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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on the situation of human rights and
fundamental freedoms of indigenous people, James Anaya***

Addendum

**PRELIMINARY NOTE ON THE SITUATION OF
INDIGENOUS PEOPLES IN BOTSWANA**

* Late submission.

1. The Special Rapporteur carried out a visit to Botswana, by invitation of the Government, from 19 to 28 March 2009. The purpose of the visit was to shed light on the challenges that some of the many diverse indigenous peoples of Botswana face, especially in relation to their distinct cultural identities and marginalized conditions, with a view to developing practical solutions to address those challenges. The Special Rapporteur expresses his gratitude to the Government of Botswana for its assistance and support prior to and during the visit, and for its continued engagement in constructive dialogue.

2. Following his visit, the Special Rapporteur provided the Government with a written overview of his initial observations and requested that it provide clarification on a number of issues raised during the visit. The Special Rapporteur thanks the Government of Botswana for the information provided in response to the questions asked. The Special Rapporteur is committed to reviewing carefully and giving due consideration to the information provided by the Government, as well as to the concerns raised by all interested parties, in his final report.

3. The preliminary observations on the Special Rapporteur's mission to Botswana are intended to provide initial information on the visit and the relevant exchange of information. A full report on the mission and the Special Rapporteur's assessment of the human rights situation of indigenous peoples in Botswana, including conclusions and recommendations, will be finalized and submitted to the Human Rights Council at a later date.

4. During his visit, the Special Rapporteur held meetings with representatives of the Ministry of Presidential Affairs and Public Administration and the Inter-Ministerial Committee, comprising the Ministry of Foreign Affairs and International Cooperation, the Ministry of Local Government, the Ministry of Minerals, Energy and Water Resources, the Ministry of the Environment, Wildlife and Tourism, the Ministry of Defence, Justice and Security, the Ministry of Lands and Housing, and the Ministry of Education, as well as members of the United Nations country team. He also met with representatives of academic, civil society and business sector groups. He travelled to various parts of the country to hold discussions with local indigenous communities and the organizations that work with them, to hear their concerns and gather information.

5. It is apparent to the Special Rapporteur that the Government of Botswana is committed to building a society in which all are equal and to elevating the economic and social conditions of the country's people. The Special Rapporteur notes a number of important, and in many ways exemplary, initiatives undertaken by the Government to address the situation of historically and still marginalized indigenous peoples in Botswana, particularly the Basarwa (or San), especially with respect to improving their access to crucial services, including health and education, and creating opportunities for income generation.

6. The Special Rapporteur also notes the Government's long-term efforts to address the underdevelopment of marginalized indigenous peoples through the Remote-Area Development Programme. While in the past there have been certain problems associated with the design and implementation of the programme, recent assessments have culminated in constructive recommendations that, if implemented, could have a positive impact in addressing the underdevelopment of many disadvantaged indigenous groups in Botswana.

7. The Special Rapporteur is also aware of the Government's initiatives to eradicate discrimination and to build an inclusive society. In particular, he notes the recent adoption of constitutional and legislative reforms, such as the Bogosi Act, aimed at ensuring equal representation and participation in the political process for all the people of Botswana. Some indigenous groups in Botswana, including and perhaps most notably the Basarwa, have historically been excluded from political and decision-making processes. These reforms are an important step towards achieving greater participation and representation in those processes, although significant challenges remain.
8. While the Special Rapporteur acknowledges the important advances that Botswana has made, he must also take into account the repeated statements of discontent he heard among all the communities visited (predominantly Basarwa and Bakgalagadi indigenous communities), including in relation to the fulfilment of rights associated with access to health and education services, land and resources, and the decision-making processes affecting them. Despite the positive efforts made by the Government, the Special Rapporteur heard that the language, culture and heritage of the indigenous groups are often not adequately taken into account in the design and implementation of the Government development initiatives affecting them, and that they are not adequately consulted, with the result that the ultimate success of the Government's initiatives is impeded.
9. An issue of particular concern is the relocation of indigenous groups from the Central Kalahari Game Reserve, which the Government has promoted pursuant to its development and conservation plans. In the settlements of Kaudwane and New Xade outside the game reserve, several Basarwa community members who had been resettled there from the reserve complained of their relocation; in the communities of Gugamma and Metsiamanong, located inside the game reserve, individuals who have remained or managed to return there expressed concern at the lack of access to services, including water. The renowned Tsodillo Hills heritage site is another place from which indigenous people have been relocated. The Special Rapporteur visited the site and a community that had been relocated from it, and heard from community members, who expressed a range of concerns related to their relocation.
10. The Special Rapporteur understands that the Government has a different perspective on the above-mentioned relocations and other issues raised by members of indigenous communities; nonetheless, he is concerned by these issues and is endeavouring to address them in a constructive manner consistent with his mandate.
11. The Special Rapporteur understands that he was able to visit only a small fraction of the many communities of Basarwa and other non-dominant tribes in Botswana. Nonetheless, he was struck by the apparent sincerity and consistency of the accounts of discontent he heard, and by the fact that these accounts are reinforced by the information and analysis provided by respected non-governmental actors in Botswana and other credible sources, including those associated with international institutions, such as the African Commission on Human and Peoples' Rights.
12. The Special Rapporteur believes that the concerns expressed to him during his visit are associated with three underlying, interrelated issues: (a) respect for cultural diversity and

identity; (b) consultation and political participation; and (c) redress for historical wrongs. The Special Rapporteur is evaluating these underlying issues in connection with an ongoing exchange of information, and will address them and provide recommendations thereon in his final report, with a view to developing potential solutions to meet these challenges.

13. As the Special Rapporteur continues work on his final report for submission to the Council, he reiterates his commitment to engage in a dialogue with the Government of Botswana over the concerns raised both in these initial observations and in the Government's preliminary response of March 2009, and he recognizes that such engagement is essential to his work as Special Rapporteur.
