



Empowered lives.
Resilient nations.

MINUTES OF MEETING

“Support to the Fulfilment of Human Rights, Access to Justice and Empowerment of Youth and Women” Project Local Project Appraisal Committee (LPAC)

Date: Tuesday 19 December 2017 09:00 – 11:00

Venue: Legal Aid Botswana Boardroom, Gaborone

Participants:

UNDP

Ms Jacinta Barrins (Resident Representative)
Ms Joella Marron
Ms Lorina Selelo

Office of the President
Gaborone

Mr. D. Molodi (General Counsel)

Attorney General’s Chambers

Adv. Mr. A. Keetshabe (Attorney General)
Ms. Stella Moroka
Ms. Beaulah Mguni

Legal Aid Botswana

Mr. A.R Khan (Chairperson)
Mr Peter Brits
Ms. Emily Rukhuwa

Department of Tribal Administration
Ministry for Local Government and Rural Development

Ms. Masego Mooketsi (Director)
Mr. Abram Moeketsi
Mr. Ofentse Ikaneng

Ministry for Youth Empowerment,
Sport and Culture Development

Mr. Mogomotsi Kaboyamodimo (Dep. P.S)

Gender Affairs Department
Ministry of Nationality, Immigration and Gender Affairs

Ms Vuyelwa Segokgo

Office of the Ombudsman

Mr. Augustine Makgonatsotlhe (Ombudsman)

British High Commission

Ms. Emily Summers (Deputy High Commissioner)

NGO Council

Ms Bookie Kethusegile (Chairperson)

Ministry of International Affairs and Cooperation

Mr. Solomon Seeco

1.0 INTRODUCTORY REMARKS

Jacinta Barrins, UNDP Resident Representative made opening and welcoming remarks. She noted with appreciation the strong attendance at the meeting and the unfortunate absence of the Programme Specialist who experienced international travel delays. She explained that the objective of the meeting is to consider the Project Document “**Support to the Fulfilment of Human Rights, Access to Justice and Empowerment of Youth and Women**” discuss its scope and consider comments and recommendations by the participants at the meeting, including the implementing partners.

Ms Barrins explained that this project document is the culmination of several months of consultation and reflects the requests from implementing partners for technical support, in line with the government’s National Development Strategy and the UNSDF and Country Programme Document.

Ms Barrins highlighted the role of UNDP in Botswana and the breadth of its programmes. She explained that UNDP works with both government and civil society and supports strengthening of individual and institutional capacities such as establishing structures, systems and procedures. In order to ensure sustainability, UNDP works with implementing partners and UNDP’s role is to support partners as they lead in implementing the actions, and not to take over doing the action. The value add of UNDP in Botswana is to share international best practices, provide new innovations on how to carry out actions, assist the government implement the UN conventions it has signed, and advocate on issues related to those conventions and to support government and civil society initiatives.

Ms Barrins outlined the structure of the project document and welcomed input to finalise the project document today so that the project can be signed and implementation commence in January 2018. She highlighted the importance this LPAC meeting as a means of ensuring transparent processes for UNDP so that all stakeholders can engage with the process, issues can be considered and importantly, development partners can ensure that the project does not duplicate other areas of support for government.

In terms of the Project governance and management, the Project Board will be the governing body and will be co-chaired by the Permanent Secretary of the Office of the President and UNDP, meeting bi-annually. The implementing partners will report to the Board directly rather than through the Office of the President and the Board will meet in December each year to approve each annual work plan for implementation the following January. This LPAC meeting will endorse year 1 of the multi-year work plan for implementation from January 2018.

Mr Molodi, General Counsel of the Office of the President, Ministry of Presidential Affairs, Governance and Public Administration made opening and welcoming remarks. Mr Molodi focused on the importance of implementation of the project, particularly to ensure that the activities of this project are included in the Annual Work Plan of each Ministry. He noted the importance of the timing of this meeting, to support this process. He further explained that the participants were encouraged to provide comments on the document to ensure that the project document is signed and that the work can start as soon as January. Mr Molodi highlighted that the Ministry of International Affairs and Cooperation requested that capacity building on production of treaty reports be included in the project document since it remains an issue of concern within the ministries.

