in dealing with a wide range of family set-ups. *Figure 10* below provides a representation of professionals interviewed in the private sector.

Figure 10. Type of psychosocial support professionals interviewed



A total of seventeen professionals were interviewed on a one-on-one basis. The rationale behind choosing these professionals was as follows:

- ❖ **Psychologists** provide psychological counselling and therapy to individuals who often present with issues stemming from family issues. Among those interviewed all were clinical psychologists, one was an educational psychologist as well, and another was also a developmental (child) psychologist. The psychologists had experience of working in different parts of the country (namely Gaborone, Lobatse, Francistown, Palapye, Jwaneng and Orapa). They also represented a broad base of experiential domains as mental health providers – hospital settings, private clinics, human resources, security services and NGO.
- ❖ One **occupational therapist** was interviewed who worked for a private school in Gaborone where she was responsible to conducting learning assessments and school readiness assessments on current and potential students. She provided the unique perspective of working in a school rather than hospital environment.
- ❖ Two **speech therapists**, one still in government and one in private practice were also identified as KIIs. Speech therapists often work with young children with varied forms of disability. Disability was an area that was highlighted as one that required particular attention for this project as it impacts on the entire family.
- ❖ Two **paediatricians** with extensive experience were targeted. In families where dysfunction or problem relationships are a feature one or more child(ren) often present with both physical problems (often psychosomatic) and behavioural problems that are first presented to paediatricians who would then refer for psychological assessment and treatment. In addition a medical doctor from one of the local clinics was also interviewed. Clinics are often the first port of call for many family related problems, especially since availability of psychosocial support is lacking in communities.
- ❖ Two **physiotherapists** were interviewed. Psychological stress very often manifests in physical pain in the form of tightening of the muscles. In seeking treatment, patients will often treat the physical symptom as it can often be debilitating. Physiotherapists often end up listening to people as they relay their emotional problems during treatment and it is for this reason that physiotherapists were chosen as KIIs.
- ❖ In addition, one **public health consultant** was also interviewed. The consultant had prior experience in working in development organizations in the area of HIV/AIDS.

The impact of HIV/AIDS on families is fairly widespread and this perspective also had to be represented in the family policy.

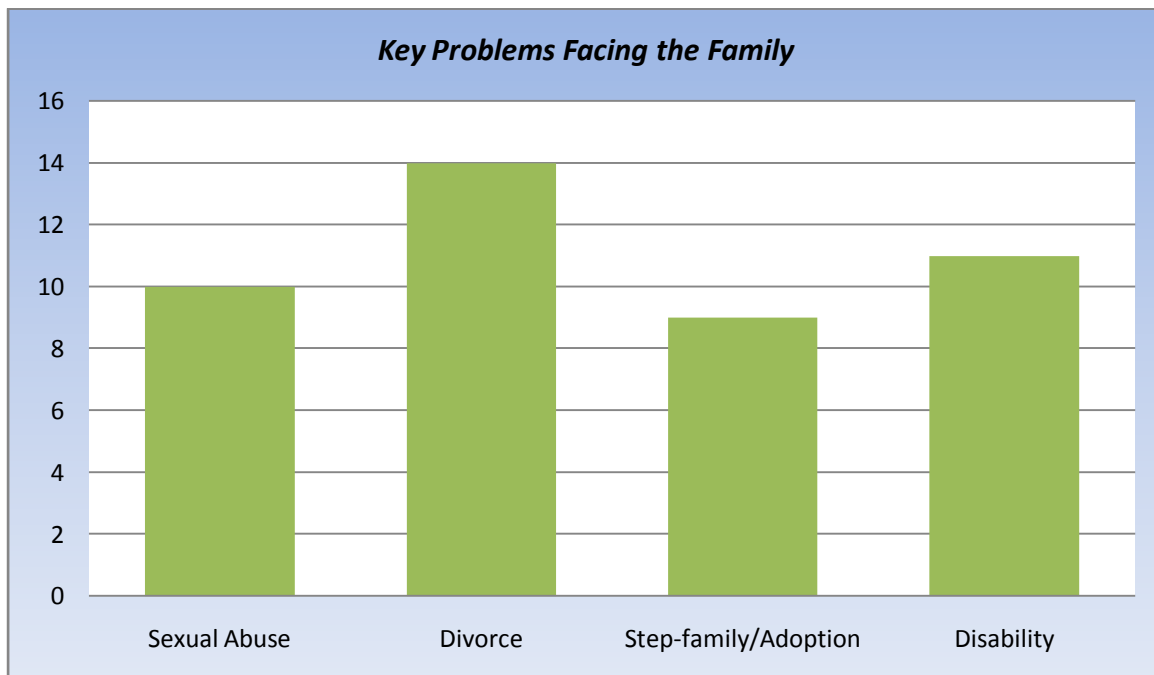
Issues raised by these private sector professionals are captured below.

- *Significance of the family unit.* Respondents strongly supported the critical role of the family unit within Botswana but also noted the tensions surrounding the changing nature of the family unit in the country, for example, the contrasting social environments in traditional extended families, the nuclear and single parent families. The majority of psychosocial service provider KII interviewed were of the view that the definition of family adopted for purposes of developing a family policy reflected the change in family in Botswana, and was sound in that it covered all different types of families found in our society. Those that preferred a definition that included only a nuclear family with mother and father as heads asserted that such a definition was needed in order to bring family back to the way it should be – a unit with two parents rearing children. The contention in this regard was related to increasing and improving the moral fibre of society. This statement was also cited by KII's representing religious groups, as well as some individuals with DSS. It is well documented that children grow into adults to behave what they have seen and what was normal for them, and not necessarily how they know they should behave. This is reflected in for example, the generational cycle of abuse where boys reared in violent families often become violent partners themselves and girls reared in similar situations often become recipients of such violence. In a similar manner, children of divorce also experience divorce as adults at a higher rate than those raised in "intact" families. Nonetheless, it should be noted that the family environment that provides children with the optimum emotional and psychological well-being are those in which their emotional needs are met by parents or a parent who are (is) content with their life.

The ideal of family consisting of a father and mother who are married is one that was also expressed by respondents who gave definitions of family that were inclusive of all family types. This reflects the fact that while the nuclear two-parent headed home is one to be modelled, it should not be imposed on the nation as a vast majority of current families are not reflective of this ideal. A respondent, speaking generally on marriage, stated that "*...the history of marriage as we know it today started roughly five thousand years ago among the Jewish people when they realized that children thrived in families where both parents reared the children*". In formulating a family policy, however, the ideal cannot and should not be set up as the primary definition of family as the policy is intended to firstly reflect Botswana's society as it is today and secondly be used to influence all national programs, policies and laws that affect and the stability, welfare, security, comfort, health, safety and interests of all families, irrespective of their make-up.

- *Problems within the family and communities.* The respondents raised a lot of challenges affecting the family unit and the community at large. *Figure 11* below shows the problems identified by the KIIs.

Figure 11. Key problems facing the family as identified by psychosocial services providers



The above graph illustrates the four key family problems that are presented for psychosocial support. However, a range of other problems discussed below were also cited. The four represented in the graph were those cited by the majority of respondents. What was of particular interest was the overlap of all four problems.

- *Sexual Abuse:* Unlike information arising from the FGDs and other KIIs the respondents noted that sexual exploitation of the youth was not limited to young women. They noted the prevalence of the **exploitation of young men** in Kasane and Maun where *“many boys fall prey to foreign male tourists who use them sexually and reward them financially, even if the money is very little it is used to support the family.”* Sexual abuse was cited as a major problem by about sixty percent of the respondents. The sexual abuse that the professionals typically deal with is the sexual abuse of young girls by older male family members, family friends and sexual partners of family members. Many of the adults that reported sexual abuse to the professionals were reluctant to prosecute known perpetrators of the abuse. This was found in both rural extended families as well as urban nuclear families. Sexual abuse was **particularly prominent in families having a disabled child**. Survivors of sexual abuse account for a large proportion of individuals presenting as children and adults with mental health disorders, as well as delinquent behaviour. Delinquent behaviour resulting from sexual abuse typically begins in childhood in the form of acting out behaviours and violent behaviours which later manifest in criminal

behaviour. The prevalence of sexual abuse draws attention to the plight of the rights of the child. Many children are not able to reach their full potential, thereby making the attainment of many of the pillars of Vision 2016 unattainable. It was noted, especially in government institutional settings that resistance to treatment by parents suggests that children are rarely provided with the psychosocial support needed to help them overcome sexual abuse. The majority of psychologists interviewed lamented the fact that school teachers are not trained to pick up on signs of physical and sexual abuse in children. As adults who are exposed for many hours of the day to these children in the classroom, their ability to pick up signs of abuse and report it would go a long way in helping abused children, especially those who do not have the moral support of their family to get the help they need. It was also noted that in cases where the sexual abuse was first reported to a social worker no steps are taken to address the situation.

Table 20 . Summary of key challenges to child welfare identified by respondents.

Key Problems	Examples Cited	Reasons Given for Problems
Silencing of sexual abuse among all members of the family, even caregivers	Repeated abuse of step-children by step-parents; sexual abuse of disabled girls by uncles & family friends	Sexual abuse is often handled as a family problem by the family elders who often blame the child for the perpetuation of the sexual acts
Maltreatment of orphaned children	Social grants being used by guardian(s) for biological children; physical & emotional neglect of orphans	The decision as to whom an orphaned child lives with is often a family decision and not a personal one. Therefore family members become custodians of children because family elders believe they should take responsibility

The amount of sexual abuse reported, especially of girls, was quite alarming. Again, this provides evidence of the fact that all types of interpersonal violence are rarely accorded the attention they deserve. The KIIs believed that social workers were blatantly ignoring cases of known sexual abuse. An example highlighting this problem is one where neighbours reported the sexual abuse of a young disabled girl by her uncle. The girl was in the care of her grandmother who was aware of her son's abuse of the girl. Social workers in the area were also aware of the repeated abuse but had never removed the girl from the care of her grandmother or called the police to charge the uncle. The girl subsequently became pregnant, at which point the grandmother called the social workers to say she could no longer take care of the girl. The social worker in charge told the grandmother that she was obliged to take care of the girl as no one else would. Such cases draw attention to the plight of those who cannot speak for themselves who are failed by their family as well as by the social and legal system that are there to protect them. The attitude also emphasizes the distrust that can grow among community members who will be less likely to report abuse when it is perceived that nothing comes of their reporting. This goes beyond a lack of proper training and reveals the disdain and lack of decorum exhibited by those who should be addressing issues of welfare.

- *Divorce*: Divorce was the most reported family issue affecting the country. The impact of divorce on families, in particular on children and women was highlighted. In children, the following were brought up as areas of concern:
 - Childhood depression;
 - Anxiety;
 - Drop in school performance;
 - Selective mutism⁸;
 - Anger management;
 - Reclusive behaviour; and
 - Developmental regression.

The main reasons given for divorce were infidelity (by both partners). Respondents said that one of key reasons for the high prevalence of infidelity was attributable to society's apparent acceptance of multiple sexual partners of men. However, two respondents cited the historical acceptance of infidelity for both men and women that was used as a way of maintaining a marriage where long separations were common (due to men visiting the cattle post and migrant work). Extra-marital relationships were encouraged. A man coming from the cattle post would first send a message to his wife that he would be arriving later that day to give her time to allow her lover to leave.

The KIs also noted that in several families that they have dealt with who have undergone divorce, children end up getting split up because their mothers are unable to care for them without the financial support of the father. This serves as a double trauma where children not only have to deal with the grief of losing one parent that moves out but then also have to deal with living in a new environment without their mother.

Related to the issue of divorce was the issue of **maintenance**. Many people, especially women, feel let down by the legal system which is perceived not to be helpful in ensuring children receive maintenance from the non-custodial parent (usually the father). Respondents said their clients were not happy with the way maintenance issues are handled by the police and at the courts. Their clients complain that the manner in which cases are heard is very off-putting. When defaulters do not appear in court they are never followed up by either the court or the police leaving many giving up on the procedure and trying to provide for the children and the little they have, and perpetuating a cycle of poverty.

Family disagreements and discord was also cited as a problem leading to separation and divorce. Family discord, especially among in-laws and the extended family were noted to contribute to many families splitting up. The discord often revolved around financial assistance that was given to extended family members without the knowledge or permission of a spouse or partner, leading to tensions between the couple about finances.

⁸ This refers to a situation where a child who otherwise was able to speak freely before the occurrence of psychologically traumatic event, and who then stops speaking all together, or speaks at times but only in selective environments.

A second source of family discord was that of differing expectations. In a family extended family members often have expectations of the couple, and when these expectations are not met they cause conflict in the partnership. Such expectations were often of the wife or female partner, where in-laws would place cultural expectations on her. When these expectations were not met they would then call the male partner to express their disappointment in the “*ngwetsi*”. He would then in turn put pressure on his partner to abide by cultural norms, thus leading to conflict between the two of them. This kind of family discord was more often seen in traditional family settings than modern family settings, except in the case where both partners do not come from similar family settings in their family of origin. This highlights the pressure put on marriage by the changing social and cultural changes taking place in the country at large and in particular in families.

