Democratic Governance Reader

—A reference for UNDP practitioners

United Nations Development Programme

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Introduction

Democratic governance is central to the achievement of the Millennium Development Goals (MDGs), as it provides the enabling environment for the realization of the MDGs and, in particular, the elimination of poverty. The critical importance of democratic governance in the developing world was highlighted at the Millennium Summit of 2000, where the world's leaders resolved to 'spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development'. A consensus recognized that improving the quality of democratic institutions and processes, and managing the changing roles of the state and civil society in an increasingly globalised world, should underpin national efforts to reduce poverty, sustain the environment, and promote human development.

The UNDP strategic plan, 2008 – 2013 (the Strategic Plan), confirms the key role of democratic governance in accelerating human development and provides the strategic direction for UNDP on the ground through its network of country offices.

In order to provide all staff globally with an opportunity to enhance their knowledge on the democratic governance areas covered by the Strategic Plan, in 2007 the Learning Resources Centre and the Democratic Governance Group's Oslo Governance Centre launched the Democratic Governance Training Online through the Virtual Learning Academy and the Learning Management System. This professional training programme consists of independent self-paced modules structured around the three key Strategic Plan democratic governance priority areas:

Fostering inclusive participation
Strengthening accountable and responsive governing institutions
Grounding democratic governance in international principles

The *Democratic Governance Reader* is based on the same structure and core curriculum as the Democratic Governance Training Online. It is intended as a single volume reference tool on UNDP's approach to democratic governance, and has been written in response to feedback to the online course, with the following groups in mind:

» UNDP staff who have taken the online course and would like to keep a hard copy of the course content for future reference;

» New staff, United Nations Volunteers and Junior Professional Officers working on democratic governance; and

» Specialists for whom the list of online resources at the end of each chapter of the reader would be useful for consultation and in-depth learning.

This reader represents a collective effort. Each chapter has been written by a lead author – typically a UNDP democratic governance advisor – and has benefitted from inputs from colleagues at HQ and from a number of country offices.

It is important to note that while the various chapters touch upon programming issues specific to each particular area, the corporate guidance provided by the UNDP Programme and Operations Policies and Procedures (available on the intranet) should be consulted prior to the formulation of any programmes and projects in the areas covered by the reader.

We hope that you will find this resource useful.

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Acronyms

ACE	Administration and Cost of Elections
ADR	Assessment of Development Results
APNAC	African Parliamentarians Against Corruption
BDP	Bureau for Development Policy (UNDP)
BRIDGE	Building Resources in Democracy, Governance and Elections
CBO	Community-based Organization
CCA	Common Country Assessment
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CIDA	Canadian International Development Agency
CONGO	Conference of Non-Governmental Organizations in Consultation with the UN
CSO	Civil Society Organization
CSR	Civil Service Reform
Danida	Danish International Development Agency
DDR	Disarmament, Demobilization and Reintegration
DGD	Decentralized Governance for Development
DGG	Democratic Governance Group (UNDP/BDP)
DfID	Department for International Development (UK)
DPA	Department of Political Affairs
EAD	Electoral Assistance Division (DPA)
EISA	Electoral Institute of Southern Africa
EMB	Electoral Management Body
EU	European Union
GOPAC	Global Organization of Parliamentarians Against Corruption
GPPS	Global Programme on Parliamentary Strengthening
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRBA	Human Rights Based Approach to Development
HURIST	Human Rights Strengthening Programme
ICCPR	International Convention on Civil and Political Rights
ICT	Information and Communication Technology
IDEA	International Institute for Democracy and Electoral Assistance
IFE	Instituto Federal Electoral de Mexico
IFES	International Foundation for Electoral Systems
IFIs	International Financial Institutions
INTRAC	International NGO Training and Research Centre
IPU	International Parliamentary Union
IRI	International Republican Institute

LDCs	Least Developed Countries
LGD	Local Governance and Decentralization
LTA	Long Term Agreement
MDGs	Millennium Development Goals
M&E	Monitoring and Evaluation
MONUC	United Nations Mission in Democratic Republic of Congo
NAM	Needs Assessment Mission
NDI	National Democratic Institute
NGO	Non Governmental Organization
NHRAP	National Human Rights Action Plan
NHRI	National Human Rights Institution
NORAD	Norwegian Agency for Development Cooperation
OECD	Organization for Economic Co-operation and Development
OHCHR	Office for the High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PACT	Programme for Accountability and Transparency
PAR	Public Administration Reform
PBC	Peacebuilding Commission
PPP	Public Private Partnership
PRSP	Poverty Reduction Strategy Paper
PSO	Procurement Support Office (UNDP)
RoLCRG	Rule of Law Coordination and Resource Group
SIDA	Swedish International Development Agency
SNV	Netherlands Development Organization
SRSG	Special Representative to the Secretary General
TI	Transparency International
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNDAF	United Nations Development Assistance Framework
UNDESA	United Nations Department for Economic and Social Affairs
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNDPKO	United Nations Department of Peacekeeping Operations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Women's Fund
UNOPS	United Nations Office for Project Services
UNV	United Nations Volunteers
USAID	United States Agency for International Development

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Democratic Governance and Human Rights

1 Democratic Governance and Human Rights

This chapter covers the following topics:

» Key human rights instruments and concepts
» The relationship among human rights, governance and development
» The human rights-based approach (HRBA) to development
» Main actors for human rights and democratic governance Programmes
» The UNDP approach to human rights and development
» The importance of national human rights action plans (NHRAPs) and national human rights institutions (NHRIs)
» How to apply the HRBA to programming

Materials referred to in the text are listed in the Resource section.

1. Key human rights instruments and concepts

Human rights...

- are universal – the birthright of all human beings;
- focus on the inherent dignity and equal worth of all human beings;
- are equal and indivisible – there is no hierarchy among rights;
- cannot be waived or taken away;
- impose obligations, particularly on states and state actors;
- have been internationally guaranteed;
- are legally protected; and
- protect individuals, and to some extent, groups.

Among the rights guaranteed to all human beings under international treaties, without any discrimination on grounds such as race, colour, sex, language, political or other opinion, national or social origin, property, birth or other status, are:

» the right to life, liberty and security;
» freedom of association, expression, assembly and movement;
» the right to the highest attainable standard of health;
» freedom from arbitrary arrest or detention;
» the right to a fair trial;
» the right to just and favourable working conditions;
» the right to adequate food, housing and social security;
» the right to education;
» the right to equal protection of the law;

- freedom from torture and from cruel, inhuman or degrading treatment or punishment;
- freedom from slavery; and
- the right to a nationality.

The fulfilment of all human rights, whether civil, political, social, cultural and economic, requires democratic processes and institutions that are inclusive and responsive, and which protect the rights of minorities, provide separation of powers and ensure public accountability.

Not all forms of governance are compatible with, let alone aspire to fulfil, all human rights. UNDP uses the term 'democratic governance' rather than 'good governance' because the former places human rights at the centre of governance practice.

Democracy in the 'majority rule' sense can legitimize the exclusion of minorities. Inclusive democracy emphasizes the quality of representation through participation of all groups in democratic life, rather than focusing simply on the holding of elections and on majority rule. This helps to explain why UNDP uses the term democratic governance: to emphasize the process of governance and of how decisions are reached, while at the same time striving to reach the goals of human rights and development.

Democracy is defined by human rights through:

- holding free and fair elections, which contributes to freedom of expression, thought and conscience;
- allowing free and independent media, which contributes to freedom of expression, thought and conscience;
- separating powers among branches of government, which helps protect civil and political rights; and
- encouraging an open civil society, which facilitates peaceful assembly and association. An open civil society adds an important participatory dimension, along with the separation of powers for the promotion of rights.

Protecting, promoting and realising human rights are the obligation of every democratic governance institution. Mechanisms at international, regional and national levels exist to promote and protect human rights. At the international level, United Nations human rights covenants and conventions and their corresponding treaty bodies form the basis of today's system of human rights protection. At the regional level, Africa, the Americas and Europe have their respective human rights treaties and courts. At the national level, national laws, conventions and courts are the key mechanisms for ensuring that states abide by their international human rights obligations.