2.0 PRESENTATION OF THE CONTENT OF THE PROJECT DOCUMENT

Joella Marron, UNDP Human Rights Specialist, outlined the situation analysis:

- the backlog in human rights treaty reporting and implementation of UPR and treaty body recommendations (including, but not limited to establishment of an NHRI);
- the lack of a means for monitoring implementation of human rights treaties and lack of coordination between monitoring of human rights and the monitoring for the national development plans and SDGs;
- the challenges in accessing justice at the local level due to geographical distances and lack of awareness of legal aid and Ombudsman's services;
- institutional and capacity challenges at the Customary Courts;
- challenges facing the legislative process including drafting new laws and reforming existing laws due to lack of a Law Reform Unit and legislative drafting capacity;
- gaps between laws and implementation by judiciary and Customary Courts (Constitution, gender laws, GBV laws, children's laws)
- gaps in the coverage of anti-corruption laws and policies;
- high rates of youth unemployment and low rates of youth participation in leadership and decision making;
- representation of women in Parliament and public-sector sphere is low.

Ms Marron gave an overview of the objectives, activities and planned results of the project.

Output 1

Enhanced national institutional capacity to strengthen governance and deepen access to justice, peace and security.

Anticipated results are:

- An Ombudsman's office with an express human rights mandate that is Paris Principle compliant¹;
- Government has the capacity to review and develop laws including laws to protect and promote human rights and anti-corruption;
- Human rights laws, policies and programmes are coordinated at the national level and aligned with national monitoring mechanisms.

Output 2

Improved capacity to design, deliver and implement quality interventions to strengthen governance and deepen access to justice, peace and security.

Anticipated results are:

¹ Much as we all expect the transformed Office to the Ombudsman to comply with the Paris Principles, in line with the UPR Recommendation, the Cabinet document giving authority to the transformation makes no mention of the Paris Principles.

- Improved case flow management at the Magistrate's Courts and Higher Courts;
- Dispute resolution, complaint mechanisms and legal services are increasingly accessible to the most vulnerable; and
- Effective public engagement in development of laws, policies and programmes to reduce corruption and deepen access to justice, peace and security.

Output 3

Output 3 relates to a discrete project, to be run from the Office of the President, to support institutional capacities to collect data and analyze data at village level, (especially around social upliftment programmes) to ensure the development that is taking place contributes to the NDP 11 targets and Vision 2036.

In terms of project management, the project will be National Implementation Modality (NIM). Under the NIM model, the National Implementing Partner directly assumes the responsibility for the related output (or outputs) and carries out all activities towards the achievement of these outputs. When the capacities of the government Implementing Partner are proven and tested, as validated by the capacity assessment, the government regulations, rules and procedures shall apply to project implementation to the extent that they do not contravene the principles of the Financial Regulations and Rules of UNDP. In cases where the Implementing Partner's capacity assessment identifies shortcomings, UNDP may be designated as a Responsible Party and will provide such services in accordance with UNDP's policies and procedures.

The governance of the Project will be a Project Board, to be co-chaired by UNDP (Resident Representative) and the Permanent Secretary (Ministry for Presidential Affairs, Governance and Public Administration). The role of the Project Board is to review and approve the annual work plan for the Project, monitor and report on implementation and approve any variations that may be required during implementation. The UNDP Project Management team will consist of 4 staff with support staff; the project management will be the Programme Specialist and Human Rights Specialist who are already in post, and a Project Manager and M&E specialist to be recruited. There is also the possibility of recruiting a Law Reform Specialist to support the establishment of the Law Reform Unit at the Attorney General's Chambers.