- *Step families/Adoption*: The following were cited as issues in step-families:
 - ❖ Partners’ suspicions of physical and sexual abuse;
 - ❖ Non-disclosure of some children to one’s partner. This was the case for both men and women where children from prior children residing with other relatives are not disclosed for fear of losing the relationship/marriage;
 - ❖ Reported physical abuse of children by both step-mother and step-father;
 - ❖ Sexual abuse perpetrated by step-siblings;
 - ❖ Children not being treated equally in step-families – examples of this were cases where a step-father may accept some of his partners children and openly mistreat others;
 - ❖ Women fearing approaching their husbands about the way her children are treated; and
 - ❖ In some cases step-parents may accept their step-children but other family members do not, leading to tension between in-laws.

In the case of adoption, the following were cited as key issues:

- ❖ Adoption being used as a guise for child trafficking – some families are “given” a child, often by a poor family in the hopes the child will be better taken care of. The child is then taken to live with this family and is made to work in the family in the exchange for accommodation. On the surface it appears the child is well taken care of as they attend school but after school they perform all chores in the home.
- ❖ One respondent cited a client she worked with who had been legally adopted by a middle-income couple and was kicked out of the home as an adolescent because she was increasing their food costs. The girl did not know where to go as she was adopted as a small child and did not know her biological family history or origin.
- ❖ Two respondents cited working with individuals who had been adopted by families and used as sexual slaves

The problems encountered in step-families and adopted families bring to light the violation of children's rights. This is especially the case in adopted families, where adoptive parents do not understand the role of adoption and adopted children do not know where to go to when they are experiencing problems. Similar issues to those encountered by legally adopted children were also cited in the case of children who are informally adopted by family members.

It was brought to light during the literature review and was cited by one respondent that the *Adoption Act* of Botswana is very outdated and confusing. The act was most likely adopted from the United Kingdom and has not been updated since to become relevant in today's society.

- *Disability*: Disability was cited as a problem by more than half of the respondents. Disability referred to any individual who had a physical or mental/psychological impediment. Key issues regarding disability were:
 - ❖ Sexual and physical abuse of disabled children, especially girls;
 - ❖ Lack of support for disabled individuals as well as for their parents and caregivers;
 - ❖ Cultural myths about disability that exacerbate social isolation and promote desertion of disabled children;
 - ❖ Insensitivity of healthcare professionals in dealing with disabled patients;
 - ❖ Lack of respect and confidentiality of the disabled – they are always accompanied by someone to consultations, even when they are able to adequately;
 - ❖ Ministry of Health not delivering in supply of wheelchairs leaving many disabled people home-bound and further isolated';
 - ❖ Inaccessibility on roads, to public transport, into buildings, road crossings; and
 - ❖ Limited educational opportunities for disabled people due to lack of facilities in schools to accommodate them and lack of schools for the disabled.

Box insert 7: Professional experiences of family problems in Botswana

Professional 1:

"I deal a lot with family disagreements due to differences in opinion mainly stemming from financial issues. There's also a problem of support, psycho-social and financial. Marital problems also feature a lot – stemming from differences in managing finances, infidelity (usually the partner that has been cheated on); non-disclosure of children from prior relationships by both men & women; HIV discordant partners leading to family breakdown; children born with HIV blaming their parents, especially when they reach adolescence; HIV positive sibling molesting & raping HIV negative siblings; issues of non-adherence; incest (there is a lot of it that I deal with here) mostly on young girls where family members "cure" themselves of HIV by raping young family members; rape of disabled children leading to HIV & families not wanting to get professional help; emotional abuse of children; ill-treatment of step-children; and cancer."

Professional 2:

"Drug & substance abuse of children; marital problems leading to family break-ups; infidelity; mismanagement of finances and debt; kids falling out of the education system & parents who don't earn much getting into financial problems trying to keep them in private schools; issues of witchcraft; kids getting mixed messages due to different parenting styles and that leading to no boundaries; domestic violence, child molestation & incest (especially perpetrated against stepchildren). The issues tend to be difficult to manage,

especially where abuse is concerned because only the reporting party comes to the table. Families also want to deal with these issues themselves because counselling is stigmatized – “you’re a failure, can’t manage your life”. This type of traditional mediation often becomes about others, not the concerned parties, their feeling are not addressed & they are instead told that others have had similar issues so why can’t they work their issues out.”

Source: Interviews with research team, August 2011.

- *State of existing psychosocial support systems.* The respondents noted that there is **no comprehensive family support service** in Botswana and communities hardly get adequate psychological services. A major challenge cited was that the respondents felt that the majority of **social workers are not qualified** social workers but graduates from adult education who end up being transferred to social work; because of this they **spend time in their offices waiting** for clients when they should be out in the field conducting outreach work. They noted that there are a few scattered family support projects which are not programmes but are **time bound donor funded activities which work in isolation of each other. Psychosocial support is not integrated within Botswana’s health system.** The respondents added that when health professionals refer patients to social workers in the public system the results are often disappointing as the latter appear as if they do not know how to assist patients referred to them. They cited **Marina Hospital**, which is a large referral establishment but on a good day may have **only 2 psychologists available** to service the vast psychosocial needs of patients. They further noted that in other countries **multidisciplinary approaches** are a core of the healthcare system, but this is lacking in Botswana.
- *Recommendations for inclusion in a National Family Policy.* Respondents were asked to suggest content for inclusion in the family policy based on their experiences with families and the issues that they present with for psychosocial support. Their recommendations were also added upon by the consultants. These consultant recommendations were aggregated from information from respondents, comparison of other countries and consultant knowledge and experience.
 - *Orphans and Vulnerable Children (OVC).* While the respondents commended the government on the services it currently runs for OVC’s, there are improvement that were suggested. These were:
 - Social workers should be trained to be more sensitive in dealing with OVCs (i.e. – giving out food baskets, clothes etc at the homes and not in schools as has been reported).
 - The social workers should also be more accountable to children and families they are assigned to.
 - A three-year transitional program should be introduced for OVCs between the ages of 18-21. Currently they stop receiving benefits at the age of 18. At this age many are still in secondary school and when aid stops so does their education. This means that they are less likely to receive any tertiary or technical education and this keeps them in a life of poverty.
 - Regular group meetings or camps should be held where they are taught life skills by a professional who specializes in such work with

children. The value of this is immense not only to the children but also to the nation.

- *Employment Act.* The respondents recommended that the employment law should be amended to make it conducive to a flourishing family environment.
- *Childcare & Preschool.* All respondents interviewed stressed that early childhood education provided by government is a necessity. This will not only help children academically once they start school, but also help the economic situation of many families who are unable to work when they have small children due to lack of childcare. Many people now live far away from their extended family members who in the past would provide childcare. With the change in society and migration of people into towns for jobs, returning to work is often hindered by the lack of affordable childcare. The United States provides a good example of the value of availability and accessibility of early childhood education to low income people. In 1965 the programme **Head Start** was set up to help children with no pre-school education learn the basics to prepare for reception. The programme has since grown from a six-week programme to a year-long programme and incorporates health, nutrition, and parental involvement in addition to education. Numerous studies comparing children from Head Start programmes and those not in the programme provide evidence for the buffering effect of such a programme from the negative outcomes associated with children from impoverished backgrounds.
- *The disabled.* Disabled people in Botswana deserve the same rights and privileges as those without disability. However, there are numerous issues that hinder these rights and privileges which need to be addressed by the Family Policy.
 - All current policies and acts that discriminate against the disabled or limit their involvement in education, work, and marriage should be rectified. A case in point here is the provision that allows for the nullification of a marriage if one's spouse is found to be epileptic. This is outright discrimination that should not be allowed to continue. If the law legally sanctions discrimination of disabled persons, individuals will follow suit.
 - Disabled children should be mainstreamed into schools. All children deserve the right to an education, not just able bodied children. At present the school enrolment of disabled children falls far short of the number of disabled school-aged children. Mainstreaming of disabled students will require the following: More training of teachers to become special education teachers. The teachers will then be placed in mainstream government schools classes that have disabled children in them; and upgrading of facilities in the schools to cater for disabled children. The facilities would involve such things as wheelchair ramps, special desks for wheelchair bound children, Braille books, sign language as a course for all teachers to communicate with deaf children. To have an educated society mean no one is left behind because they are different or in the minority. Mainstreaming of disabled children in the classrooms will eventually lead to

mainstreaming of disabled adults in the workforce. At present disabled people are not visible in the workforce because of physical and social impediments that keep them out. When more children are exposed to people of varying levels of ability they grow into tolerant adults who embrace the heterogeneity of society – becoming a *compassionate and caring nation*.

- ALL public buildings should be accessible to the disabled – this means they should be equipped with wheelchair ramps, low door handles, Braille buttons in elevators and wide doors to fit all sizes of wheelchairs. Disabled accessibility should be regulated at council level and made to be a requirement for council approval of plans before building construction. As it stands very few building, even those owned by government, are disabled-friendly. In those that do have ramps the ramps are often not level with the ground for easy access onto it.
- There is poor delivery of service to the disabled people of the country. Getting wheelchairs is a lengthy process and the Ministry of Health does not give out enough of them. This leads to family and caregivers confining the disabled to the home due to the difficulty of moving around with them. Even where wheelchairs are available public transport is not wheelchair accessible, and neither are roads nor buildings. A suggestion to get around the issue of government funding for wheelchairs was a private/public partnership to supply wheelchairs, fundraising activities throughout the year to raise awareness about the situation and gain financial support from publicans.

5.3.2.5. Public Sector Psychosocial Support Professionals in Gaborone

The eventual family policy would most likely be coordinated by the DSS. Further, a number of critical comments were made in both FGDs and KIIs regarding the services provided by officials reporting to the DSS, some of the comments were negative. It is essential to highlight the experiences of the public sector professionals dealing with the family and related social issues in Botswana in order for the report to gain their information on their experiences, needs, opportunities and challenges regarding the family situation in Botswana and the proposed family policy. The experiences of the DSS officials may also serve to clarify some issues raised in both FGDs and the KIIs.

- *Capacity and resources.* The respondents noted that the DSS provides general and specialised social services to communities within Botswana. However the department is overwhelmed with the social needs of the communities which are not counterbalanced by adequate human and financial resources within the department. Because social workers have multiple tasks sometimes the focus is put on immediate visible needs such as the distribution of the food basket resulting in less psychosocial support to the communities. The respondents decried this scenario noting that social workers are effectively functioning as “ration clerks”.

- *Family situation in Botswana and the DSS response.* As the department at the fore of the social issues in Botswana the respondents were acutely aware of the challenges facing the family unit and the community in the country. The department's response to this situation includes the proposed family policy. However the success of the policy requires a Family Division which should be a fully-fledged department and be staffed with the requisite skilled professionals, the structure should then be replicated at Local Government level. This system should be supported by boosting staff, specialisation and resources in other key government departments, for example, hospitals cannot function properly without cooperation between social workers and health professionals. The department of health should be assisted in building extra human resources in specialised professionals relevant to family health, e.g. gynaecologists.
- *Family Policy content.* A number of recommendations were made by the respondents, these included:
 - *Improvement of social benefits.* Existing social benefits should be refined, improved and evaluated before the introduction of new family type incentives. The assessments carried out before qualification for current social benefits tend to be rushed and many reported a tendency to bias and prejudice on the part of the social worker carrying out such assessments. The assessments should be carried out by several individuals with different areas of expertise so that families receive the benefits that they need. Of particular importance, it was suggested that the elderly and the disabled be assigned to one social worker who will be completely responsible for their needs. This will be helpful not only in the distribution of social benefits but will also help to bring to light the discrimination and abuse suffered by the elderly and disabled.
 - *Incentives for families.* The policy should introduce a set of incentive to encourage individuals to marry and maintain intact families. These incentives include effective housing schemes for married couples, housing subsidies for start-up families and young families. Such incentives may also help strengthen relationships especially where they reduce the scope for financial worries between couples.
 - *Employment related benefits.* Maternal leave/benefits should be improved to protect the mother, child and family. This should extend to men who should be granted paternity leave to assist the mother.
 - *Adoption.* Adoption policies should be streamlined with the reality facing communities in Botswana, for example, the scourge of abandoned babies

may be alleviated by the creation of drop-in centres that are well designed to reduce harm to infants.

- *Cohabitation*. Respondents noted that this issue was rife in Botswana and the policy should address this with respect to protecting the partners, for example, by recognising cohabitation as marriage in order to encourage partners to formalise their unions.
- *Lobola*. A number of respondents noted that this concept has lost its original meaning and was now a commercial transaction justified as culture. It was suggested that bride prices should be standardised and made affordable to remove the commercial trend and also the justification for cohabitation.
- *Pre-marital counselling*. This should be a feature of the policy to enable couples to fully understand their responsibilities and the rights and obligations (both social and legal) attached to marriage.
- *Early childhood development (ECD)*. It was noted that the government is less visible in ECD and this posed a challenge for parents as most facilities for day care were in private hands and expensive. Two interventions were suggested; firstly that the policy should encourage government to introduce ECD standards through standardised and monitored ECD teacher training and tuition, and Guidelines on Day Care Centres. Secondly government should also introduce public day care facilities to complement the private sector efforts. As part of this initiative, Government can also introduce day care centres at public sector workplaces/offices where health and safety requirements permit the presence of young children within the vicinity of such offices. Such in-house facilities also have the advantage of creating an attractive work environment for civil servants with young children and can even operate as an incentive to keep civil servants within the public sector.

5.3.2.6. The President's Office- Disability Unit

In an attempt at addressing the socio-economic problems faced by disabled people in Botswana the GoB established unit to deal with issues surrounding disability. The unit is responsible for developing and coordinating strategies and policies aimed at empowering the disabled. Most of these issues have a direct bearing on the family situation. Key points raised by the respondent include:

- Disability invites so many stigmas and myths which affect the livelihoods of disabled people and their families. For example there are beliefs that one bears a disabled child because of their sins or infidelity, husbands are known to abandon spouses and the child as a result of such myths making the situation worse for the woman and the child involved. A number of **divorces** are directly as a result of such myths. People affected by this issue sometimes face **mental problems** as a result.