Are some human rights more important than others?

No, all human rights are equally important. The 1948 Universal Declaration of Human Rights makes it clear that human rights of all kinds – economic, political, civil, cultural and social – are of equal validity and importance. This fact has been reaffirmed repeatedly by the international community, for example in the 1986 Declaration on the Right to Development, the 1993 Vienna Declaration and Programme of Action and the Convention on the Rights of the Child.

The international community is increasingly recognizing that promoting democratic governance and strengthening capacity of governments to meet their human rights obligations are legitimate objectives and obligations of development assistance and development programming.

Human rights are also indivisible and interdependent. The principle of indivisibility recognizes that no human right is inherently inferior to any other. Economic, social and cultural rights must be respected, protected and realized on an equal footing with civil and political rights.

The principle of interdependence recognizes the difficulty (and in many cases, the impossibility) of realizing any one human right in isolation. For instance, it is futile to talk of the right to work without a certain minimal realization of the right to education. Similarly, the right to vote may seem of little importance to somebody living with nothing to eat or in situations where people are victimized because of their skin colour, sex, language or religion.

Taken together, the indivisibility and interdependence principles mean that efforts should be made to realize all human rights together, allowing for

The seven core international human rights conventions

Treaty	Since	States	Monitoring Body
International Covenant on Civil and Political Rights (ICCPR)	1976	160	Human Rights Committee
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1976	157	Committee on Economic, Social and Cultural Rights
International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	1969	173	Committee on the Elimination of Racial Discrimination
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	1981	185	Committee on the Elimination of Discrimination against Women
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	1987	145	Committee against Torture
Convention on the Rights of the Child (CRC)	1990	193	Committee on the Rights of the Child
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC)	2003	37	Committee on Migrant Workers
Convention on the Rights of Persons with Disabilities	NIF*	7	To come post entry into force
International Convention for the Protection of All Persons from Enforced Disappearance	NIF*	1	To come post entry into force

* Not in force ("NIF"); open for signature and will enter into force after the 20th ratification.
Source: http://www2.ohchr.org/english/bodies/ratification/, accessed January 2008

prioritization as necessary in accordance with human rights principles. Priority must be given to the rights most neglected and least realized and to the rights of peoples most neglected, excluded or discriminated against.

What kinds of human rights obligations are there?

Obligations owed by the state are generally of three kinds:

- *The obligation/duty to respect:* requires the duty-bearer to refrain from interfering directly or indirectly with the enjoyment of the right.
- *The obligation to protect:* requires the duty-bearer to take measures that prevent third parties from interfering with the enjoyment of the right.
- *The obligation to fulfil:*
  - requires duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the realization of the right; and
  - requires duty-bearers to directly provide assistance or services for the realization of the right.

The duties are both positive (acts of commission, e.g., state-sanctioned torture) and negative (acts of omission, e.g., failing to disclose public information).

Obligations apply to conduct as well as results. That means that it is not enough to enact a law (e.g., requiring that one-third of all seats in local government be filled by women). The law must also be implemented.

Conventionally, the duties are owed by the state. However, it is now generally recognized that these duties attach to non-state actors as well (e.g., in the case of domestic violence). The duties may be individual or collective.

Human Rights Principles

Three human rights principles are of special relevance to the work of UNDP in the field of democratic governance: *participation*, *non-discrimination* and *the rule of law*.

The Declaration on the Right to Development elaborates on the principle of *participation* in development as being free, active and meaningful. It further clarifies that participation is both a means and an end of development.

The Declaration also stresses the principle of *non-discrimination* and equitable sharing in the benefits of development. This principle provides the justification for targeting development programmes to reach those most in need and for policies of affirmative action to reach those historically neglected and excluded from development.

The principle of the *rule of law* is central to governance programming. It stresses that no one is above the law, and that all persons are entitled to its equal protection. It also states that for every right there must be a remedy. The right to a timely and effective remedy provides a challenge for programming in the sectors of legal and justice sector reform.

2. Human rights, development and democratic governance

Human rights and human development share a common purpose – to secure the freedom, well-being and dignity of all people everywhere. Both strive to achieve:

- » freedom from discrimination – by gender, race, ethnicity, national origin or nationality;
- » freedom from want – to enjoy a decent standard of living;
- » freedom to develop and realize one's human potential;
- » freedom from fear – of threats to personal security, from torture, arbitrary arrest and other violent acts;
- » freedom from injustice and violations of the rule of law;
- » freedom of thought and speech and to participate in decision-making and form associations; and
- » freedom for decent work without exploitation.

Human rights and human development are interdependent. There cannot be fulfilment of human rights without development and there cannot be development without human rights. In 1986, the UN General Assembly adopted the *Declaration on the Right to Development*, giving recognition to a human right to development. However, implementing this right has been slow.

The Human Rights-Based Approach (HRBA)

Just as democratic governance focuses on the process of governance as well as the goal of fulfilling human rights, so too are human rights concerned with the development process as well as its goals.

In the HRBA, human rights determine the relationship between individuals and groups with valid claims (rights-holders) and state and non-state actors with obligations (duty-bearers). The HRBA identifies rights-holders and their entitlements, corresponding duty-bearers and their obligations, and then works towards strengthening the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations.

There are three main rationales for adopting the HRBA to development:

(a) Intrinsic rationale

The HRBA is based on universal values (freedom, equality, solidarity, etc.) reflected in human rights principles and standards that provide a common standard of achievement for all. The HRBA thus moves development action from the optional realm of benevolence (or charity) into the mandatory realm of law.

The HRBA changes the concept of development from regarding people as passive beneficiaries of state policies to active participants in their own development and further recognizes them as rights-holders, thereby placing them at the centre of the development process.

(b) Instrumental rationale

Recognizing that the HRBA leads to better and more sustainable human development outcomes, the HRBA focuses on analyzing the inequalities, discriminatory practices, and unjust power relations that are the root causes of human rights and development challenges.

The HRBA has a special focus on groups subject to discrimination, disadvantage and exclusion, including children, minorities and women. The twin principles of non-discrimination and equality call for a focus on gender equality and women's human rights in all development efforts.

The HRBA also emphasizes participation, particularly of discriminated and excluded groups, at every stage of the programming process. It emphasizes the accountability of the state and its institutions with regard to respecting, protecting and fulfilling all the human rights of all people.

Lastly, the HRBA gives equal importance to the processes and outcomes of development, as the quality of the process affects the achievement and sustainability of the outcomes.

(c) Institutional value

The HRBA facilitates an integrated response to multifaceted development problems, including addressing the social, political, legal and policy frameworks that determine the relationship and capacity gaps of rights-holders and duty-bearers.

The HRBA requires using the recommendations of international human rights mechanisms in the analysis and strategic response to development problems. The HRBA also promotes relations with partners that are participatory, inclusive and based on mutual respect in accordance with human rights principles

Systems for promoting and protecting human rights

If human rights are to be effectively promoted and protected, a variety of tasks, ranging from standard-setting to enforcement, need to be carried out at international and national levels.

Supporting systems for promoting and protecting human rights involves identifying the parties entrusted with such responsibilities and assessing their effectiveness, as well as determining who might be able to assume such tasks in the future to ensure more effective performance.

Many of the relevant actors are based in governmental institutions, such as:

- parliament
- the executive
- the judiciary
- law enforcement bodies
- line ministries involved in development

Actors are also based in non-governmental institutions, such as:

- NGOs
- professional organizations
- media
- civil society organizations
- national human rights institutions (note that these institutions fall between the civil society and government sphere)

Together, such institutions and organizations constitute the national system for the promotion and protection of human rights, and hence, all of them are legitimate partners in governance programming. It is important to note that national systems for promoting and protecting human rights involve actors in both human rights-specific institutions (such as national human rights commissions and ombudsmen) as well as in institutions of democratic governance (such as parliament, the judiciary, media and civil society.)