Monitoring and evaluation will be undertaken throughout the project. The first year will focus on the establishment of baselines for all implementing partners as well as support for implementing partners to establish mechanisms for monitoring and evaluating and reporting progress. There will be a mid-term evaluation at the end of year 2 and an end of project evaluation at the end of year 4.

3.0 DISCUSSION

The attendees made the following comments and observations about the Project Document.

Mr Keetshabe, Attorney General

The Attorney General noted the strong participation at the meeting, with most of the implementing partners present at the meeting, it bodes well for future implementation. He emphasized that the importance of implementation cannot be overstated and the impact on beneficiaries can be tremendous eg Legal Aid Botswana, which was initiated with UNDP support and is now fully-fledged.

Some minor amendments that the Attorney General noted were as follows:

Paragraph 47, spelling of “Dikgosi” and replacing the term ‘mediator’ with “Headman of Arbitration”)

Paragraph 15, on the issue of constitutional review, there is a reference to the statement of national policy in Vision 2036, but there should also be reference to the relevant paragraphs from National Development Plan 11.

The Attorney General noted the concern on the lack of reporting on international human rights obligations and hoped that the project would be a useful springboard for improved human rights reporting so that Botswana can take its’ rightful position on the international stage in that regard.

All in all, the Attorney General commented that the document is well written, it is focused on the current issues and has his full support.

In response to the Attorney General’s comments, Mr Molodi noted that although Vision 2036 highlights the issue of constitutional reform, government policy is that the Constitution will be amended as the need arises.

Mr Makgonatsotlhe, Ombudsman

Mr Makgonatsotlhe congratulated the team for producing an excellent document. However, he raised two issues that need to be addressed. Firstly, he noted that Botswana has had two cycles under the UPR and is entering the third cycle. He said that although the bulk of recommendations have been accepted, implementation of recommendations remains a real challenge and little has been done in terms of domestication.

The Ombudsman highlighted the need for a National Plan and National Human Rights Strategy. The Ombudsman noted that these are included in the project document (Activities 1.16 and 1.17), however they are just nominal and mostly on budget for 1 year. He recommended the issue be looked into further.

One of the key activities in the project relating to the Ombudsman’s Office is support for the Ombudsman Act Amendment Bill to confer a human rights mandate on the Ombudsman’s office for a Paris Principle compliant institution. Secondly, the Ombudsman noted that law reform requires extensive consultation. He noted that consultation is essential to develop credible laws that are accepted and for an institution that is internationally recognized. The Ombudsman noted that both political will and advocacy are required to achieve the desired objectives. He noted that insufficient consultation was done on the draft Bill and that advocacy should be an important element of the project.

Finally, the Ombudsman noted that ideally the Law Reform Unit should be independent from the Attorney General’s Office and be an independent Law Reform Commission. He noted that as the Attorney General is the adviser to government, there is a conflict of interest if the Attorney General is then expected to push for reform. The Ombudsman supports the establishment of the unit, but notes that the challenge for institutions with multiple mandates is that often one mandate will suffer.

Overall, the Ombudsman endorses the project document.

The UNDP-RR responded that she hoped that these kinds of in depth discussions would become part of the project dialogue going into the future and she noted the importance of advocacy and consultations and the role UNDP has to play in advocating for governments to implement treaty body recommendations that are not being implemented. It is one of the objectives of this project to create the space for these dialogues to occur with civil society and that is why the NGO Council is an important partner. Regarding the budget, she explained that it is important to note that the UNDP is not a donor of funds. Moreover, the issue of Botswana being an upper middle-income country limits fundraising opportunities. Despite these challenges, UNDP will approach development partners to seek funds and ensure these actions continue in all years of the project.

Mr Peter Brits, Legal Aid Botswana

Mr Brits commented that he supports the project document and that it includes several good initiatives. He said that is evident that socio-economic rights are important to Legal Aid Botswana and that the protection of socio-economic rights requires more than an *ad hoc* response. While Mr Brits was not advocating for the ratification of ICESCR, he does advocate for coordination and collective efforts to protect socio-economic rights. He recommended that the project should include an assessment of how coordination could be done better and what legislation is required to protect rights. He commented that in many cases, Legal Aid Botswana advises their clients that there is no legal remedy available.