- One major problem faced by the Unit is nation-wide **sexual abuse of women with disabilities**, an example of a young Maun girl who was tied to the kraal by her own parents was cited as one extreme; in this case the girl was raped by men, impregnated and infected with HIV. This was also a problem in Ramotswa where the resident psychologist cited numerous cases of abuse of the physically and mentally disabled which was often disregarded by those in whose care they are in as well as by the social workers.
- The disabled also face **communication problems** in that there are no sign language interpretation services at service centres in Botswana, to address this for example, the Police and Health services should receive sign language training. This will help maintain the dignity of the disabled people, as well as to maintain confidentiality.
- Disabled people also face problems when attempting to start families as usually this is frowned upon by their own parents and the community at large. The result is further isolation.

The points raised above resonate with a number of submissions made by FGDs and KIIs outside government. They point to the need for a family policy that also responds to the needs of the vulnerable members of the community, which in this case are the disabled citizens.

5.3.2.7. Ministry of Finance: Botswana Unified Revenue Service (BURS)

The project team was not able to meet the senior officials from the Ministry of Finance. The Ministry was identified as a KI due to some fiscal and financial aspects of a family policy, the project team mainly wanted to hear the kind of thinking around any new proposals for tax incentives etc. However as any new policy is if adopted, still gets the attention of the finance authorities this issue may be a matter for resolution outside the context of this report. The team however met with an official from BURS who explained that the current tax system is based on the individual and not the family and the system works better the way it is. The official noted that even where a couple has property they have to choose one person to be taxed. Given that the current individual tax rate is at 25% the official noted that the government does not have any intention of changing the tax regime.

5.4. Analysis of crimes within the family context

5.4.1. Background, methodology and data limitations

Whilst above the project identified the experiences of ordinary Batswana with respect to crimes within the family context the Botswana Police Service also provided their professional assessment of the situation. In particular the Police conducted a statistical analysis and presented data relating to a national snapshot of gender based violence (inclusive of sexual attacks) for July 2011. The Police also submitted data on sexual cases

involving youths in the Northern Division (Police administrative description). The information is useful in the situational analysis of the family in Botswana and has practical input on family policy design. Further by including the Police service in this study the DSS will also be able to extract vital information regarding the needs of the Police as a key institution for the implementation of laws and policies relating to the family. One key problem observed in the data collection is that the Police still rely on manual records which have to be perused, data extracted and loaded on computers for a proper analysis to be made, this process takes time and is one reason why the data referred to below is related to a limited period. Northern Division data goes back to 2009. Further the study received data based on reports submitted to the Police administration by 27 out of 78 police stations, again limitations mentioned above may explain the rate of responses. However the rate of responses was adequate for our purpose since, as is shown below the responding police stations covered a substantive area of the country and were also representative of those areas where fieldwork was conducted.

5.4.1.1. Geographical coverage of crime data

Below is a list of police stations and districts covered by the crime data analysed in this section.

Table 21. Geographical coverage of crime data

Southern Division	South Central Division	Northern Division
Lobatse	Sikwane	Botshabelo
Ramatlabama	SSKA	Shakawe
Goodhope	Naledi	Maun
Woodhall	Mogoditshane	Selebi-Phikwe
Thamaga	Urban	Serule
Ghanzi	Bontleng	Semolale
Jwaneng	G/West	Francistown
Sojwe	Dibete	Sehitwa
	Ramotswa	Shoshong
		Bainesdrift
		Bobonong

Source: Botswana Police Service, 2011

The above list shows that the geographical scope of the crime data discussed below is fairly representative of the whole country.

5.4.2. Consolidated crime gender based violence data

Table 22 shows the consolidated data on gender based crime as a snapshot based on the period 1-31st July 2011. We also discuss the crime data on cases brought forward to this period in order to give the background picture of the data before this snapshot period.

Table 22. Consolidated crime data by gender

Type of case	Female victim	Male victim	Female perpetrators	Male perpetrators
Rape	45	-	-	37
Attempted rape	3	-	-	3
Defilement	12	-	-	12
Incest	-	-	-	-
Indecent assault on females	7	-	-	6

Assault common	197	68	28	218
Threat to kill	23	9	1	21
Murder	4	-	-	4
Attempted murder	-	-	-	-
Grievous harm	2	4	-	4
AOABH	72	46	20	72
Affray	7	5	7	8
Use of insulting language	23	16	8	28
Unlawful wounding	6	14	1	12
Totals	401	162	65	425

Source: Botswana Police Service, 2011

The above table shows a national snapshot of gender based violence where the victim or perpetrator is either male or female. The following points relate to the consolidated crime data:

- The most common crime reported above is **assault common** which makes up almost **50% of all reported gender based crime**. This is followed by another form of a crime involving physical assault, **AOABH** (assault occasioning actual bodily harm) which accounts for 18% of all reported gender based crime. Taken together, assault common and AOABH account for **67% of the total gender based crime**. Cases brought forward by July 31st also show a predominance of **assault common (1,063 cases), AOABH (611), threat to kill (417)**, of the cases brought forward very few had been completed with respect to finalisation before the courts, the bulk were actually pending investigation, e.g. assault common had **974 cases pending investigation**.
- The second highest category of gender based crime is of a sexual nature. **Rape** represents the highest figure in this class and is also the third most reported crime. **45 rapes** were recorded thus making up **11% of total reported gender based crime**. This is followed by **defilement** (12 cases) and indecent assault on females (7). Rather suspiciously **no incident of incest** was reported in the given period, this may actually serve to reinforce the secretive nature of this crime and the fact that both perpetrators have an interest in keeping silent about it, and the families have an equal motive. With respect to crimes of a sexual nature rape also made up the bulk of cases brought forward with a total of **397** cases of which **only 13 had been completed, 8** had been reported for **social support** and **324** cases were still **pending investigation**. Similarly a high number (**137**) of cases of **defilement** were recorded as brought forward of which 47 were pending investigation. Again incest is suspiciously low (1 case) on crimes cases brought forward.
- The data shows that **women are more likely to be victims of gender based violence than men**. The total number of perpetrators of gender based violent crime was **490**. **Men accounted for almost 87% of the perpetrator of crime**. Females were victims of gender based violent crime 401 times and men only 162

times in the reported period. Thus females bear the brunt of gender based violent crime, making up **71% of the victims**. More glaring is the fact that **100% of the victims for murder in the reporting period were women**. However females were involved in affray as perpetrators in almost equal numbers as men. It should be noted that gender and intimate violence is rarely reported. Domestic violence is generally reported after it has occurred on at least seven occasions. At this point the violence has typically escalated quite drastically. Rape is on average only reported in about 10 to 15 percent of cases. This means that the vast majority of these crimes are not reported. Reporting of such crimes is hindered by the emotional state of the victims and well as the stigma and perceived and in some cases actual blame put on the victim for the violence.

Below we disaggregate the data on the relationship between the victims of the gender based violent crimes reported in July 2011.

Table 23. Nature of relationship between victim and perpetrator of gender based violent crime (July 31st snapshot)

Crime	Stranger	Ex-partner	Dating partner	Cohabiting	Marriage partner	Relative	Neighbour	Work colleague	Someone known
Rape	25	3	1	1	-	4	1	-	11
Attempted rape	2	-	-	-	-	-	-	-	1
Defilement	1	-	3	1	-	-	2	-	1
Indecent assault on females	1	-	-	-	-	-	-	-	6
Assault common	31	44	86	-	9	22	2	10	54
Threat to kill	1	10	10	24	-	1	-	1	6
Murder	1	2	1	2	-	-	-	-	-
Attempted murder	-	-	-	-	-	-	-	-	-
Grievous harm	2	-	-	-	-	1	-	1	4
AOABH	14	14	26	-	1	4	2	1	44
Affray	-	-	-	11	-	-	-	1	9
Use of insulting language	10	3	6	-	-	-	3	1	18
Unlawful wounding	4	5	2	2	-	1	-	-	22
Totals	92	81	135	43	10	33	10	15	176

Source: Botswana Police Service, 2011

It is important to highlight the nature of the relationship of the perpetrator by rank and the kind of crime they are likely to commit based on the above data.

Table 24. Perpetrator of gender based crime by rank

Perpetrator by rank	Crime most likely to commit
1. Someone known	Assault common, AOABH, use of insulting language
2. Dating partner	Assault common, AOABH, threat to kill
3. Stranger	Rape, Assault common, AOABH, threat to kill
4. Ex-partner	Assault common, AOABH, threat to kill
5. Cohabiting	Threat to kill, affray
6. Relative	Assault common
7. Work colleague	Assault common
8. Marriage Partner	Assault common
Neighbour	Use of insulting language

Source: Authors, based on Botswana Police Service, 2011

The above data shows a number of key points with respect to gender based violent crimes:

- **Most of the crimes are perpetrated by someone known** to the victim although not necessarily related to the victim. The highest number of AOABH cases were committed by this class of person, and they also accounted for the second highest perpetrators of assault common cases;
- However persons in relationships referred to as **dating partner** were the **second highest perpetrators of gender based violent crime**, they **committed the most assault common cases** than any other class of accused person, and the second highest cases of AOABH;
- The **total stranger was the third highest perpetrator** and this class of accused persons accounted for the highest number of **rape cases**⁹. The stranger was also involved in assault common and AOABH cases. But the stranger was only involved in 1 case of murder;
- The **ex-dating partner** also featured quite high up the ranks of crime perpetrators, coming 4th and accounting for the **third highest cases of assault common** and **AOABH** cases, and the **second highest cases of threat to kill**. This class of person was also incidentally responsible for the highest number of murder cases;

⁹ Date rape and marital rape are almost never reported, leaving stranger rape to appear to be more prevalent than it actually is. One needs to understand that rape is an act of assertion of power which is acted out in a sexual manner. Sex is the one thing that is assumed to be in one's control – who to have sex with, when, how, etc. By removing that control, rape is seen as having complete control and power over the victim.

- The **cohabiting partner** was the 5th ranked perpetrator of gender based violent crime. What may be of note here is not the relatively lower rank of the cohabiting partner as a perpetrator, but the kind of crime they were involved in. This class of person accounted for the **highest number of threat to kill cases as well as affray cases**. Further the cohabiting partner also shared ranks with the ex-dating partner in cases of **murder** (see above point);
- The **least likely perpetrators** of gender based violent crime as reflected above are **partners in marriage** and **neighbours**. The neighbour accounted for the lowest assault common cases, followed by the marriage partner. This data must again be looked at more carefully and in consideration of the fact that spouses normally only report spousal abuse when it has been prevalent for very long. Research has shown that women are the most unsafe in their own homes.

5.4.3. *Crime trends*

Although the above points are based on an analysis of a snapshot of national crime data they assist in deciphering what may be a general trend if all cases brought forward are disaggregated along relationship lines between victim and perpetrator. The data show a disturbing trend of violence between dating partners, ex-dating partners, people known to each other, and cohabiting partners. It is not apparent why cohabiting partners are responsible for the highest cases of threat to kill, and actual killing (even though the numbers are low) and affray. The data may be explained by lack of stability and respect in the nature of the relationships responsible for the highest gender based violent crime. It is also possible that, even though the opposite is true of formalised relationships (marriage) that under-reporting may be responsible for the low rate of gender based violent crime. We however do not see any potential motive to suspect the neighbour's status which ranks equally with the married person as the least likely perpetrator of gender based violent crime.

5.4.3.1. *Police observations, challenges and needs*

It is important to highlight police observations regarding this crime trend. The police noted that:

- Excessive consumption of alcohol is the main contributing¹⁰ factor since most of the reported incidents occur at drinking spots/sprees. The main challenge is that traditional beer is sold everywhere and most people who abuse it are unemployed and they spend most of their time at sheebens;
- Crimes between dating partners arise out of misunderstandings due to suspicions of cheating between the partners;

¹⁰ However, professionally it is regarded that alcohol merely acts as a disinhibiting factor, not a contributing factor.

- Ex-dating partners also try to reconcile with ex-lovers, at times misunderstanding occurs, such as rejections which end up in violence. This highlights the need for social skills and self-esteem building in families, churches, communities and government. Taking in account the fact that gender based violence is often learned through observation, it is vital that these issues are addressed on a national level.
- Most young girls are getting involved in love relationships at an early age, even when they are at primary school when they date older boys/men. In some cases violence results from the girls attempts at ending such relationships. The relationships are often with individuals much older than themselves and in which they perceive themselves not to be in control in negotiating within the relationship.

Above the report noted that the majority of gender based violence crimes are actually unresolved and pending investigation. The police service are aware of this problem and cite key challenges such as:

- Lack of resources;
- Lack of transport;
- In some police stations gender focal persons have been transferred to different police stations;
- In some cases victims do not report or further cooperate with the police due to fears that such a report will destabilise their family unions or relationships; and
- Officers need education in order to help them address cases of gender based violence.