3. The UNDP approach to integration of human rights and development

The policy

UNDP issued its policy of integrating human rights with human development in January 1998. Since then, human rights have emerged as a key area of the organization's development activities. The 2000 Human Development Report stressed that human rights and human development share a common vision and a common purpose: to secure the freedom, well-being and dignity of all people

everywhere. A Memorandum of Understanding was concluded with the Office of the High Commissioner for Human Rights (OHCHR), and a UNDP/OHCHR Programme called HURIST (Human Rights Strengthening) was developed to implement the policy at the global level. Additional developments have been the establishment of the UN-wide electronic human rights knowledge network, called 'HURITALK' and the adoption of several practice and guidance notes, including *Poverty Reduction and Human Rights* (2003) and *Human Rights in UNDP* (2005).

The biggest advance in operationalizing a human rights-based approach to development was made when UNDP together with UNICEF and OHCHR organized a meeting in 2003 to further develop the conceptual and practical implications of applying the HRBA and to harmonise the different interpretations of the HRBA in the UN system. The outcome is now often referred to as the '*UN Common Understanding of a Human rights-based approach to Development Cooperation*' (hereinafter, UN Common Understanding), which is a framework definition of the HRBA. It is meant to guide the implementation of the HRBA to development programming by all UN entities. It emphasizes the purpose of development cooperation for the UN, the use of human rights principles, standards to guide programming and the methodology to be followed in national capacity development.

The key tenets of the UN Common Understanding are:

» All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.

» Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.

» Development cooperation contributes to the development of the capacities of duty-bearers to meet their obligations and/or rights-holders to claim their rights.

The UN Common Understanding of HRBA to Development Cooperation has been integrated into the guidelines for the CCA/UNDAF processes (2007) and there is currently a drive to train all UN country teams in its use. A key challenge ahead lies in further operationalizing and applying the three key tenets.

UNDP is firmly committed to further operationalizing the UN Common Understanding in both its inter-agency and its own programming frameworks. The organization's focus on advocacy, awareness-raising, capacity development and partnership-building complement and is strengthened by the HRBA.

UNDP has carved its own niche for supporting national human rights systems, applying a human rights-based approach to development and engaging with the international human rights machinery. UNDP's comparative advantage in this area is due to its:

» unique and distinctive relationship with governments, which facilitates dialogue;

- » strategic partnerships with the donor community and civil society;
- » presence on the ground in 166 countries;
- » network of 'communities of practice' at regional and global levels and its capacity to generate, codify and disseminate knowledge in human rights;
- » role as facilitator/manager of the UN Resident Coordinator System to coordinate actions/interventions of UN agencies; and
- » coverage of the thematic areas of poverty, environment, conflict and democratic governance, enabling its leadership in bringing the HRBA to diverse areas of development policy and practice.

In April 2005, a UNDP practice note entitled *Human Rights in UNDP* identified three specific areas for UNDP strategic intervention:

1) Support to national systems for the promotion and protection of human rights

Action 2, the UN-wide Plan of Action that forms the human rights component of the Secretary General's Reform Programme, identified the following elements as integral to a national promotion and protection system for human rights:

- » laws consistent with international human rights standards;
- » effective functioning of courts, judiciary and law enforcement as well as independent human rights institutions or ombudsman offices;
- » procedures for individuals to effectively claim rights;
- » good governance and accountable government institutions that promote and protect human rights;
- » democratic, transparent and participatory decision making processes; and
- » strong civil society, including a free and independent media.

UNDP support provided over the years aligns very well with these requirements. Interventions range from assessments of country situations to supporting access to justice initiatives, and from strengthening parliaments as guardians of human rights to supporting capacity development of NHRIs and providing human rights education and training. For descriptions of specific country office activities, see UNDP's *Human Rights World Map*.

2) Promotion and application of a human rights-based approach to development programming

This will be discussed in detail below under HRBA in Country Programming.

3) Greater engagement with the international human rights machinery

UN treaty bodies are committees of independent experts nominated and elected to monitor implementation of the core international human rights treaties (see Table 1 above). Each committee is linked to the human rights treaty that created it (for example, the Committee on the Rights of the Child was created by the Convention on the Rights of the Child). UN Special Procedures refers to mechanisms of the Human Rights Council, which are mandated to investigate particular country situations or thematic human rights issues.

Special Procedures can be either individuals (called special rapporteurs, special representatives or independent experts) or a working group composed of five members who are leading experts in a particular area of human rights. Special Procedures mandate holders are independent; they

do not represent any particular country or region and are not UN staff members.

Engaging with treaty bodies, therefore, includes ratifying international conventions, reporting to treaty bodies, implementing and monitoring the obligations. These are key areas for UNDP support in many countries.

At the corporate level UNDP engages in national, regional and global human rights policy discussions and provides critical support. At the national level, UNDP country offices engage with the international human rights machinery:

» in facilitating the implementation and observance of universal standards of human rights;
» in fulfilling country reporting obligations to treaty bodies;
» to enable civil society to draft alternative or 'shadow' reports to UN treaty bodies; and
» for follow-up to treaty body recommendations such as those of the Committee on the Elimination of All Forms of Discrimination.

National Human Rights Action Plans

As a result of the UN World Conference on Human Rights and Development held in 1993, several countries put in motion processes for the development of national human rights action plans (NHRAPs). UNDP has been prominent among development agencies in supporting such processes.

NHRAPs help to promote human rights by:

» elevating human rights on the national agenda;
» contextualizing human rights and encouraging participation; and
» addressing chronic human rights problems and prioritising vulnerable and excluded groups.

To prevent ad hoc approaches, guiding principles were developed internationally, emphasising:

» methodological rigour in monitoring and evaluation;
» specific targets and timeframes;
» realistic benchmarks and meaningful indicators; and
» specific expectations and outcomes.

Experiences with NHRAPs have been mixed. Lessons and experience gained from countries that have adopted a NHRAP is that NHRAPs should not be seen as an objective in themselves but rather as a tool for addressing the human rights situation in the country. Understood as a tool, countries should consider carefully whether a NHRAP will be the most effective way of obtaining the results desired. The particular realties and traditions in the country may present too big an obstacle for the plan to be successfully implemented. It is also possible that other existing programmes and plans could better fulfil the task of promoting human rights. Focusing on just one human rights activity to start with, such as human rights training and education or the administration of justice, could be a better strategy for furthering human rights. Most important to remember is that no country can improve its human rights situation, NHRAP or no NHRAP, without making people aware of their rights and their ability to claim them.

Where conditions are suitable for a country to develop a NHRAP, a number of practical steps are recommended to help ensure that it leads to meaningful and sustainable results. These include:

» securing political commitment from parliament and government and the active involvement of society from the outset;
» ensuring local and regional engagement in planning and implementation;
» securing adequate financial resources;
» setting up monitoring and evaluation mechanisms; and
» building institutional and human capacity to implement the plan.

While there are significant challenges and risks involved in developing and implementing a NHRAP, evidence does suggest that there is much to recommend in NHRAPs. As lessons from countries that have adopted a NHRAP demonstrate is that NHRAPs can help bring awareness of the human rights situation in the country, create a forum for dialogue among different stakeholders on human rights issues, contribute to a comprehensive and coordinated approach to human rights work in the country, identify the national human rights priorities and strengthen the case for action.

Guidelines, principles, process and outcomes

There are no formal guidelines on the development of an overall NHRAP. However, OHCHR with the assistance of several experts and practitioners has prepared guidelines for national plans of action for human rights education which have been adopted by the General Assembly. Much of the content of these guidelines is equally applicable to overall NHRAPs.

The guidelines set out the rationale and principles for a NHRAP. They also outline a process for their development and implementation with six steps as follows:

1. Establishing a national committee with inclusive membership;
2. Conducting a baseline study;
3. Setting priority and identifying groups in need;
4. Developing the national plan;
5. Implementing the national plan; and
6. Reviewing and revising the national plan.