On the issue of coordination, the UNDP-RR explained that the UNDP internally ensures that it has ways in which it addresses cross cutting issues within the different departments. In relation to government there are 4 TWGs established to rollout NDP11 and the UN will support these and encourage this type of coordination. The UNDP-RR did however state that the project will endeavor to ensure coordination amongst partners in this project.

The UNDP Human Rights Adviser added to these comments by noting that part of the work of the Human Rights Unit at the Office of the President will be to develop a National Human Rights Action Plan and National Human Rights Strategy. When the Unit is established, this work can begin. A baseline assessment (which will include issues such as human rights coordination and legislative frameworks) will be done in year 1 of the project. Mr Molodi noted that the role of the UNDP Human Rights Adviser is to assist the Human Rights Unit to develop these documents to improve coordination at the national level.

The Attorney General observed that the implementing partners should be aware that the UNDP has guidelines and audits that they are subjected and required to follow. There will always be room to make the necessary amendments, but he advocated that the project should get started without delay.

Ms Masego Mookesi, Director of the Department of Tribal Administration, Ministry of Local Government and Rural Development

Ms Mookesi noted with appreciation the inclusion of the Department of Tribal Administration within the scope of the document. She raised three issues for consideration. Firstly, nationally governance is taken at the highest level, while it needs to be taken down to the beneficiaries at the local level. Local government is there to implement all that is being planned at the national level.

Secondly, in terms of ratification and domestication of international obligations, domestication and localizing are two different concepts. Not only do the obligations need to be domesticated, Ms Mookesi said, but they need to be localized to be effective.

Finally, she raised the issue of implementation of the project document and the technical team who would implement the activities.

The UNDP RR agreed for the need to implement laws and policies at sub- national levels and the project will see how best it can accommodate this recommendation. The UNDP-RR explained the structure that will be used to implement the project.

On the issue of ratification of conventions, Mr Molodi noted that while Botswana has been criticized for not ratifying international conventions, there is a need to support the ratification processes. The advice on ratification of conventions will be provided by the Office of the President Human Rights Unit in the future.

Ms Vuyelwa Segokgo, Gender Affairs

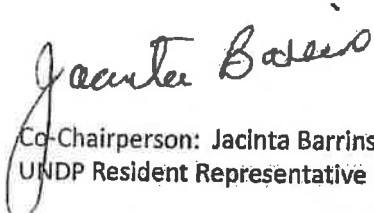
Ms Segokgo notes that Gender Affairs also supports the project document and in particular the inclusion of support for Department of Tribal Administration. She noted that the *Dikgosi Pitso* Action Plan for mainstreaming gender in the Customary Courts was developed in 2012, but was never funded so implementation never took place. Ms Segokgo is pleased to note that the implementation of some of these actions will be supported under this Project.

4.0 NEXT STEPS

The meeting agreed that the project document, including the 2018 work plan, is endorsed. The project document will be sent to the Permanent Secretary at the Ministry for Presidential Affairs, Governance and Public Administration for signature by Wednesday 20th December 2017. The meeting agreed that the Permanent Secretary can sign on behalf of government but Legal Aid Botswana will sign on its own behalf. Implementation will begin in January based on the 2018 activities in the multi-year work plan and the 1st Project Board meeting will be convened in March 2018. UNDP will begin the recruitment process for the unstaffed positions. The final, signed project document will be circulated to all implementing partners.

The meeting was brought to a close at 11:00 am.

SIGNATURES


Co-Chairperson: Jacinta Barrins
UNDP Resident Representative

25/02/2017



Co-Chairperson: Dittah Molodi
General Counsel, Office of the President

Date: 08/01/18