Other key issues raised by the Police include:

- They registered concern about the **unavailability of psychologists** in the police service which impacts on both the community and the police service badly.
- They disclosed that they do not have training on the handling of sensitive abuse cases and there is **no provision for counselling of victims** to help them get over the trauma of their experience and prepare them to give evidence at court. This type of training is not on the curricula.
- They indicated that they have social work assistants who are police officers given the basics of social work. Their **primary duty however is policing**, and the social work aspect, where they are expected to help their colleagues with trauma counselling services, gets neglected. This produces **traumatised police officers** trying to assist **traumatised victims**. This does not angur very well for justice system and the family institution. Because of the lack of counselling and psychotherapy services, the root cause of family violence is never addressed with little hope of it abating as evidenced by the rise in this type of crime each year.

- The police also expressed concern relating to **lack of facilities suitable for children in the courts**. They stated that child victims are exposed to accused persons who intimidate them most of the time, and also give evidence in a very unfriendly environment. They agitated for the introduction of technology that separates children from accused persons when giving evidence.
- They also complained about the **lack of stakeholder support**, giving an example of Marina Hospital where on their own volition, they established a relationship with the hospital where the hospital reports all teenage pregnancies to them for follow up for defilement.
- They further stated that they try to isolate sensitive cases at the reporting stage so that the reports are not made in public.

These matters should be addressed in order to enable the police service to assist in the implementation of laws relevant to the family context.

5.5. Submissions on legal aspects of the family in Botswana

This section deals with the submissions made by key respondents in Botswana's justice system. The submissions give a practical aspect to the earlier legal analysis of the laws affecting the family in Botswana. The responses summarised below were derived from KIIs with the **Judiciary, Law-Makers, Attorney General's Office** and other **legal professionals**.

5.5.1. Constitution of Botswana

Most Respondents expressed the view that a constitution should not be easily tampered with and further that economic, social and cultural rights would be ideal but cannot be enforceable as they are dependant on the availability of and government's priorities resources.

Those advocating for inclusion/acknowledgement/ definition of the family unit in the constitution expressed the view that since the family is the basic building block for any society, its recognition in the basic law would promote positive values from the populace viz the family unit. Some advocated for a complete overhaul of the constitution stating that it is old and needed review as some of its provisions are not in tandem with modern day dictates.

5.5.2. Duality of Laws

Most Respondents acknowledged the positive contributions both customary and civil law have made to the development of the nation. However, they were in favour of a single value and legal system that will incorporate positive aspects of customary law into received law. A single code of law, would then obtain and this will narrow disputes arising from the unwritten and hence uncertain nature of customary law.

Those advocating for the retention of the *status quo* opined that it was working well for the nation, and pointed out that most people honoured both systems, especially in marriage where most people get married under both customary law and received law. They cautioned that the majority of Batswana in rural areas were comfortable with customary law, and in some instances, even embraced its discriminatory aspects as being acceptable as part of culture. They further cautioned against the law moving too far ahead of the people as it would then lack ownership and authority.

5.5.3. *Discriminatory practices on the basis of custom*

An overwhelming majority of respondents stated that there is no basis in this day and age for this type of discrimination and it should be dealt away with. The few who preferred the status quo, did so on the basis of culture.

5.5.4. *Marriage, marriage regimes and divorce*

A number of legal issues arose from this subject:

- Most Respondents expressed concern that from their experience, most couples enter into a marriage without appreciating the social and legal implications of that contract. They decried the **lack of public education** by qualified people on the legal aspects of marriage.
- Further concern was expressed that where public education is offered, albeit by lay people, like district commissioners, it comes too late as people would have made up their minds at the time they go before the district commissioner for publication of banns. To resolve these issues, it was recommended that **public education on family laws be stepped up. Pre marital counselling**, done by the community and religious leaders; facilitated by the government, was recommended. It should include parental classes and sound management of family finances by trained professionals who are able to impart more in-depth knowledge. These classes may form part of group pre-marital counselling as practiced in some parts of the world.
- Some respondents advocated for a **single marital regime** encompassing civil, religious and customary marriages for purposes of certainty and uniformity in marriage. Many of the family problems presented to psychosocial service providers stem from customary and traditional issues.
- The vast majority of respondents decried the **adversarial nature of the divorce process**, on the ground that it promotes and entrenches animosity between the parties during and post divorce. This negatively affect children. The summary of concerns and proposals around divorce were:
 - i. There should not be a requirement to give reasons for **irretrievable breakdown of a marriage**, unless there is opposition from the other party. Compounded by the fact that most people are not well versed in the legal aspects of marriage, such lack of knowledge makes many people stay in marriages when they are emotionally disconnected

from their spouses. The result of this is that children do not learn how to form, nurture and maintain healthy relationships with their partners and also further results in them not viewing marriage as something to attain.

- ii. Courts should have the **discretion** to hold proceedings in camera, or to the exclusion of certain people depending on the circumstances of each case.
- iii. Most divorces are brought about by the lack of appreciation for the marriage institution hence a lot of education on all aspects of the institution should be done so that people can assess their compatibility before marriage.
- iv. Infidelity is a reality that needs to be solved by a different socialisation process than the one we have where the sanctity of marriage is not borne out in practice.
- v. Because the marriage institution has lost its sanctity, new practices like **cohabitation** have taken root and since they are a reality, they need to be **properly regulated** to protect children born in such relationships. The current legal practice that recognises cohabitation as a universal partnership in appropriate circumstances is a welcome and fair development. There is need to recognise that the family unit has evolved and is not defined through marriage only. Proper regulation also necessitates the abolition of practices such as refusal by government officials to put the name of the father of a child not born to parents married under common law. This again highlights the duality of the law, where traditional practices and beliefs are imposed on individuals at hospitals and national registration centres.
- vi. **Nullity of marriage** as a result of communicable diseases/epilepsy is discriminatory and should be abolished.
- vii. **Pre-divorce mediation facilities** must be offered by the government, and mediation can be court annexed. Resources have to be provided however. The services can be outsourced from the private sector but subsidised by the court/government. The current practice of individuals divorcing without first seeking mediation can have negative effects on children who are often used as pawns in divorce proceedings.

5.5.5. Family Courts

Most respondents identified a **need for family courts** that will be staffed with human resources trained and devoted to family law to develop proper jurisprudence in this area. This need was justified on the basis that the current court structure is not conducive for the adjudication of family disputes as it entrenches differences between the parties. In the current structure where cases are held in public, the truth hardly comes out as parties play to the gallery. Family courts should ideally be staffed with trained social workers and psychologists who can advise both families and the legal representatives on issues affecting

children and families. These individuals can also provide training for other staff of the family court so that every staff member is sensitized to working with families and dealing with the unique issues that families bring to the court.

Concerns put forth to justify family courts center around the lack of time the current courts have to devote to family issues, which unlike other cases, can only be fairly determined if the social underlying causes are examined. The determination of these underlying causes cannot be done in the current environment where hearings are held in public and the judges are not specifically trained to bring out sensitive issues. Ideally family court hearings should be held behind closed doors, especially where sensitive issues are being disclosed that can negatively impact on children. Court transcripts and/or video footage of the proceedings can be made available to relevant people in due course. In this manner the sanctity of the family is upheld, as well as the protection of children.

Alternatively, dispute resolution measures could also be annexed to the family courts to promote a non-abrasive resolution of issues. Key issues emerging from the discussions included:

- **Lack of resources** was identified as a major obstacle in the establishment of a family court, regard being had to the fact that most respondents indicated that the courts are currently understaffed and under resourced. Most respondents however opined that the family institution is very important and its protection and promotion must be prioritised
- **Children are not protected** as they are not prohibited from attending court to witness their parents sparring. **One Respondent cited a case where a child was in court in a custody matter concerning the child where none of the parties wanted custody of the child.**
- Another concern raised is that, in the current system, psychological profile of the parties is not sought in all cases. There was therefore a suggestion that an **office of a family advocate** be established, manned by a lawyer who in conjunction with social workers, would compile a report on the issue of custody that will help the court make an informed decision on custody.
- The **media was identified as a catalyst for the irretrievable breakdown of marriages** as the reports they give on family issues do not have sound legal basis and are not sensitive to the demands of particular cases. The holding of family cases in camera in appropriate circumstances would help with this problem.
- The **new case management system** was hailed for effectively dealing with the backlog of cases, including family cases. Those not in favour of family courts pointed out that case management speeds up the litigation process effectively addressing the major issues on which calls for family courts were premised upon.

5.5.6. Custody of children

Most Respondents expressed the view that the courts receive **sub-standard reports from social workers** and in the end such reports are not very helpful and the courts are still forced to have the parties fight for custody. It was recommended that the social work department be staffed with qualified people who can meaningfully assist the court arrive at a conclusion that is in the best interest of the child.

Respondents also preferred a structure that promoted **access to noncustodial parents** especially men in order to improve their participation in raising children. As a matter of principle, access should be granted as a matter of course unless it is not in the best interest of the child.

5.5.7. Guardianship

For guardianship, most Respondents stated that a situation where both parents have the power to make decisions like obtains for married couples is best to serve the interest of the child. **The current system under customary law where the mother is the sole guardian if parties are not married, and damages have not been paid unjustly discriminates against men and does not offer positive benefits for the child.** It **entrenches irresponsibility amongst men** and at times failure to pay maintenance, as men feel that they are required to contribute financially yet are excluded from other important aspects of parenting.

The Children's Act has addressed this problem, however, the challenge for those subject to customary law still remains. Since the provision in the Children's Act giving both parents guardianship challenges both the Common law and Customary law positions, serious and sustained public education is needed to move the society forward, in the interests of children.

5.5.8. Maintenance

Respondents were divided on the **effectiveness of imprisonment** as a deterrent measure for failure to pay maintenance. Those in favour pointed out that since it is used for people who are capable of paying maintenance but refuse to do so, the prospect of a prison term will force such people to pay. Those who were not in favour stated that sending a parent to prison has bad psychological effects on the child as there is stigma attached to prison.

- Most favoured **garnishee applications** and also expressed concern that society does not view failure to pay maintenance as grave and this socialisation has to change and those looking after their children need to be celebrated.
- It was also stated that **family courts** would be better placed to deal with maintenance issues as they would have ample time to scrutinise the matters closely to determine the amounts genuinely needed.
- A lot of **education** was also identified as necessary to teach parents to differentiate between their issues and those affecting children.

- It was also stated that there is an urgent need to **operationalise the Children’s Act** which is a very good piece of legislation.

5.5.9. Domestic Violence

Most Respondents on the bench were **not familiar with the Domestic Violence Act** as it operates at the **magistracy level**. Those who had used it were practising lawyers who hailed it as a good piece of legislation but decried the fact that Batswana are not aware of its provisions. Some also expressed concern that there does not seem to be enough education even for the role players in the Act as some of them were in the dark as to the procedural requirements of the Act, including, sadly, judicial officers. Another issue raised was that the **underlying social causes of domestic violence** are not dealt with, and until these are addressed, the issue of violence is unlikely to abate.

- Some members of the bench expressed concern at the **apparent lack of value for human life by the judicial system**, where you get issues of rape and other violence attracting stiffer penalties than murder. They expressed concern that the judgments of especially the **Court of Appeal** are in their view, out of sync with society’s concern and agitation for stiffer penalties for domestic violence, especially the scourge of passion killings, and suggested that the **Court of Appeal needs to be infused with officers who are in touch with the pulse of our society on these issues, who stay in this society and understand its concerns**.

5.5.10. Family type employment benefits

Most respondents are of the view that **maternity leave** income allocation should be 100%. Some of the respondents were not in favour of this income allocation, stating that the current allocation of 50% should be maintained because work has to continue and the employer has to find someone to replace the one on maternity leave. Because of tough economic situations, it was suggested that the increase in the allowance be gradual, and not be done at once. Respondents stressed that by having children, people are doing the government a favour and they should not be treated like they have done something wrong by having children.

- Respondents supported the notion that men also be given **paternity leave** and their income allocation also be on a 50% basis. This is to give men a chance to participate in arrival of their babies and create lasting bonds between men and their children.
- It was also suggested that family friendly workplace policies be encouraged and where possible, workplaces have day care centres where parents can take children to work and combine work and family.
- The majority of respondent reported that there were not aware of child labour, and those who had come across it stated that it took place in farms.
- The Industrial Court was hailed as a welcome development but there were staffing and resource concerns.

5.5.11. Legal fees

Most respondents raised concern that **legal fees are high**. They are of the view that the Government **legal aid** should be put in place to cater for those who cannot afford to pay legal costs.

5.5.12. Property

This is a very contentious issue in the family, especially deceased estates. The law has been amended to alleviate the hardships of family fights on children as the Marriage Act now provides that in cases where a party remarries, they have to give children their dues before remarrying.

- In so far a property issues between couples is concerned, the issue identified was lack of financial compatibility and lack of education regarding marital proprietary regimes. A suggestion was made that the law should be amended to enable parties to change marital proprietary regimes during the subsistence of the marriage in deserving cases. It was also suggested that public education by relevant people should be done as the little done by the District Commissioners comes in too late and is from people who have no legal training. The education should include Wills as the **lack of testamentary dispositions** was identified as a source of **disputes relating to property**.
- **Education** would further encompass provisions of the **Administration of Estates Act** which is meant to address property issues, but which people are not aware of.
- The **Abolition of Marital Powers Act** was also credited for addressing situations where the estate of married parties is defrauded, but the same concerns about **lack of education and awareness** about its provisions was raised.

5.5.13. The law making process and content of Botswana laws

Law makers and Respondents in general indicated that the law making process is not consultative enough; **people** are informed and **not consulted**, when laws are made. The **capacity of some law-makers** to make meaningful contributions was also an issue of concern. It was suggested that a systematic method of consultation needs to be developed, which would ensure that key stakeholders are consulted. It was also suggested that law-makers should be encouraged to network with professionals in different fields who can advise them on laws that have technical issues or whose import they may not appreciate on their own. It was further suggested that a robust civil society could help raise awareness on pertinent issues.