The process of developing and implementing a NHRAP includes:

» reviewing a country's human rights needs;
» raising awareness of human rights issues among government officials, security authorities, civil society organizations and the general public;
» mobilizing a broad spectrum of society in a cooperative atmosphere;
» proposing realistic activities;
» setting achievable targets; and
» promoting linkages with other national programmes, particularly in the areas of development and education.

It is expected that the outcomes of a national action plan will include:

» stronger legal frameworks, embracing firmer adhesion to international norms, more effective incorporation of human rights standards in domestic law, enhanced independence of the judiciary and more effective rule of law;
» better protection for individuals;
» a stronger culture of human rights;
» stronger national institutions for the promotion and protection of human rights;
» more effective social programmes that enhance the quality of life for all, particularly vulnerable groups; and

» improved national harmony, reducing risks of internal conflict.

National Human Rights Institutions

National human rights institutions (NHRIs) have a crucial watchdog role in ensuring that democratic governance prevails in the three branches of government – the legislature, the executive and the judiciary.

NHRIs are statutory bodies, autonomous and independent, yet at the same time they are official state bodies funded by public sources and operating under strict and explicit mandate under law. Their purpose is to assist in incorporating and implementing international human rights norms domestically, and to infuse international human rights values, principles and norms into national political discourses, policy dialogues, state structures and practices.

NHRIs can play the role of a mediator and act as a link between civil society and the state on the one hand and between international agencies and national state structures on the other hand. NHRIs have shown credibility, legitimacy and done excellent work in the promotion of human rights at the country and regional levels.

The term NHRI was originally used to cover two types of special organizations working on human rights at the national level: national human rights commissions (NHRCs) and ombudsmen. The term NHRCs refers to national institutions with a general human rights mandate and the functions and characteristics described here.

Unlike an NHRC, an ombudsman does not have a general human rights mandate. An ombudsman is a government official who receives, investigates, and makes findings and recommendations regarding complaints of abuses or discriminatory acts on the part of public officials, and human rights abuses related thereto.

Today, there are several kinds of NHRIs:

a) *Human rights commissions* – a plenary of appointed representatives whose appointment, dismissal and criteria for selection, including representation of civil society groups, are regulated by legislative means and who are appointed by parliament.

b) *Human rights defenders or defenders of the people* – single-member institutions. One representative is appointed by parliament as the defender on the basis of a set of criteria that are typically more comprehensive than for the commissioners. Human rights defenders usually have a general human rights mandate as well as a mandate to handle cases of improper administration in the public sector.

c) *Institutes for human rights* – these typically have a broadly constituted council with plural representation and/or a board appointed according to institutional affiliation.

d) *Commissions* such as equal opportunity or non-discrimination commissions, commissions on women, commissions on children etc. The common characteristic of such commissions is their specialised human rights mandate, which focuses on one or more specialised human rights areas such as women's rights, child rights, ethnic or racial discrimination.

Not all human rights committees are legitimate. There are various presidential and parliamentary

human rights committees as well as civil society organizations that operate under names similar to those given to NHRIs but which do not have the requisite mandate and guarantees of independence.

Guiding principles for NHRIs: the Paris Principles

The Paris Principles, adopted by the UN General Assembly (1993) seek to empower NHRIs to fulfil their challenging functions and roles. Fully accredited NHRIs adhere to the UN Paris Principles in terms of mandate, independence and the pluralist representation of societal groups in their organization. The status of the institution has an important bearing on the mandate and work of the institution and the type of support needed.

In 1991, the first international workshop on national institutions for the promotion and protection of human rights was held in Paris. Approximately 35 countries were represented, primarily from Europe and Latin America, with a small presence from Africa and the Asia-Pacific region. The workshop developed a set of recommendations and principles known as the Paris Principles, which were adopted and confirmed by the Commission on Human Rights in 1992 and the General Assembly in 1993.

The Paris Principles outline a number of criteria for the recognition and accreditation of NHRIs, which can be summarised as follows:

1) A broadly defined mandate with emphasis on the national implementation of international human rights standards, which should include a number of responsibilities.
2) The mandate to perform the following core functions:

» monitor the human rights situation;
» advise the state on compliance with international human rights standards;
» cooperate with regional and international human rights organizations;
» educate and inform in the field of human rights; and
» hear and consider individual complaints and petitions (optional).

3) Establishment by legislative means.

4) Independence from the state in the decision-making procedures of the NHRI.

5) A pluralist representation of civil society and vulnerable groups in the governing bodies of the NHRI.

With the adoption of these Principles, it became possible to clearly define and distinguish NHRIs from the large number of government and civil society institutions dealing with similar issues. Following the adoption of the Paris Principles:

» the importance of creating and strengthening NHRIs in accordance with the Paris Principles has been underlined;
» the relevance and importance of the mandate of NHRIs as listed in the Paris Principles has been confirmed by the General Assembly, the Human Rights Commission, the Vienna Declaration and Programme of Action of the UN World Conference on Human Rights and Development;

- the role played in relation to the human rights treaty bodies has been reaffirmed in general comments issued by such treaty bodies; and
- the role played by the UN in providing advisory services as well as in ensuring the wide dissemination of the Paris Principles has been emphasized by the Human Rights Commission and the General Assembly. So too has the integration and incorporation of strengthened NHRIs in national development plans or in the preparation of national action plans.

NHRIs are entrusted with a variety of functions and roles, ranging from:

- advising on laws;
- receiving and handling complaints;
- raising awareness about human rights;
- advising on more effective implementation and enforcement of laws advocacy and lobbying with national actors; and
- maintaining relationships with international human rights bodies.

Challenges faced by NHRIs

NHRIs face a number of daunting challenges, such as:

- maintaining independence and integrity;
- maintaining credibility in the face of unrealistic expectations from the public (NHRIs can only recommend, they cannot command) and in light of their unique status of being both a governmental and a non-governmental institution; and
- maintaining effectiveness given their often inadequate resources – both financial and human and their large workload of complaints.

Both civil society and the donor community need to think strategically about the support they can offer to help NHRIs overcome these challenges.

UNDP support to NHRIs

UNDP country offices are increasingly involved in providing support to national institutions for the promotion and protection of human rights, often as a follow-up to initiatives by OHCHR. This cooperation between UNDP and OHCHR has helped put NHRIs on the international human rights map. A key challenge is to nurture NHRIs to sustainability and effectiveness.

In order to review and learn from what has so far been done and to give guidance for future activities, UNDP recently commissioned the study '*Support to National Human Rights Institutions – a Strategic Niche for UNDP, 2004*' by the Danish Human Rights Centre.

UNDP can engage both in the pre-establishment phase, by supporting the creation of a NHRI, as well as the post-establishment phase, by supporting its consolidation.

UNDP support has been provided, for example, for:

- strategic planning;
- administration and management;
- infrastructure (logistics, equipment, office establishment);
- convening meetings and consultations to plan or share comparative experiences;
- capacity development;
- visits to and from other NHRIs; and
- legislative support for establishing the NHRI and harmonizing laws after human rights treaty ratification.

Examples of UNDP post-establishment assistance to NHRIs include support to:

- capacity development;
- strategic planning;
- administration and management; and
- infrastructure.

Examples of NHRI functions and capacities that have been strengthened include:

- information and outreach capacities (publications, reports, campaigns, advocacy, hearings etc);
- education through training and workshops;
- library and monitoring activities;
- legislative review;
- complaint handling, including investigations; assessment of development results (ADR) by mediation, arbitration and conciliation;
- national coordination with civil society, justice sector and other complaint handling bodies and public authorities; and
- international and regional coordination and reporting.

4. HRBA in country programming

Situation Analysis

The first stage of the UNDP programming cycle is situation analysis. A human rights-based situation analysis:

- uses disaggregated data and human rights-sensitive indicators to reveal disparities, discrimination and exclusion (e.g., evidence on whether particular groups are unable to access services or whether rights-holders are aware of their rights);
- prioritizes those who are deprived in society;
- involves multidisciplinary teams to avoid an over-emphasis on the legal and macroeconomic aspects and to ensure that political, social and cultural aspects are addressed;
- is conducted in a participatory, empowering manner that is sensitive to gender and conflict; and
- must lead to timely and effective responses.

The situation analysed can relate to:

- the development situation in a country as a whole, e.g., as outlined in the Common Country Assessment (CCA);
- poverty, maternal mortality, infant mortality or any other developmental failure;
- a specific category of persons/groups, such as tribal girls in India; or
- a specific event such as a natural disaster.

The method for undertaking a human rights-based situation analysis involves:

- a causality analysis;
- an obligation analysis; and
- a capacity assessment.

In identifying duty bearers for purposes of human rights and democratic governance programming, at least three sets of actors are significant:

- General institutions of governance performing legislative, administrative or judicial functions from the national to the local community level.

- Special institutions with a specific mandate relating to the protection and promotion of human rights, notably national human rights

institutions such as human rights commissions and ombudsmen.

» Sectoral and line ministries and bureaux implementing development programmes through which there can be progressive realization of human rights, especially for the poor, the vulnerable and the excluded.

HRBA throughout the programming cycle

The HRBA is relevant and adds value to programmes and projects at every stage of the process, including:

» programme/project justification;
» priority and target-setting;
» establishing baselines and benchmarks;
» defining results, outputs and outcomes;
» selecting indicators and measures;
» selecting implementing mechanisms and processes; and
» programme/project review.

Although there has been considerable experience generated about human rights situation analyses, there is much less by way of consolidated experience regarding applying a human rights approach to programme design, management and implementation.

Human rights-based monitoring and evaluation

Monitoring and evaluation from a human rights perspective raises two interrelated challenges:

» Integrating human rights into existing UNDP monitoring and evaluation frameworks and processes such as Annual Results Reports and Assessment of Development Results (ADR); and
» Identifying human rights-related results for UNDP practice areas.

Areas where UNDP programmes or projects can impact human rights include:

» capacities of duty bearers to meet their obligations;
» capacities of rights-holders to assert and claim their rights;
» state and non-state capacities for protecting human rights;
» state and non-state capacities for fulfilling human rights;
» state capacities for meeting obligations under international human rights treaties;
» state and non-state capacities for monitoring progressive realization of human rights; and
» state and non-state capacities for monitoring and responding to human rights violations.

Capacity development in human rights context

Capacity is about the ability of individuals, institutions and societies to perform functions, solve problems and set and achieve objectives in a sustainable manner. UNDP puts the development of capacity at the heart of development cooperation.

Capacity development begins with a capacity assessment that poses three fundamental questions:

» What capacities are required?
» For whom?
» How can they be developed?

In human rights language, capacity development involves the capacity of duty-bearers (especially

the state at all levels) to meet its obligations to respect, protect and fulfil human rights and of rights holders to understand their rights, to formulate demands on the state to honour these rights and to seek redress if their rights are violated.

Moreover, capacity development must always further the realization of human rights.

Based on the insight that capacity resides on different levels, any assessment will need to be conducted across these three levels:

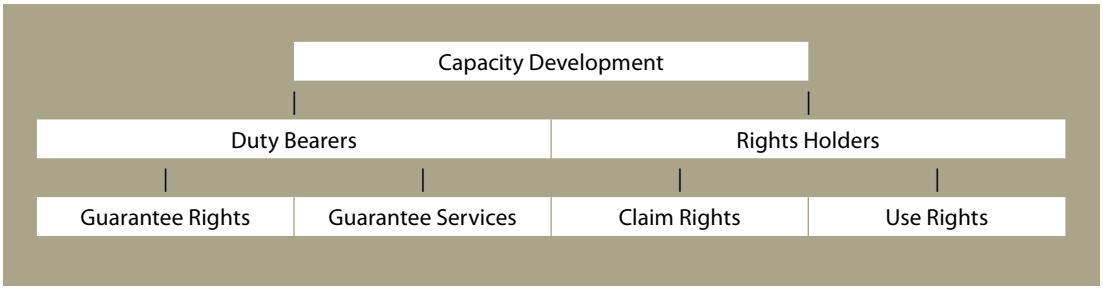
» individual
» entity or organization
» system or enabling environment

Capacity assessment in human rights context

UNDP has developed a systemic capacity assessment tool that highlights five necessary cross-cutting capacities including the capacity to:

» engage in multi-stakeholder dialogue processes;
» analyze a situation and create a vision;
» formulate policy and strategy;
» budget, manage and implement; and
» monitor and evaluate.

Finally, it is important to stress that capacity development for adopting a HRBA begins at home – whether in a national institution (governmental or non-governmental), within UNDP (country offices, regional centres or head quarters); within the UN Country Team or within national governance institutions.



5. Resource section

5.1 Online resources

UN portal on human rights
http://www.un.org/rights/

OHCHR, Human Rights in Development
http://www.unhchr.ch/development/

Guidelines for the CCA/UNDAF processes
http://www.undp.org/governance/docshurist/030617Stamford_Final_Report.doc.

UNIFEM: Essential Guide, 2005
http://www.unchina.org/unifem/Essential%20Guide%20to%20RBM.pdf

HuriLINK web portal on Human Rights and the MDGs- including case examples on HRBA programming
http://hurilink.org/

Huritalk
http://www.undg.org/index.cfm?P=487

UNFPA website on Human Rights
http://www.unfpa.org/rights

UNDG, Action 2 website (which includes e.g. the UN Common Understanding on Human Rights Based Approach to Development)
http://www.undg.org/index.cfm?P=74

5.2 Recommended readings

HURITALK, *E-DiscussionSummary: How to Strengthen Engagement with the International Human Rights Machinery?*
http://stone.undp.org/system2/comp_stage/util/message.cfm?messageid_=JiMwLyAlPVMtCg==&src=121658

OHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (2006)
http://ohchr.org/english/about/publications/docs/FAQ_en.pdf

OHCHR, *Handbook on National Human Rights Plans of Action* (2002)
http://www.ohchr.org/english/about/publications/docs/nhrap.pdf

UNDP *Practice Note on Human Rights in UNDP*, (2005)
http://www.undp.org/governance/docs/HRPN_English.pdf

UNDP *Practice Note on Poverty Reduction and Human Rights* (2003)
http://www.undp.org/governance/docs/HRPN_(poverty)En.pdf

UNDP, *Measuring Democratic Governance; A framework for selecting pro-poor and gender sensitive indicators*, (2006)
http://www.undp.org/oslocentre/docs06/Framework%20paper%20-%20entire%20paper.pdf

UNDP, *Indicators for Human Rights Based Approaches to Development in UNDP Programming: A User's Guide* (2006)
http://www.undp.org/oslocentre/docs06/HRBA%20indicators%20guide.pdf

UNDP, *Capacity Development Group, Applying a HRBA to Development Cooperation and Programming* (2006)
http://www.capacity.undp.org/indexAction.cfm?module=Library&action=GetFile&DocumentAttachmentID=2034

UNDP, *Practice Note on Capacity Assessment* (2005)
http://www.capacity.undp.org/indexAction.cfm?module=Library&action=GetFile&DocumentAttachmentID=1422

UNDP, *Human Development Report 2000: Human Rights and Human Development*
http://hdr.undp.org/reports/global/2000/en/

UNDP, *Human Rights and the Millennium Development Goals: Making the Link* (2007)
http://www.hurilink.org/Primer-HR-MDGs.pdf

UNICEF/Jonsson, *Human Rights approach to Programming*, (2005)
http://www.unicef.org/rightsresults/files/HRBDP_Urban_Jonsson_April_2003.pdf

UNIFEM, *Results Based Management in UNIFEM: Essential Guide* (2005)
http://www.unchina.org/unifem/Projects/Essential%20Guide%20to%20RBM.pdf

Democratic Governance and Gender

2 Democratic Governance and Gender

This chapter covers the following topics:

- Key concepts related to gender
- The importance of gender equality for governance and development
- Barriers to women's political participation
- The role of parliaments and women's organizations in ensuring gender equality
- Global commitments on gender
- UNDP's main support areas and analytical framework to mainstream gender in democratic governance
- Useful resources

Materials referred to in the text are listed in the Resource section.