- **Language** was identified as a **barrier to appreciation of laws**. Even the laws in **English** were still deemed out of reach for the ordinary citizen as they are written in *legalese*. It was suggested by most people that the laws be translated to local languages or at least summaries in local languages or simple English be availed. A caution was however sounded that the summaries should not be done in such a way

that the import of the laws would be lost. Resource scarcity was however identified to be a major challenge to this exercise.

- Those in favour of English being the language of the law opined that if legal aid was provided, this problem would be solved and accessibility would be greatly promoted. It was also suggested that if procedures for the various courts were simplified, people would find laws much friendlier. The **Industrial Court** and the **Small Claims Court** were cited as examples and it was suggested that family courts be modelled around these courts. Lack of education was also mentioned as a limiting factor. It was suggested that systematic methods of educating the public on family laws be adopted and this should involve all stakeholders including *Dikgosi* who will be able to cascade the laws to the people.
- One issue that also arose is that of **ministerial portfolios for family laws**. It emerged that different ministries handled different family laws with little synergy between the ministries and **a lot of duplication**. For example, the Ministry of Home Affairs deals with the Marriage Act while the Ministry of local Government deals with the Children's Act. The plans and strategies of these ministries are however parallel notwithstanding that the issues they deal with are interrelated. This makes it difficult to amend laws that have a knock on effect and the process of amendment takes a long time as a result, meaning that the needs that prompted the amendment remain unaddressed in the meantime. It was suggested that a unit dealing with family issues and laws be established, and harmonization of family laws be considered.
- It was further suggested that the drafters at the **Drafting Unit of the Attorney General's chambers be capacitated** to specialize so that they develop capacity in one area and hence be able to respond better to demands for law-making in that area. In addition, it was suggested that the secondment of lawyers be departmental for efficiency, unlike what currently obtains where only one lawyer is seconded to a ministry and has to deal with different department and different issues.

5.5.14. Family Law Office at the Attorney General's Chambers

An overwhelming majority of respondents stated that this is **not necessary** as it **does not fit in with the mandate of the AG's office**. The Attorney General's Chambers expressed the same view, explaining that their mandate is to represent government in legal matters, not implementation of various family laws. The ministries are the ones that implement the laws hence the office would be better suited there. They however, expressed **support for the office of the Family Advocate** principally to protect children in divorce cases and to mediate between parties with the help of other professional. They however expressed doubt that resources for this would be found.

5.5.15. Administration of Justice

The main concern was **staff welfare**. It was indicated that **courts are poorly staffed** and resourced and this slows down the wheels of justice. The Case Management System was however hailed for moving cases along in a speedier manner and creating a less technical environment for litigation. **The need for a family court was therefore not viewed as urgent as compared to welfare issues of officers.**

- Concern was also expressed about the **Guardian Fund** and the Maintenance Collection Fund, being that there is **a lot of money sitting in these funds which is overdue for collection**. It was suggested that a payment system be introduced that allows beneficiaries to collect money at places convenient to them, as sometimes transport costs are more than the amount to be collected especially where beneficiaries have to travel long distances to come to justice administration centres.
- Weaknesses were identified in the **criminal justice system** especially where children are concerned. Suggestions were made that **child friendly mechanisms** of giving evidence should be introduced. It was however noted that for juvenile offenders, every court can sit as a juvenile court.

5.6. *Joint Advisory Committee of Ntlo ya Dikgosi and Botswana Council of Churches on Social Values (Kgosi Report)*

It was not possible to meet with Dikgosi during the time allocated for field work. The House of Chiefs responded to the invitation to meet by indicating that they were busy and could not make time to meet. The questionnaire sent to them was also not answered. Other Respondents who were interviewed on the role of Dikgosi stated that the institution of *Bogosi* had been overtaken by events and was only necessary in so far as a certain section of the populace utilize the institution. Concern was raised that they adjudicate over statutory offences yet have no legal training. The Administration of Justice expressed concern that it is burdened with decisions from Customary Courts which are bad in law as a result of incompetence. They have a challenge in that although they have to deal with these cases on appeal, these courts do not fall within the AOJ and hence they find it difficult to work with them to correct their mistakes. They had nonetheless organized a workshop for Dikgosi to give them the basics of the rule of law.

This study noted the key aspects of the *Kgosi Report*, these aspects are cited below and are summarised from the Report:

- *Domestic Violence*
 - The committee proposed that victims of domestic violence must be provided with shelter country wide, whenever there is need. They went on to state that this is a complex matter because it takes place in private and it mostly affects women and children. The committee argued that mostly men complained that married partners no longer respect each other because of the perceived view that they are equal. They further went on to put the

blame on the Abolition of Marital Powers Act for undermining the cultural and religious belief that men are heads of the family.

- Alcohol abuse was also highlighted as one of the causes of domestic abuse, due to the misuse of family income. Also extra marital relationships are said to exacerbate domestic violence as trust between couples is destroyed and result in fighting in the home. The committee further went on to list other causes of domestic violence including; lack of communication in the family, customary inheritance of property, separation of spouses due to work related assignments and inter- generational relational relationships.
- *Human rights*: Recommendations were made by the committee that Dikgosi, church leaders and human rights organizations should team up to educate people on human rights. Further on, they stated that people should be encouraged to make wills and they should be educated on Wills Act. They also opined that Intestate Succession Act should be enacted to solve disputes which arise if a person dies without a will.
- *Rape*. The committee raised concern that people claim to rape mainly due to **indecent dress** among females as most of them put on mini- skirts that reveal their body. The committee holds the view that human beings can think and rationalize their actions in a human way. However, they are concerned about the indecent dress that is becoming fashionable in the society. It is on this basis that the committee opined that a national dress code and national dress be adopted. The committee also raised the point that victims of rape need emotional support. And that it is on this basis that intensified counselling services for both victims of violence and perpetrators of rape are provided. They further stated that this should be enhanced in the key institutions such as schools, the work place and churches.
- *Passion killings*. The committee expressed concern that parents nowadays do not talk about sexual matters with their children. They stated that in the past, this was done through initiation schools where a lot of sexual matters would be discussed and children grow up with open minds. They mentioned that passion killings mainly stem from having multiple sex partners coupled with alcohol and drug abuse, cohabitation, deficiency in life skills among the young adults, value with exchange for sex and erosion of social and cultural values. With the issue of having multiple sex partners, the committee stated that Adolescent Sexual Reproductive Health and life Planning Skills should be intensified by both the schools and religious institutions
- *Cohabitation*. The committee stated factors contributing to couples cohabiting. They include: socio-economic changes, lack of cooperation by parents to initiate marriage negotiations or unnecessary delays due to the disapproval of the young person's choice of spouse, unemployment, high prices of bride price, lack of commitment on the, marriage institution, lack of income.

- The committee was of the view that a law **regulating cohabitation** law be enacted providing that after a period of 12 months, a couple living together should be **recognized as married**. They went on to state that parents should be involved as in the case of customary law. Further, the committee stated that each *morafe* should determine its lobola price in accordance with their cultural practices and where the in laws cannot afford to pay lobola, marriage should be allowed to proceed. Such kind of marriages must be monitored by Dikgosi.

A number of views expressed by the committee may be at odds with those of KIIs in this report, but others resonate with views expressed in the FGDs across the country. It must be noted that the bulk of the recommendations made by the committee have a lot in common with views expressed in the FGDs and KIIs in general. The committee's views should also be taken into consideration in the drafting of a family policy for Botswana.

6.0. Family Policy Perspectives: Key Lessons from Other Regions

6.1. Introduction

Comparative perspectives on the design and delivery of family policies are useful in informing the initiative to develop a family policy plan for Botswana. This section will examine the historical aspects behind the development of family policy in other countries, the experiences of various countries and regions with regards to family policy, and the nature of the issues contained in the policies. A critical aspect of this analysis is why these countries developed formal policies on the family, and how such experiences can be harnessed, adopted or modified to fit the socio-economic circumstances of Botswana. This comparative perspective is also critical in assessing the cost-benefit implications of implementing family –friendly incentives and will assist the consultancy in the formulation of an implementation plan for the Botswana family policy. The comparative is largely based on data from the OECD countries as these have made specific and deliberate policy decisions on family policy, and have considerable data on the various family policy indicators; these are lacking from a Sub-Saharan Africa perspective.

6.1.1. Historical background

R. Mahon¹¹ (2007) noted that in the tight labour markets of the 1960s, the scope of the full employment commitment expanded to include “the most productive employment of all workers, with due account of their potential skills and abilities”, as the 1968 meeting of the OECD’s Manpower and Social Affairs Committee noted. As this included not only older workers and (genderless) youth but also women with family responsibilities, the Committee recognized that **“the provision of adequate and convenient community services, including facilities for child care, would relieve the burden of those who assume multiple responsibilities; advance the well-being of individuals, families and society; and facilitate employment, while helping to avoid undesirable social consequences.”**¹²

Mahon (2007) traces the development of family policy in the OECD countries to the growing participation of women in the labour force. He notes the following key developments in the evolution OECD family policy:

- The OECD *New Orientation for Social Policy* (1994) had an important gender component. The rise in women’s labour force participation was welcomed for

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Rianne Mahon, Summary of evolution of family policy in the OECD countries: **Learning, Forgetting, Rediscovery: Producing The OECD’s ‘New’ Family Policy**

¹² *Conclusions of the Manpower and Social Affairs Committee on the Implementation of an Active Manpower Policy*, OECD January 1968, cited in OECD (1979: 127).

increasing the possibilities for women's self-realisation¹³ and for providing the economic independence "to end incompatible relationships" (OECD, 1994:10). It also posed new social policy challenges, in particular "the changing use of household time is creating new demands for services traditionally produced within the home, particularly those relating to the care of children and other dependent relatives, and an increasing need for policy directions that will facilitate a balance between work and family responsibilities" (OECD, 1994:10).

- The ideas originally laid out in *New Social Policy Orientation*, and developed through conferences and in-house research, were reflected in *A Caring World* (1999), which formed the basis for the 1998 meeting of social policy ministers. From this perspective, women's labour force participation is positive as it contributes to labour market flexibility providing "a form of self-insurance to households, with the income risks attached to involuntary non-employment reduced" (1999:14). This new family requires public support, of course, but in different ways from that accorded the male breadwinner/female caregiver family of the past. Of particular concern are lone parents, and the poverty to which their children are exposed. Here, early intervention programmes can help break the cycle of poverty but as these are costly, such programmes should be narrowly targeted on the most disadvantaged (OECD, 1999:86). The best way to address the poverty of lone parents is through welfare-to-work.
- It was the second OECD thematic review, *Starting Strong* that took on the task of elaborating a new family policy built on egalitarian principles. For *Starting Strong*, "governments need to employ upstream fiscal, social, and labour policies to reduce family poverty and give young children a fair start in life" (OECD, 2006:206).

The United Nations General Assembly, in its resolution 44/82 of 8 December 1989, proclaimed 1994 as the International Year of the Family (IYF). The significance of the landmark event of the IYF lies in its reinforcement of the interrelationship between family well-being and sustainable development. It has encouraged actions directed towards integrating a family sensitive approach to development strategies¹⁴. (UN 2001).

6.2. Characteristics of family policies

Olivier Thevenon¹⁵ (2011) identifies six main aims of family support policies, these are:

- *Poverty reduction and income maintenance*. This aim is typically addressed by allocating special benefits to low-income families with children. It is a key facet of social policy in Anglo-Saxon countries, and also in Southern European countries, although family-support policies remain fragmented in the latter. Policies may vary both in the coverage of such benefits (universal or targeted on low-income families)

¹³ It went on to note, however, that "full equality of opportunity in the labour market remains elusive in all countries." Moreover, the rise of the dual earner family "may also reflect income insecurity and the inability of many households to sustain an adequate level of living without two pay checks" (OECD, 1994:10).

¹⁴ United Nations, 2001, *Approaches to family Policies: A Profile of Eight Countries*, ESA/DSPD/ January 2001).

¹⁵ *Family Policies in OECD Countries: A comparative Analysis*, *Population and Development Review*, 37 (1), March 2011.

and in the degree to which transfers are retrogressive with income and progressive with family size. Housing benefits that increase with family size are a key instrument for reducing poverty.

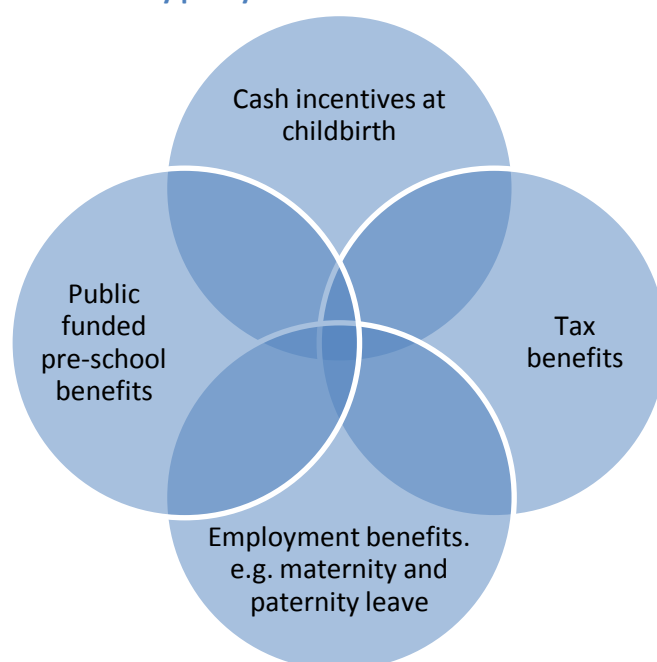
- *Direct compensation for the economic cost of children.* Cash benefits and/or fiscal transfers to families aim to narrow the gap in living standards between families with children and the childless. Because they are not necessarily limited to low-income families, they may not reduce overall income inequality. Indeed, they can be remarkably generous for large families regardless of household income. They may extend throughout the childhood period, potentially with an increasing impact on the household budget as the children grow.
- *Fostering employment.* Family policies in recent years have often sought to reconcile work and family life, especially for women, in order to sustain the increase in female labour force participation. A higher participation rate contributes to the economic and financial sustainability of the welfare state. An increase in employment of highly qualified women is also presumed to yield productivity gains and foster economic growth. Provision of a family-friendly context typically combines three kinds of measures: entitlement to parental leave after the birth of a child, with guaranteed security of income and employment; childcare services adapted to the working hours of parents with young children; and a tax and benefit system that contains incentives to work.
- *Improving gender equity.* Policies can promote equal sharing of both paid and unpaid work between partners, including childcare. Childbirth-related leave can be designed to avoid lengthy withdrawal from the labour market and to encourage take-up by fathers through better-paid, “fractionable” parental leave and leave that is lost if not used. Tax and benefit systems are also important tools for fostering gender equity—for example, through differences in tax rates applied to the household’s first and second earner.
- *Support for early childhood development.* A number of OECD countries have designed family policies with this objective in mind. Two factors are generally considered beneficial for children in early childhood: the time spent by parents in caring for and educating their children, and children’s enrolment in formal childcare and preschool education. At the same time, having both parents in employment reduces poverty, which is positive for child well-being and development. Norms regarding the appropriate starting age and duration of formal childcare vary quite widely across countries, but there is more agreement on the value of preschool education.
- *Raising birth rates.* Population aging and its major cause, persisting very low fertility, are a concern for most OECD countries because of their long term consequences for economic growth and the sustainability of the welfare state. Raising fertility has rarely been an explicit objective of family support, although it is seen as a positive potential by-product. At least in Europe, however, awareness of the need for higher fertility has been spreading, along with debate on how it might be promoted—as evidenced by the EC Green Paper on the policy implications of population aging. Two considerations are in the foreground of this debate. First, actual fertility falls short of the desired number of children reported by parents, a gap that policy measures might be able to close. Second, female labour force participation is not seen as necessarily an obstacle to raising fertility, since comparatively high levels of fertility

are found in some countries where female employment rates are also high. (In other countries, however, fertility and female labour force participation do seem more in opposition, and a polarization of work/family decisions has been observed over the last decade.

The above list shows that family policies have a number of aims and characteristics, and countries have various approaches on the balance they place on each of these aims. However the clear aspect behind these policies is that they are considered critically important for economic and social development.

Figure 12 below shows the main features of family policies across the world.

Figure 12. Main features of family policy incentives



Source: Compiled by authors

6.2.1. The Nordic example

The three main types of support are leave entitlements, cash transfers, and provision of services. The box insert below shows some key features of family policies adopted in the Nordic countries.

Box insert 8: The Nordic countries: Substantial help to combine work and family for parents with children under age 3.

In the Nordic group, public policy support to working parents is a mix of relatively generous conditions enabling parents to temporarily leave their employment after the birth of a child, combined with widely available provision of childcare services for children under age 3. The Nordic countries invest more in these two domains than most other countries. In 2005, expenditure per child on maternity and parental leave was much higher in all Nordic countries than elsewhere, mainly because parents on leave receive better compensation, although the overall duration of paid and unpaid leave is relatively limited (except in Finland and Norway). Spending on leave in the Nordic countries on average totals 53 percent of per capita GDP for each child, versus 21 percent on average in the other countries and only 10 percent in the Anglo-Saxon countries. The high level of compensation leads to a comparatively long FTE period (on average wage) in Nordic countries: 62 weeks in Sweden and 50 weeks in Denmark as a total of cumulated maternity and parental leave, compared to an average of only 32 weeks for all OECD countries. Gender equity is another element in the design of parental leave policy in Nordic countries, with fathers entitled to a specific period of paternity leave. Parental leave entitlements also include “father’s quotas” in Finland, Iceland, Norway, and Sweden, where a specified proportion of the leave can be taken only by fathers. (Denmark is an exception in this respect.) Counting paternity leave and father’s quota together, the full-time equivalent period of father-specific leave is much longer in the Nordic countries than elsewhere: for example, around 10 weeks in Sweden and Iceland compared to an OECD average of only 1.7 weeks. However, father-specific leave represents only a small fraction of the total available period of parental leave, which is taken almost entirely by women. The concern for gender equity can also be seen in the substantial tax advantage that dual-earner households have over single-earner ones with the same total earnings. Long periods of flat-rate paid parental childcare leave in Norway or Finland go against gender equity, however, given its predominant use by women. The percentage of young children receiving formal childcare is also much higher in the Nordic countries. One reason is that subsidized formal care services are available for children at a younger age than in other countries. In Denmark, for instance, children have access to childcare services as soon as the parental leave period expires (at age 1), and more than 70 percent of children aged 0–2 are covered by formal childcare—far above the OECD average. Provision of services for preschool children is also comparatively high in other Nordic countries, with roughly 52 percent of children under age 3 enrolled in formal childcare in Iceland, 44 percent in Sweden, and 35 percent in Norway. The amount invested per child averages \$6,316 (at purchasing power parity) in the Nordic countries compared to an OECD average of \$2,516. This large public expenditure means that parents face a relatively low net cost for formal childcare: compared to other countries (and especially the Anglo-Saxon countries), center-based childcare services for the under-3s appear to be relatively affordable. Total investment in childcare and education services for children below age 6 is about 1.5 percent of GDP in the Nordic countries, compared to an average of 0.7 percent elsewhere in the OECD (0.5 percent in the Anglo-Saxon countries; 0.7 percent in Southern Europe). Comprehensive public support for working parents with young children of course comes at the cost of higher effective tax rates on work-related incomes.

Source: Thevenon (2011)

6.2.2. *The German example; State and Private Sector Initiatives*

Germany also offers a range of interesting policy options designed to support the family unit. We discuss two examples, one showing the government efforts in delivering and designing family policy, and another showing the role of the private sector in such initiatives. The latter example is very relevant to this consultancy in view of the ToRs that

seek suggestions on how the private sector and other non-state actors can be persuaded to support family-friendly policies and initiatives.

Box insert 9: Germany : Developing a sustainable family policy

German family policy aims to deliver stronger support for balancing family and employment commitments. Low birth rates (at 1.37 children per women) and a rapidly ageing population have prompted the federal government to develop a comprehensive and sustainable approach to reconciling work and family life for both women and men. This includes improving and expanding childcare infrastructure, enhancing financial support for families and promoting more **family-friendly arrangements in companies**.

Expanding childcare for children under three

The **German Federal government** has committed to spend additional €4 billion to extend care options to 35% for children under three nationwide until 2013, when all children aged one or over will become legally entitled to a place in a childcare facility. One third of the new places will be created in family day care, which will account for around 30,000 jobs. Although the number of places for children under three has increased in recent years, there are still shortfalls and geographical imbalances in childcare provision: in former East Germany, childcare is available to 46% of children under three, a figure that falls to 14.6% in the west of the country, resulting in a national average of 20.4%.

Female labour force participation has sharply increased over the last decade. According to 2009 EU statistics, 66.2% of German women are in employment, which is above the **Lisbon target** of 60%. However, almost half of professionally active women (45.3% in 2009) are employed part-time. This is the second highest figure for part-time employment in the EU, after the Netherlands and considerably higher than the EU average of 31.5%.

The participation of mothers in the labour market strongly correlates with the age of their youngest child: the majority of mothers of children under three do not work, their employment rate standing at just 28.6% in 2009. However women's employment rate has rapidly and continuously increased since 1980, considerably changing women's perceived role and plans for their future lives. According to the newest "**Family Report**", an overwhelming majority (86%) of German women consider their professional activity to be important. However, as evidenced by an **EU survey**, they find it difficult to reconcile work and family life: the lack of childcare discourages them from having more than one child, or even from having children at all.

In 2009, Germany provided childcare to 91% of children aged between three and six, meeting the **Barcelona target**. Difficulties however arise from the fact that 55% of all children in this age group attended part-time (less than 30 hours per week) and many facilities close early.

Parental benefit: synonym for a new family policy

Both parents have a right to up to three years of parental leave (**Elternzeit**) until the child is three years old. With the employer's consent it is possible to transfer up to 12 months to the period between the child's third and eighth birthday.

A new parental benefit (**Elterngeld**) was introduced in January 2007. Parents of newborn children have since been entitled to receive 67% of their last net income tax-free for 12 months (or 14 months if the leave is shared between both parents). The benefit entails:

- A total maximum amount of €25,200 (€1,800 per month) in 14 months (a maximum sum of €7,200 was granted to parents under the former childcare payment);
- An additional sum of €300 per month for each second and further child of a multiple birth;
- Up to €180 (10% of the parental benefit, at least 75 Euro) per month if there are two children under three or three children under six in the family;
- The possibility to work part-time – up to 30 hours per week – while claiming the parental benefit.

In this case, the benefit is proportionally reduced to reflect the income generated by part-time work.

Recent figures show that around 75% of German citizens and 80% of personnel managers consider new parental leave to be positive. Importantly, the scheme has led to many more fathers taking up parental leave: 18.6 % in the spring of 2009 compared to 3.5% under the previous legislation.

At the beginning of 2010 the German Federal Government raised and further graded the child benefit payments (**Kindergeld**): child benefit varies according to the number of children and amounts to €184 per month for the first and second child, €190 for the third and €215 for the fourth and any further children. The graduated increase of child benefit, which starts with the third child, primarily supports large families and families with low and medium income.

Child benefit is available for all children up to the age of 18. This benefit is extended until the age of 25 for youths undergoing training, and until the age of 21 for those who are unemployed. There is no age limit for children who, on account of their disability, are unable to support themselves.

Source: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2010)

Box insert 10: Business Programme and "Local Family Alliances" to promote family-friendliness in companies and regions

In 2006, Germany launched a business programme entitled "**The family: a factor for success**" (Erfolgsfaktor Familie), in strategic partnerships with trade associations and social partners, encouraging employers to recognise that family-friendly policies allow smoother business operations and pay economic dividends too. Demographic change and the shortage of skilled workers are making such adaptation increasingly necessary, and companies with strong family policies gain a competitive edge in recruiting and retaining staff. The programme aims to turn family-friendliness a hallmark of German economy. It has set up a network, already numbering about 3,000 companies, which commit themselves to a family friendly personnel policy. The business programme undertakes innovative measures, such as organising competitions in which the most family-friendly companies receive an award. The business program is funded by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth and the European Social Fund.

Since 2005 the German Federal Government has promoted the launch of "**Local Alliances for Families**" (Lokale Bündnisse für Familie). The initiative aims to address the lack of childcare and strengthen a family-friendly infrastructure at the local level by facilitating cooperation and exchange of experience between companies, social organisations and municipalities. The Federal Government set up a central office to provide mediators for the negotiations needed to start a local alliance and for further counselling. The central office is co-financed by the ESF. By September 2010, more than 635 local alliances have joined the initiative – a network covering more than two thirds of the German population, addressing more than 55 million people with about 5,000 local projects. At least another 65 local alliances are going to be formed. The initiative is to be developed further and funded until the end of 2011.

Source: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2010)

6.3. Cost implications of family policies

The above examples show that substantial financial and human resources as well infrastructure is required in the design and delivery of family policies. Below we discuss the costs of selected indicators for a number of countries' family friendly incentives.

Table 25. Characteristics of benefits and tax transfers for families in selected countries

Country	Benefits and tax breaks for families as % of GDP (2005)	Support to low-income families (%of average earnings) 2004	Maximum benefit amount for one child (%of average earnings) 2004	Single parent benefits (%of average earnings) 2005
Australia	2.2	6.6	14	8
Canada	1.0	6.5	8	1
Denmark	1.6	2.6	4	6
Germany	2.3	0.9	4	...
Japan	0.8	5.0	1	10
S.Korea	0.0	9.5

Source: Adapted from Thevenon (2011)

Support to children not yet in primary school is one area that was acknowledged as lacking in Botswana (State of the Nation Address, 2010). *Table 26* shows the cost of such support in selected countries.

Table 26. Education and childcare services for children not yet in primary school in selected countries

Country	Spending on childcare services (% of GDP) 2005	Spending per child on services for children under age 3 (US\$ PPP) 2005	Spending per child on services for preschool children (US\$ PPP) 2005	Preschool coverage for children aged 3-5, 2006
Australia	0.6	1,726	5,706	59.8
Canada	0.2	...	4,052	56.8
Japan	0.7	1,558	4,626	...
S. Korea	0.3	754	1,375	14.0
Sweden	1.6	5,928	3,627	4.8
United Kingdom	1.0	3,563	4,255	14.4
United States	0.5	794	4,660	6.2
OECD average	0.8	2,517	3,794	11.6

Source: Adapted from Thevenon (2011)

As shown above governments spend varying amounts of money on childcare services, however the amounts are significant when measured as a portion of GDP, the OECD average of 0.8% of GDP is instructional in this regard. Australia for example spends more than US\$5,000 per year per child for preschool services.