Governance is about processes, not simply about goals. A governance system is made up of institutions, processes and social conventions that together determine how power is exercised, how important decisions affecting society are made and the place accorded to various interests in such decisions.

Analyzing governance through a human rights lens means focusing on the vulnerable and marginalized groups in society, identifying their rights and the duty-bearers who must fulfil these obligations. In this module we look at women, how governance affects them (compared to men) and how they can shape it. The human rights-based approach to development is key in helping us do this.

Materials referred to in the text are listed in the Resource Section.

1. Key concepts and trends

Gender refers to the *social attributes* associated with being male and female and the relationships among women, men, girls and boys. These attributes and relationships are socially constructed and are learned through socialization. They are not biologically predetermined but are time-specific and changeable.

The concept of gender includes expectations about the characteristics, aptitudes and likely behaviours of both women and men (femininity and masculinity).

Society constructs and projects different attitudes and characteristics onto women and men. Such attitudes define which gender-based roles are socially acceptable. For example, women and

girls are more likely to be considered as gentle, caring and emotional while men and boys are expected to be strong, aggressive and logical. Different social and economic values attached to such attitudes and characteristics perpetuate gender-based discrimination in social, economic, political and cultural institutions.

Gender relations are the social relationships among men, women, girls and boys that shape how power is distributed and how that power translates into different positions in society. Gender relations vary depending on other social relations such as class, race and ethnicity. They greatly impact how an individual man or woman experiences processes and institutions (e.g., trials and courts). Perception of women's and men's entitlement also differ due to social relationships between men and women.

The concept of *gender equality* refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether one is born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration in decision-making.

Gender equity refers to being fair to men and women. In some cases, to ensure fairness, measures must be put in place to compensate for the historical and social disadvantages that prevent women and men from operating on a level playing field. Equity is the means to the end of greater equality.

An example of a mechanism to promote gender equity is the use of quotas. Gender quotas can reduce the gap between the numbers of women and men represented in the political arena by ensuring that women constitute a minimum percentage of the members of a body, such as a parliamentary assembly or a government.

Gender mainstreaming refers to the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences integral to the design, implementation, monitoring and evaluation of policies and programmes so that women and men benefit equally. The ultimate goal of gender mainstreaming is to achieve gender equality.

Women's empowerment strengthens women's capacity to equally access resources and opportunities, and addresses the backlog of discrimination against women.

2. Gender, human rights, and democratic governance

Gender inequality aggravates poverty by:

- contributing to insecurity;
- diminishing opportunities for empowerment;
- decreasing the productivity of labour; and
- restricting economic growth and poverty reduction efforts.

Therefore, gender equality is essential to sustainable development. In recognition of the important link between gender equality and development, the goal of gender equality is enshrined in the eighth MDG.

Governance is defined by UNDP as "*the exercise of economic, political and administrative authority to*

manage a country's affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences."[2] It is the fundamental human right of both men and women to vote, to take part in government and decision-making processes, and to have equal access to public services. Gender-balanced participation in governance not only refers to the presence of men and women in the decision-making process but also to the quality of the participation. Meaningful engagement stems from mutual respect for participants' standpoints.

Full participation of women is a prerequisite for truly democratic governance. Democracy is based on an equal partnership between men and women. Men and women do not always share the same needs and perspectives, because of their different gender roles and responsibilities. It is crucial that women and men are equally represented in decision-making processes so that the interests of both sections of the population can be addressed. Although political decision-making processes have been made more inclusive over the past decade, the voices of women, particularly poorer women, continue to be largely unheard.

Gender and the human rights-based approach

The human rights-based approach provides a coherent framework for women's empowerment and gender equality. Its application includes:

» *disaggregating data for analysis* to identify immediate as well as underlying causes of discrimination against women and men, including discrimination based on gender, ethnicity, religion, location, disability and age;
» *identifying rights* to which the most vulnerable and excluded groups of women and men are entitled and targeting these in programme interventions;
» *developing capacity* of excluded groups to claim their rights as well as the capacity of those whose duty it is to meet these obligations; and
» *monitoring progress* by use of indicators on the capacity developed to fulfil as well as to claim human rights.

Barriers to women's participation

Power relations that prevent women from participating in decision-making bodies operate at many levels. Traditionally, the role of women in politics has been limited by factors such as:

» cultural and social norms that restrict women from participating in political life;
» perceptions of men as more competent leaders and decision-makers;
» lack of recognition that women's views need to equally valued;
» lack of legal mechanisms and normative frameworks that protect women's rights and their equality with men;
» political platforms that do not address women's concerns;
» high financial costs of running for political office;
» higher rates of illiteracy among women; and
» public and private forms of violence against those active in politics.

In most countries, there is a national machinery responsible for initiating, coordinating, imple-

2 http://mirror.undp.org/magnet/policy/chapter1.htm

menting and monitoring interventions to promote gender equality. However, such machineries are often under-resourced.

In recent years, the establishment of a gender focal point system focusing on key line ministries has gained popularity. However, the persistently insufficient level of priority, authority and capacity of the focal points is an obstacle. For example, although methodologies for gender analysis exist, government staff often do not have the knowledge to apply them due to lack of commitment at the decision-making levels.

With their socially assigned role as mothers and wives, women are generally expected to take care of domestic matters such as health, nutrition, sanitation and child-rearing. In rural areas, women are often the primary managers of natural resources and hence are acutely aware of related concerns. Owing to their different experiences, women and men have the potential to contribute different perspectives to decision-making processes. By offering different perspectives, women enhance political agendas, resulting in more gender-responsive governance. Many studies also suggest that women can transform the style of leadership and politics.

In many countries, local governments are responsible for providing basic services. If the diverse knowledge of women and men is applied, service to local communities can be improved. Mechanisms should involve both men and women in the policy- and decision-making processes of local government.

Studies also indicate that it is relatively easier for women to start political careers at the local level, and trends show a higher proportion of female representation in local than in national government.

Role of parliaments in gender equality

Women continue to be underrepresented in formal decision-making structures. Although women are increasingly active at the community level, there is a prevalence of gender disparities in public positions at the local, national, regional and global levels. In 2004, women constituted 15.5 percent of parliamentarians worldwide, with large variation among countries and regions. Women's representation in national parliaments is above 25 percent in only 41 countries in the world.

Parliamentarians are considered duty-bearers for protecting and promoting human rights. Therefore, it is automatically their responsibility to protect and promote the human rights of women. To carry out this task, parliamentarians should be equipped with analytical and advocacy skills for identifying and articulating issues of gender inequality in their debates, and should be able to draft and implement legislation to support gender equality.

At the same time, citizens and their organizations should endeavour as rights-holders to understand gender-based discrimination, elect gender-responsive politicians and hold parliaments accountable.

Gender equality and citizenship

The concept of citizenship involves a direct, legal relationship between the individual and the state. It is a relationship that carries with it obligations and enforceable rights.

In some countries, citizenship is still politically and culturally differentiated on the basis of gender. In

certain cases, the law does not perceive women as independent individuals. They are attached to men as wives and daughters. Despite political achievements of women across the world in the past century, their rights and privileges as citizens are often unequal to the rights and privileges of men.

Gender differences may be linked to culturally-based gender hierarchies within spheres of public and private life. In many societies, the conventional views limit the roles and responsibilities of women to the family, whereas men are entitled to citizenship rights in the public sphere.

International human rights instruments promote equal citizenship rights, stating that:

- women should be treated as citizens of their countries in their own rights;
- no one can take away the citizenship of women or prevent them from changing their country without a legitimate reason;
- marriage should not affect the nationality of women;
- women can acquire, change or retain their and their children's nationality, regardless of their husband's nationality;
- women are entitled to the same rights as men concerning the nationality of their children;
- women and men should be treated and protected equally by law as citizens of the country without any discrimination; and
- women should be free to move around within the borders of their country and to leave and return to any country, including their own.