6.4. Lessons learnt from comparative review of family policies

The above comparative review offers key policy options and lessons for Botswana on developing and implementing a family policy. An emerging trend is that governments adopt family policies for a variety of aims, and give differing priorities for each aim, but such policies are adopted for the positive socio-economic benefits they bring with respect assisting women to actively engage themselves in the productive sector through various strategies which include subsidized childcare facilities. The range of policies also addresses

early-childhood development where for example, preschool incentives are availed. Although data is largely based on OECD experiences, family policy is not the preserve of rich or developed countries alone. This is because the policies address critical social issues which any country faces with respect to the development of its economy.

A common social issue: The situation facing the family due to changing socio-economic environments does not concern Botswana only. Developed countries have been grappling with this policy issue in various forms since the 1960s. Other developing countries such as South Africa which provide an immediate and relevant example have also been trying to create policy responses to positively shape the family environment. In this case it is critical to develop a family policy that takes into account local realities, perceptions, and socio-economic conditions and that is informed by the numerous experiences of other countries.

Family policy costs: The above analysis shows that significant resources are involved in implementing a family policy. We use some of the indicators discussed above as benchmarks to be modified in the process of developing an action plan for Botswana's proposed family policy, in particular, for infrastructure and services that are friendly to families.

Role of fathers: Whilst some western countries provide incentives for fathers to share the childcare tasks by legislating for the entitlement to the time required for this task there is a huge difference between providing for the entitlement and the uptake of this entitlement. Evidence from these countries shows a low level of fathers actually taking this entitlement. Reasons for the low level of uptake remain the traditional perceptions that the mother is responsible for the childcare, it is a perception that Botswana alone cannot change, and it can be changed through a number of initiatives such as. A realistic family policy should not only include such fatherly entitlements but also the means with which the entitlements can be taken up.

7. CONCLUSION: SUMMARY OF KEY ISSUES AND RECOMMENDATIONS FOR THE DRAFT FAMILY POLICY

7.1. Introduction

Botswana, like many countries in the developing world, is undergoing a transition from a rural agricultural way of life to an urban capitalist way of life. Currently the people of Botswana, as well as the laws of Botswana accommodate both ways of life. However, there is some divide between the two on what aspects of family and life are important and this is most clearly seen between the youth and the elderly and tribal leaders. The latter want to uphold cultural norms and values that the youth and those living in urban areas do not deem necessary or applicable to their current lifestyle. The differing concepts of what constitutes a family further highlight the differing views of the young and elderly. Although the religious community within the country holds almost similar views on the significance and composition of the family unit there are also key differences, which for example, relate to marriage, key points of departure being between monogamy and polygamy.

The purpose of this chapter is not to repeat the findings made in the earlier sections of this report, but to indicate the key issues which a draft family policy should address, and also to highlight, as part of the family policy environment, the aspects of the law and institutions of Botswana that require reform. This section will also indicate some areas where any further research is required as part of a comprehensive package of reforms.

7.2. The need for a family policy and linkages with related policy measures

The communities, institutions and individuals consulted in the situational analysis of the family in Botswana were all convinced that a family policy should be put in place to address the myriad social ills identified as part of the analysis. This is in line with the GoB's own approach with respect to implementing its commitments in the context of the *AU's Plan of Action on the Family in Africa*. Even if the implementation of a family policy has significant resource implications (see preceding chapter), nothing in all the interviews conducted suggests that a family policy is a controversial proposition for Botswana¹⁶. Whilst a family policy cannot be expected to address all the social ills and accommodate all views identified in the situational analysis it is an opportunity to create a framework within which a comprehensive approach to social development can be implemented.

We further note that Botswana has a number of related policy measures whose implementation should be linked to the eventual policy on the family in Botswana. These initiatives include the following:

- ***The Social Development Policy Framework;***
- ***The Poverty Eradication Programme;***
- ***The revised Remote Area Development Programme (RADP);***
- ***National Policy on Care for People with Disabilities;***

¹⁶ The only possible counter point is only based on one official's own view on a potential fiscal incentive to families in the context of the treatment of income in Botswana for tax purposes.

- *The Action Plan for the National Youth Policy;*
- *The Revised National Health Policy Bill; and*
- *The National Alcohol Policy.*

Lessons from around the world show that family policy are designed and adopted for a number of cross-cutting issues (which in this study were clearly identified by respondents in FGDs and KIIs). These include:

- *Poverty reduction and income maintenance;*
- *Direct compensation for the economic cost of children;*
- *Fostering employment;*
- *Improving gender equity;*
- *Support for early childhood development; and*
- *Raising birth rates.*

The extent to which any one of these aims or all of them can be adopted as part of a family policy obviously depends on the needs and resources of each specific country. The situational analysis of the family in Botswana helped to highlight some of the key challenges upon which a policy design can be based as a response. The above interventions and proposed actions are relevant to the design and delivery of a family policy, and are also related in a number of ways to some of the recommendations identified in the earlier sections and which are summarised below.

7.3. Summary of recommendations

As noted above, this section is not designed to repeat the findings and recommendations made in the earlier sections of this report but to highlight the key recommendations in summary form. The discussion which is made below can inform the key aspects of a draft family policy. Due to their overarching nature we start by noting the pertinent legal and institutional recommendations which can be adopted as part of the family policy environment through the amendment/reform of certain aspects of the law and its administration in Botswana. Whilst a policy on its own is not enforceable as a law, reforming certain aspects of the law can give a policy a conducive environment for its application or implementation.

7.3.1. Recommendations on the legal and institutional matters around the family

Table 27 below shows a summary of the legal and institutional recommendations that are designed to enhance the design and implementation of a family policy in Botswana.

Table 27. Summary of legal and institutional recommendations to support a family policy in Botswana.

Legal instrument/institutional issue	Recommendations or suggested amendments
1. Constitution of the Republic of Botswana	<ul style="list-style-type: none"> • Recognition of the right to marry and found a family. • Specific provision for non-discrimination on the grounds of gender and/or sex in the Bill of Rights. Whilst it is accepted that this issue has been addressed in the <i>Unity Dow</i> case, normal legislative practice is to provide for the amendment of the necessary laws including the constitution to address recommendations for law reform that come from the courts¹⁷. • Repeal of Section 15 (4) which makes an exception to discrimination as long as it is based on “adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law”.
2. Marriage Act Cap 29:01	<ul style="list-style-type: none"> • It must be acknowledged that Botswana has made considerable progress in relation to the recognition of women and children’s rights in marriage and in families • Challenges however still remain in terms of customary law application in customary marriages. Specifically, there is need to address the issue of adultery in customary marriages to ensure that the marriage institution is adequately protected regardless of the legal regime under which it is solemnised. This is particularly important in a country that is making concerted efforts and succeeding in many fronts in combating the scourge of HIV/AIDS. This will however have to be balanced with views coming from the field arguing that law reform

¹⁷ The consultants noted the rather divided commentary on same sex relations and caution that our recommendation should not be taken as an attempt at subverting certain sensitivities within the country, rather we urge the adoption of practical measures to encourage the family unit and its stability in Botswana and further note that constitutional amendments are rarely free from divisive debate. In our approach we give more detail to non-contentious legal recommendations which are designed to support community cohesion and which are simple to adopt to address the main issue under this project. Constitutional issues are addressed as the first recommendation only because of the supremacy of the Constitution above all other laws, not necessarily because these recommendations are more urgent than those which follow constitutional ones. Our approach is therefore to frontload statutory and customary law reforms and backload controversial constitutional reforms as society develops and debates them.

	<p>should not go ahead of the people if it is to get acceptance and legitimacy amongst the population.</p> <ul style="list-style-type: none"> • The Marriage Act should provide for compulsory and verifiable pre-marital counselling to allow couples to make an informed choice on the type of marriage regime that they want to enter into and the legal implications of same. In addition, information on legal provisions for marriages and the family generally should be made widely available through the various government departments from national to local level as well as civil society organizations amongst others. • The minimal legal age for marriage should be extended and applied in customary and religious marriages. • Where an unregistered customary law union/cohabitation exists it should be deemed to be a marriage after the expiry of a certain period. Views from the field favoured a period of 12 month after which such a union should be recognised as a marriage.
<p>3. Abolition of Marital Power Act</p>	<ul style="list-style-type: none"> • This law challenges old age old traditions and beliefs of Batswana in the patriarchal system practiced since independence. It is in direct contrast to the customary law that holds that the man is the head of the family. Further, it is in contradiction of some fundamental religious beliefs that have from time immemorial been used to subjugate women and children. During field work, some respondents challenged this piece of law as going against custom. It is however a positive piece of legislation that helps all members of the family, men and women, boys and girls in realising their full potential. Public education on this legislation should be done so that society appreciates its import.
<p>4. Matrimonial Causes Act</p>	<ul style="list-style-type: none"> • The application of the Matrimonial Causes Act should be extended to all marriages that are recognised in terms of the Marriage Act. The effort made by the Marriage Act to recognise and give equal treatment to all marriages is clawed back by the restrictive application of this Act to civil marriages only. It also leads to inadequate protection for parties and children in customary law and religious marriages. • The establishment of the Family Court is recommended on the basis that it is a specialist court that will specifically deal with family law cases. The advantages of having a family court in Botswana will include the

	<p>following:</p> <ol style="list-style-type: none"> i. Speedy resolution of cases as family law cases will not be lumped together with other general cases. ii. Specialisation and targeted training can be provided for the judges providing them with the necessary skills to adjudicate on family law cases. iii. The conciliatory nature of family court proceedings as opposed to the current adversarial approach can help in maintaining relations between the parties, especially in situations where children are involved. iv. In other jurisdictions like Australia where family courts are in operation, the parties are given more attention in the proceedings than the lawyers giving them a feeling that they are party to the efforts to find solutions. v. Procedural rules are simplified to make the courts more accessible and friendly to ordinary citizens and there is usually no requirement to have a lawyer in the proceedings. vi. The family court can be assisted by other specialists like social workers and psychologists in reaching proper determinations. vii. The flexibility of the rules of procedure can allow the proceedings to be held in camera and for the inclusion/exclusion of certain people in the hearing where necessary thereby protecting parties to the proceedings and the children.
<p>5. Children's Act (2009)</p>	<ul style="list-style-type: none"> • Positive steps have been taken in terms of the law to protect children in Botswana although customary law negates some of these developments. There is therefore need for wider public education on the rights of the child and in particular through the school system to allow children to have awareness about their rights at an early age. Similarly education should also be targeted at the adult population in the country through various government structures at both national and local level.

	<ul style="list-style-type: none">○ It is recommended that Botswana introduces the Family Advocate to compliment the work that is carried out by social workers in cases that are brought to the Children’s Court. Whilst social workers and psychologists are important, the Family Advocate, an officer of the court is critical in highlighting pertinent legal issues in the best interests of the child, both to the court, the children and to the family(ies) of the children concerned.○ Parents should be given equal rights to make decisions concerning their children except in situations where it can be shown that it is not in the best interests of the child for one or other parent to be involved in such decision making. This requirement should apply regardless of the marriage regime or whether or not the parents are married. Access to the child(ren) should apply as a matter of course to the parent who does not have custody unless it is not in the best interests of the child for such access to be granted.○ Combining the Children’s Court with the Family Court can be a way forward in consolidating institutional management, reducing expenses, personnel and harmonising the management and implementation of family laws and attendant issues in Botswana.○ The various institutions and bodies set out in this Act should be established and operationalised as a matter of urgency. A long time has passed since the effective date of this Act in 2009 without these institutions.○ The provision that states that in cases where there is no Magistrate, a District Commissioner/ officer should be a Commissioner of child welfare under Section 41 should be removed as it places legal issues in an officer without legal training and will lead to differing treatment of children’s issues, quality assurance concerns, based on geographical location. This is not in the best interests of children. Alternatively, the position of District Commissioner should require some level of legal training
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<p>6. Affiliation Proceedings Act</p>	<ul style="list-style-type: none"> • Public education especially directed at fathers on the importance of paying maintenance should be carried out. This recommendation is premised on the field finding to the effect that despite the harsh penalties for failure to pay maintenance as provided for in the law, many Batswana men still disregard maintenance orders and fail to pay maintenance for their children. • Institutions tasked with the implementation of the Act for example the Police; need to be educated about their role as this falls outside the purviews of their normal areas of operation.
<p>7. Adoption of Children Act</p>	<ul style="list-style-type: none"> • Adoption is not popular amongst Batswana due to cultural beliefs, especially if one is not related to the child concerned. Public education can therefore play an important role in ensuring that some of the myths around adoption are dispelled. • Alternatively, citizens can be encouraged to adopt children that they are related to as a way of countering the negative cultural perceptions. This can go a long way in alleviating the plight of many children in the country as many of them have one relative or another who can make a difference in the children's lives if they adopt them.
<p>8. The Wills Act</p>	<ul style="list-style-type: none"> • The Wills Act is fairly straight forward. However there is need for public education on the importance of will writing and the correct way of doing so • The Law Society of Botswana can be encouraged to hold an annual will writing week as a "giving back to the community programme" where lawyers provide free will writing services to members of the public and help in drafting simple wills. Other law societies in the SADC region like the Law Society of South Africa are already undertaking similar initiatives. In this regard we note the introduction of the <i>Legal Aid Pilot Project</i> which is designed to make legal services available at a reduced rate, and the new requirement for lawyers in Botswana to provide 25 hours free legal services per year.¹⁸ This project can focus on community

¹⁸ See para. 20 of the *2011 State of the Nation Address*, November 2011, Government Printing and Publishing Services, Gaborone.

	<p>building aspects of the law, such as prioritising pro-family cases. The making of wills is included in the provision of legal aid.</p>
<p>9. Succession Act (Rights of the Surviving Spouse and Inheritance Family Provisions)</p>	<ul style="list-style-type: none"> • The harmonization of management of estates and inheritance regardless of whether the estate is managed under customary or civil law is necessary. This helps to ensure that all estates that are brought before the courts for administration are accorded equal treatment and importance.
<p>10. Domestic Violence Act</p>	<ul style="list-style-type: none"> • There is need for public education on the existence and provisions of the Domestic Violence Act • Judicial Officers, the police and other institutions mandated with the implementation of the Act also need to be educated about its provisions and proper implementation • The non-provision of places of temporary shelter for victims of domestic violence in terms of the Act is a glaring omission which must be addressed. This is important because in many cases, victims are forced to stay in the same house with the abuser because of lack of alternatives. Even in situations where victims are accommodated by relatives or neighbours, this is often inadequate because such places are not effectively protected and their location is not a secret thereby giving the abuser access to the victims. • Harsh mandatory minimum sentences for domestic violence must be introduced in the Act as a deterrent and a way of showing that society at large, the courts and the government abhor domestic violence.
<p>11. Income Tax Act</p>	<ul style="list-style-type: none"> • Tax incentives can be introduced for expenses that support family welfare such as purchase of first home, provision of medical aid, life insurance and educational policies for children amongst other things.
<p>12. Employment Act</p>	<ul style="list-style-type: none"> • Salary payment for women in confinement should be set at 100%. Alternatively, where the employer is genuinely unable to pay 100% of the salary for a woman who is on maternity leave, the government must provide the balance through a social security/social insurance scheme. • Paternity leave must be provided for fathers to allow them to attend to their new born children and

	<p>partners during the first days. Currently, the number of paternity leave days in various jurisdictions range from 3-14.</p>
<p>13. General</p>	<ul style="list-style-type: none"> • There is need to adequately resource existing national institutions that deal with family law and related issues including the courts, the police and social services in terms of equipment, human and financial resources. Similar financial provisions should be made if proposed institutions like the Family Court and Family Advocate are introduced. • The law making process needs to be people-centred, consultation should be enhanced to promote ownership and adherence to laws. Measures to simplify laws should be evaluated as the complexity of laws, as well as the English language, were identified as barriers to the appreciation of laws by society. • Continuous professional development and education must be provided for personnel of similar institutions to allow them to keep abreast of developments in their field of operation such as effective policing, legislative and policy developments/changes as well as general emerging trends in the various disciplines. • Victim/child friendly facilities should be introduced in situations where courts are dealing with sensitive family or domestic violence cases. • Introduction of community policing initiatives can help in early detection and reporting of cases of domestic violence or child abuse and help create a culture of cooperation and support between the police and the communities that they save. • Access to justice should be enhanced through the rationalisation of legal fees where they are applicable to allow citizens without means to access the courts for redress. The development of a national legal aid scheme in Botswana will go a long way in ensuring access to justice for indigent citizens requiring assistance in family law matters. The development of legal aid schemes by governments is a growing trend in many parts of the African continent. • Botswana’s construction laws need to be addressed at least as they pertain to access to public premises in

	order to introduce a more practical regime that enables disabled people to gain easy access to such facilities.
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7.3.2. Other related recommendations

7.3.2.1. Prohibitive bride prices

As noted above numerous respondents argued that the practice of lobola has lost its original non-commercial meaning and has become prohibitive as some families use it to raise income. A common appeal was that the government should regulate bride prices by suggesting certain minimum and maximum allowable bride prices. The study notes the significance of these concerns; we however do not recommend that the government should set standard bride prices for a number of reasons:

- Communities in Botswana differ with respect to their cultural practices around bride prices, this reflects a level of ownership of ideas and practices around bride prices, introducing standard prices will remove this aspect of community self-regulation and also ignore cultural differences;
- The general economic policy of the GoB is to leave it to the market to set prices for goods and services. We see no specific reason to recommend a departure from this fundamental approach.

Nevertheless this study acknowledges the need for, at least, some debate on the concept of bride prices given the changes which have occurred within the country. One way of dealing with the commercial aspects of this practice is to bring lobola within the context of the tax regime and design a certain level at which lobola may be deemed as taxable income. This is not a new idea, such a suggestion has, for example been made in **South Africa** and **Zambia** where commentators noted the reality that this practice has become commercial in many facets.

Box insert 11. Taxing lobola: South Africa and Zambia suggestions

To tax lobola, or not to tax: that is the question that Finance Minister Trevor Manuel does not want to touch with a barge pole. He told MPs in his budget speech on Wednesday that last year he received a suggestion he should make lobola, the traditional payment for a bride, tax deductible.

"This year, I've been given a suggestion that I should impose VAT [value-added tax], or that I must tax lobola trusts, since some people are making money out of them," he said. However, this issue seemed "far too complex", and he would have to consult "our elders".

"I don't know that we can get involved in these matters through Sars [the South African Revenue Service]," he said.

He said the lobola tax proposal was one of hundreds of "Tips for Trevor" he received ahead of the budget from members of the public.

Source: <http://mg.co.za/article/2007-02-21-the-taxing-question-of-lobola>

Extract from **SPEECH BY ZAMBIA REVENUE AUTHORITY CHAIRMAN CHRISTOPHER MUNDIA AT THE LAUNCH OF THE ZAMBIA NATIONAL COMMERCIAL BANK, CITIBANK AND ACCESS BANK ZAMBIA LIMITED CUSTOMS E-PAYMENT SYSTEM**

"I would also suggest that in our efforts to broaden the tax base, should this please the Hon. Minister of Finance in his quest to broaden the tax base, to extend taxes to lobola and those to pay it may as well use the E-payment System and in default weddings may be cancelled."

Source:

http://www.zra.org.zm/speeches.php?subaction=showfull&id=1298041802&archive=&start_from=&ucat=5&

The point to note here is that certain practices may no longer be justifiable in the current social climate and some response is required. Other recommendations relevant to the family policy environment are reflected under *Table 28* below.

Table 28. Summary of other recommendations for a family policy

Subject	Recommendation
<p>13. Institutional</p>	<p>Strengthening the public institutions at the fore front of psychosocial services. This includes boosting the human, technical and financial resources within the DSS and other public departments.</p> <p>A major task is to re-orient current social work to focus more on psychosocial support in tandem with other responsibilities such as poverty alleviation assistance.</p> <p>At the GoB level, the DSS should partner with other departments to create a family law/policy reference group in order to enable the coordinated application of laws relating to the family as these are currently scattered across various departments.</p>
<p>14. Psychosocial support services</p>	<p>Access to psychosocial support services should be enhanced at both public and private sector levels.</p> <p>The quality of the services should be enhanced through the increase if clinical psychosocial services, the encouragement if multidisciplinary linkages between these services and other critical health professionals such as medical doctors and physiotherapists.</p> <p>The national health system must integrate psychosocial support issues. This includes the establishment of a Psychosocial Support System as part of the Ante-Natal Care in clinics and hospitals, particularly public ones.</p>
<p>15. Early childhood development</p>	<p>ECD should be an integral aspect of the family policy under which both public and private institutions provide accessible services.</p> <p>Regulatory interventions should be in place to ensure quality standards in the design and delivery of ECD curricula and learning environments.</p> <p>Tertiary education institutions should design and deliver standard courses for ECD teachers.</p>

<p>16. Care for the elderly</p>	<p>To avoid their isolation and encourage community cohesion, the possibility of creating day care centres for the elderly should be explored. This is opposite to the creation of Old Peoples' Homes which were viewed negatively in the situational analysis.</p>
<p>17. Pre-marital counselling</p>	<p>Pre-marital counselling programmes should be designed and implemented to enable couples to fully appreciate the demands, rights and responsibilities of a marital environment.</p>
<p>17.1. Cohabitation</p>	<p>A number of views expressed serious concern that cohabiting partners should be granted equal status to married partners after some period of time in order to offer some level of dignity and protection to such unions.</p>
<p>18. Rights of the disabled</p>	<p>Specific programmes should be in place to ensure that the vulnerable members of the community are protected, and social stigmas around disability are addressed. The Government should consider ratifying international Conventions on the rights of the disabled and domesticating such conventions to elevate the issue of the rights of the disabled to law. Further, a <i>return-to-work</i> policy for those that are disabled in the course of their duties should be developed to ensure that they can continue contributing to the economy and sustaining their livelihood. The Employment Act is silent on this issue.</p>
<p>19. OVC</p>	<p>Key components of the policy should address the issues pertaining to problems faced by OVCs and how the system can be improved to cater for OVCs.</p>
<p>20. General incentives</p>	<p>Apart from fiscal incentives a number of incentives can be adopted to encourage the stability of the family unit. These include, housing, financial, employment related incentives. In particular, employers should be encouraged to establish day-care centres at workplaces where this is feasible in the context of health and safety regulations. Services industries may be good examples where pilot workplace day care centres can be established.</p>
<p>21. Family friendly infrastructure</p>	<p>Existing recreational facilities should be renovated where necessary. New basic infrastructure should be in place, in particular, in the remote areas where entertainment facilities are non-existent.</p>
<p>22. Community and Police cohesion</p>	<p>The Botswana Police Services should be further capacitated in terms of human, financial and other resources to enable more cohesion to be built with communities around the country, in particular in areas where such services are rudimentary, and where lack of trust has been identified as a problem between communities and the Police.</p>
<p>23. The Kgotla</p>	<p>This institution was viewed favourably as a key environment where family related issues can be addressed. Support to its officials (technical) should be enhanced to enable the institution to maintain its key role.</p>

24. The media

Family policy programmes should be mainstreamed into the public and private media, in particular, entertainment can be designed on the basis of critical programmes from other countries as well as locally designed programmes that enrich the family environment, and that emphasise male responsibilities within the family context.

7.4. Areas for further research and other future initiatives

It cannot be overemphasised that designing and delivering a family policy requires resources and institutional and individual capacity building. A number of critical areas need to be addressed in the process of developing and delivering a family policy, these include the following:

- Designing and implementing a psychosocially sensitive curriculum for the Botswana Police Service and related institutions to enable them to handle sensitive issues around the family in Botswana.
- Where resources permit, key officers, in particular, those responsible for training junior officers should be seconded to other countries to observe how family issues are dealt with whether as part of a counselling or criminal law enforcement approach. Cultural differences notwithstanding, study visits are a crucial learning tool and they can enhance the quality of the Police Service in Botswana.
- Alternatively Botswana can benefit from its positive international standing and request exchange visits as part of technical assistance programmes which are normally delivered in the context of development aid.
- A number of critical aspects of the modern family policy are experiences of the OECD countries, in this context it is useful for the DSS and other related departments within the GoB to place its officials in these countries as part of on-the-job training on how best to implement, monitor and evaluate various aspects of a family policy initiative. Examples given in this report in the context of specific illustrations of country-level policies can guide the DSS on which countries to second officials for this purpose.
- It is not clear how far a national family policy can actually incorporate non-nationals, for example, in the context of social benefits. Whilst it is undesirable to have family problems of any kind, resource limitations can affect the scope of a family policy, one example is if a policy has provision or cash benefits. How and if such benefits should be extended to non-nationals is a practical question. Easy answers may be found where non-nationals are direct taxpayers; however the range of family policy incentives is wide enough to create questions on how far a national policy can address this question. Even for a relatively more advanced country like South Africa the extension of social security benefits to non-nationals resident in the country is yet to be answered.¹⁹ It is suggested that this issue be considered as part of the

¹⁹ The Department of Social Development in South Africa has only recently sought answers on the design of a policy for the inclusion of non-citizens in the South African Social Security System.

implementation of a national family policy, if certain aspects of the policy have resource implications such as cash or fiscal incentives.

- Design and implementation of simplified and regular educational programmes to enable Botswana to appreciate the legal, social and cultural issues pertaining to the assumption, maintenance and dissolution of marriage.
- Design and delivery of training programmes to enhance the role of traditional leaders in contributing towards the implementation of family laws and policies in Botswana.
- Creating incentives for the arts and media community to produce family-friendly entertainment packages such as television programmes, theatrical performances etc.
- Reviewing the images that are used in primary school textbooks for compatibility with the modern understanding of a family, gender roles and responsibilities as espoused in legal texts and international conventions. As socialisation for children is critical at this stage, it is important that the stereotypical portrayal of the family, men and women, boys and girls is corrected at this stage. More than the text in the textbooks, it is the images that stick more in the minds of the children and are carried into their adult lives. (An example is a textbook image/illustration that portrays a family where the father is at work in a mine/factory whilst the mother is cleaning the house with a baby on her back, the boy is studying and the girl is nursing a younger sibling).
- Improve the level of multidisciplinary collaboration between private and public sector health professionals and psychosocial services providers by integrating clinical psychology practices in the local health sector. For example early collaboration can be around simple seminars to enable these professionals to take stock of the current weaknesses in the system and to exchange ideas on how to overcome such weaknesses. It is suggested that the DSS works with the Department of Health to create such platforms.

This report forms the situational analysis for the attached *Draft National Family Policy and Implementation Plan for Botswana*.

...../end.

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