Role of civil society and women's organizations

Democratic governance depends on strategic partnerships in social and political fora to elaborate and redefine public policies. Strategic partnerships should involve civil society, especially women's networks at the local, national and global levels.

Regional Averages

	Single House or Lower House	Upper House or Senate	Both Houses combined
Nordic countries	**41.4%**	—	—
Americas	**21.6%**	20.2%	20.8%
Europe – OSCE member countries including Nordic countries	**21.2%**	19.0%	20.7%
Europe – OSCE member countries excluding Nordic countries	**19.3%**	19.0%	19.2%
Asia	**18.3%**	16.6%	18.2%
Sub-Saharan Africa	**17.1%**	20.8%	17.5%
Pacific	**12.9%**	31.8%	14.9%
Arab States	**9.7%**	7.0%	9.1%

Regions are classified by descending order of the percentage of women in the lower or single House
Source: Inter-Parliamentary Union (IPU), 2008

Women have contributed significantly to gender equality. Behind each success has been a long process of advocating, lobbying, protesting, networking and negotiating by women, collectively and individually, at grassroots, national and global levels. The contribution of the women's movement to women's empowerment and gender equality is a good example of how civil society can transform the national agenda by collectively supporting a cause.

Where decision-making bodies lack women's participation, women's organizations can work collectively to voice gender-specific concerns and advocate for gender equality. Where there is no public service delivery system, women's organizations often deliver services to marginalized women. Women's organizations play a critical role in meeting gender needs and forming partnerships with governance institutions but should not be seen as replacements for public service delivery entities.

Global commitments to human rights

Global commitments to human rights platforms make it mandatory for countries to follow the principles and implement the measures of these instruments. From the perspectives of civil society, these commitments can be used to:

- hold governments accountable;
- demand gender-responsive policies and legislation;
- provide a legal basis for new interpretations or changes in existing national laws and/or the passage of new legislation;
- provide legitimacy and visibility for campaigns challenging adverse religious and/or culturally-based customs;
- provide access to a larger human rights community, including legal recourse and advocacy groups;
- provide a common basis for strategy development and exchange of experiences across borders, using the language of the conventions; and
- access international legal bodies and related review/complaint procedures.

Many of the human rights instruments specifically enshrine women's rights to political participation, including the following:

- *Universal Declaration on Human Rights (UDHR):* The UDHR was adopted and proclaimed in 1948 by the UN General Assembly as a common standard of achievement for all peoples and all nations.

- *Convention on the Political Rights of Women (1952)*

- *International Covenant on Civil and Political Rights (1966)*

- *International Covenant on Economic, Social and Cultural Rights (1966)*

The instruments above provide the foundation for the right of women to participate in local, national and international decision-making processes.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 by the UN General Assembly. CEDAW is often described as the international bill of rights for women. It defines discrimination against women and sets up an agenda for national action.

Article 7 of CEDAW instructs state parties to '*take all appropriate measures to eliminate discrimination against women in the political and public life of the country…*' It ensures women, *'on equal terms with men, the right*

- *to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;*
- *to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; and*
- *to participate in non-governmental organizations and associations'*.

Article 8 of CEDAW instructs state parties to 'take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations'.

The *Beijing Declaration and Platform for Action* (1995) built on previous foundations (e.g., CEDAW) to facilitate the achievement of women's participation worldwide. It recognized that '*without the active participation of women and the incorporation of women's perspective at all levels of decision-making, the goals of equality, development and peace cannot be achieved*'. A number of UN global conferences have been held since 1975 to reiterate and update the Beijing commitment.

3. UNDP's approach and areas of support

In addition to the global gender instruments outlined earlier, UNDP's work on gender equality and democratic governance is informed by the following:

- UN Charter
- Millennium Declaration and the MDGs
- UNDP Corporate Gender Strategy and Action Plan

As international civil servants, UNDP staff members can be considered duty-bearers with a special responsibility to support states and civil societies in their efforts to respect, protect, promote and fulfil human rights. Every UNDP staff member is responsible for promoting gender equality and women's empowerment.

These obligations can be met by:

- investing in your capacity to implement the human rights-based approach to development cooperation to promote gender equality;

- strengthening your capacity for gender analysis to ensure that the programmes you manage are gender-sensitive, that you can draft terms of reference for gender-sensitive consultants, and that you can hold consultants accountable for outputs that empower women and advance gender equality;

- ensuring that you yourself, your missions and consultants meet with women's organizations and gender experts so that all can better understand the status of women and gender relations;

- drawing on reports on gender issues and disaggregated data in the studies you commission and in the advisory services you provide;

- ensuring that consultant profiles include gender expertise and/or share materials that

enhance the consultant teams' capacity for gender expertise;

» investing in the capacity of project personnel and consultants for human rights-based approaches and for gender analysis, e.g., by taking the virtual UNDP courses;

» investing in your own capacity as well as that of project personnel to use gender-sensitive and pro-poor indicators in governance programming;

» strengthening your own capacity and that of project staff and consultants to manage tensions that may arise as a result of efforts to promote human rights; and

» demonstrating UNDP's internal accountability and transparency for gender equality and women's empowerment through your involvement in recruitment, promotion and other areas.

What makes UNDP governance programmes gender-responsive?

The UNDP agenda for gender equality follows a three-pronged approach:

» Developing in-country and in-house capacity to integrate gender concerns in the practice areas
» Providing pro-poor and pro-women policy advice
» Supporting stand-alone operational interventions for gender equality

UNDP has a key role in promoting legislative, electoral and judicial reform in order to ensure that:

» women's rights are protected in law and in practice;
» women's participation is enhanced in the democratic process through decentralization and the bolstering of local governance;
» information and communication technology is tapped as a tool for women's political empowerment;
» women's rights are integrated into national development strategies; and
» women's voices are heard in national dialogues.

UNDP's main areas of support to gender

Democratic governance is by definition gender-responsive and gender is a cross-cutting concern across all of UNDP's work. UNDP is well positioned to work with governance institutions to strengthen their capacity to formulate and implement gender-responsive policies.

Below are a range of ideas, opportunities and experiences for promoting women's empowerment and gender equality in the various areas of democratic governance supported by UNDP:

1) Electoral systems and processes

Elections are a means for people to choose their representatives and government, and a way of conferring legitimacy on the political system.

Development cooperation should strengthen the capacity of:

» electoral bodies, political parties and other duty-bearers to understand causes of discrimination, including gender, poverty, race, ethnicity, age, and disability, so as to empower women and promote gender equality through electoral processes.

» excluded and vulnerable voters and candidates to understand the causes of discrimination, including gender-based discrimination, to better advocate human rights, women's empowerment, and gender equality.

2) E-governance and access to information for citizens' participation

E-governance uses information and communication technologies to enhance government efficiency, transparency, and accountability, as well as citizen engagement and participation in democratic governance. Access to information promotes the right to information as well as communication mechanisms that enable people, particularly poor and disadvantaged groups, to voice views and participate in democratic processes.

Development cooperation should strengthen the capacity of:

» government, corporations, and other duty bearers to provide efficient, effective and equitable services that respond to people's gendered experiences, empowering women and promoting gender equality.

» rights-holders, particularly the poorest and most marginalized women and men, to hold government accountable for equal access to health, education, housing, and other services, and to participate in policy dialogue and decisions on issues that affect them.

3) Parliamentary development

Parliaments enact laws, mediate the interests of different constituencies, establish political priorities and resource allocations that directly affect people's lives, and oversee the executive branch.

Development cooperation should strengthen the capacity of:

» parliamentarians, as duty-bearers, to protect and promote human rights, including women's human rights, so that they will empower women and promote gender equality in their decisions.

» citizens and their organizations, as rights-holders, to understand gender-based discrimination and to hold parliament accountable for empowering women and advancing gender equality.

4) Decentralization of local governance and urban/rural development

Decentralization is the restructuring of authority among government institutions at the central, regional and local levels. Local governance refers to institutions, mechanisms and processes through which citizens and their groups can exercise their rights and obligations at the local level. Urban and rural development covers issues affecting dwellers in cities, towns and villages, such as shelter, jobs and income, and water.

Development cooperation should strengthen the capacity of:

» central, regional, and local government institutions, community leaders, local government associations, and other duty-bearers to provide public services and promote citizen participation in a way that reaches the poorest and most disadvantaged people and communities, empowers women, and advances gender equality.

» women, men, and their organizations to participate in decision-making on development priorities and representation, and to hold their government accountable for meeting human rights obligations in a way that empowers women and advances gender equality.

5) Justice and human rights

The possibility of redress when rights have been violated is a fundamental human right. Addressing the barriers faced by poor and disadvantaged groups in accessing the justice system promotes human rights and helps to reduce the potential for conflict within and among communities.

Development cooperation should strengthen the capacity of:

» parliament, ministries of foreign affairs, law and justice, the judiciary, schools of law, bar associations, the police, human rights institutions, community leaders and mediators, and other duty-bearers to understand and address gender-based discrimination and barriers to access to justice, so as to empower women and promote gender equality.

» NGOs, media, and legal advocacy organizations to enable rights-holders, female and male, to address gender-based discrimination and claim their rights.

6) Public administration reform and anti-corruption

Public administration refers to state policies, procedures, systems, structures, staff, and other resources used to manage the affairs of the executive government and the provision of public services. Corruption is the misuse of public office or authority for private benefit, through bribery, extortion, influence peddling, nepotism, or embezzlement.

Development cooperation should strengthen the capacity of:

» government ministries, parliament, the ombuds office, equality commissions, women's national machineries, national integrity institutions, and other duty-bearers to promote human rights standards and principles, reaffirm citizens' faith in the legitimacy of their institutions, empower women and promote gender equality.

» individual women and men, civil society organizations, and the media to monitor the provision of equitable and accountable public services and mobilize women and men to claim their rights, empowering women and advancing gender equality.

Examples of UNDP's support to women's empowerment

Albania – Organizing training sessions, seminars and public awareness campaigns on the participation of women in local elections in 15 municipalities.

Nepal – drafting legislation to ensure women's inheritance rights.

South Africa – providing capacity development for women's political participation in a country where women have attained a 13 percent share in local council elections.

UNDP's analytical framework for gender issues

To strengthen its governance programmes to better contribute to gender equality, UNDP must integrate gender analysis into its programme design, and develop interventions to eliminate – and not reinforce – gender inequality.

UNDP sees gender mainstreaming and women's empowerment as inter-related strategies central to achieving gender equality. This means that all UNDP development practitioners must be able to recognise, analyse and address the differing impacts of programmes on women and men, and to identify gaps in gender equality.

Capacity development and gender analysis

Capacity assessments and development strategies complement gender analysis.

At the individual and group level, capacity development helps to diagnose and recommend interventions to empower duty-bearers to meet their obligations and stakeholders to claim their rights. At the institutional level, the capacity to mainstream gender must be assessed among the essential competencies and capacities of any governance structure.

Programme interventions that successfully contribute to the attainment of good governance must articulate gender inequalities and possible gender-differentiated impacts and contribute to reduction of inequality. Programmes that do not make this an explicit aim risk perpetuating gender inequalities.

Measuring gender outcomes for democratic governance programmes

Gender-responsive assessments can be applied to measure gender outcomes of good governance programmes, particularly for the following aspects:

- » respect for human rights;
- » empowerment of women;
- » equality between men and women in opportunities, resources and benefits; and
- » adoption of a transformative agenda.

The following are examples of key indicators that can be applied to measure gender-related changes in each of the above areas:

a) Respect for human rights

- » Ratification of human rights treaties that protect and promote women's human rights
- » Compliance with the treaty obligations
- » Implementation of measures to eliminate gender inequality
- » Organization of human rights education/ advocacy and information dissemination on women's human rights

b) Empowerment of women

- » Women and girls encouraged and trained to be politically active
- » Literacy education for women and girls where gender disparity is observed
- » Specially designed training for women in elected offices
- » Support to networks of women's organizations, including women's parliamentary caucuses

c) Equality between men and women

» Advocacy campaign to strengthen the perception of women as competent political agents
» Voter education for both men and women
» Elimination of laws, customs and practices that prevent women from participating in decision-making processes
» Adoption and implementation of legislation and procedures that ensure accessibility of public services and information
» Provision of social services to enable women to take up jobs outside the home

d) Adoption of a transformative agenda

» Capacity development of parliamentarians, civil servants and electoral officers
» Adequate human and financial resources for governance institutions
» Strengthened machineries for women's empowerment and gender equality
» Implementation of measures to prevent electoral violence
» Adoption of parliamentary practices more conducive to gender equality
» Civil service reform for better transparency, accountability and participation
» Involvement of women's organizations in policy formulation

4. Resource section

4.1 Online resources

Centre for Asia-Pacific Women in Politics
http://www.capwip.org/

International Parliamentary Union, Women in Politics Database
http://www.ipu.org/bdf-e/BDFsearch.asp

iKNOW Politics, International Knowledge Network on Women in Politics
http://www.iknowpolitics.org/

Misfortune 500
http://www.misfortune500.org

UNDP, Women's Empowerment
http://www.undp.org/women/

IDEA, Democracy and Gender
http://www.idea.int/gender/index.cfm

IDEA/ Stockholm University, Global Database of Quotas for Women
http://www.quotaproject.org/

UNDP, America Latina Genera
http://www.americalatinagenera.org [Spanish]

4.2 Recommended readings

CIDA, *Frameworks for Assessing Gender Equality Results* (2005)
http://www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/8525711600526F0A852571370070A406?OpenDocument

Commonwealth Secretariat, *Advancing the Human Rights of Women: Using International Human Rights Standards in Domestic Litigation* (1997)
http://publications.thecommonwealth.org/advancing-the-human-rights-of-women-315-p.aspx

Commonwealth Secretariat, *Gender Mainstreaming in Development Planning: A Reference Manual for Governments and Other Stakeholders* (1999)
http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/%7B1357D343-5DB1-4A82-A47E-660525E0137A%7D_gmdp_ref.pdf

Friedman, *Women and Citizenship* (2005)
http://www.oup.com/us/catalog/general/subject/Philosophy/Feminist/~~/dmlldz11c2E-mY2k9OTc4MDE5NTE3NTM1Ng==

Institute of Development Studies, *BRIDGE Cutting Edge Pack: Gender and Citizenship* (2004)
http://www.bridge.ids.ac.uk/reports_gend_CEP.html#Citizenship

International Women's Rights Action Watch Asia Pacific, *The Right to Decide If, When and Whom to Marry: Obligations of the state under CEDAW and other international human rights instruments* (2005)
http://iwraw-ap.org/aboutus/pdf/OPS_VI.pdf

Rao et al, *Gender at Work: Organizational Change for Equality* (1999)
http://www.genderatwork.org/resources.html

International Women's Tribune Centre, *Rights of Women* (1998)
http://www.iwtc.org/manuals.html

OXFAM, *Gender, Development, and Citizenship* (2004)
http://publications.oxfam.org.uk/oxfam/display.asp?isbn=0855985054

OXFAM, *Gender, Peacebuilding, and Reconstruction* (2005)
http://publications.oxfam.org.uk/oxfam/display.asp?isbn=085598533X

Sever, *Briefing on the Gender-Poverty-Governance Nexus: Key issues and current debates* (2005)
http://www.dci.gov.ie/uploads/gender-poverty-governance.doc

UN, *Beijing Declaration and Platform for Action* (1995)
http://www.un.org/esa/gopher-data/conf/fwcw/off/a--20.en

UNDP, *Electoral Financing to Advance Women's Political Participation: A Guide for UNDP Support. Primers in Gender and Democratic Governance #3* (2007)
http://www.undp.org/governance/docs/GenderGovPr_Elections_3.pdf

UNDP, *Gender Equality and Justice Programming: Equitable Access to Justice for Women. Primers Gender and Democratic Governance #2* (2007)
http://www.undp.org/governance/docs/GenderGovPr_Justice_2.pdf

UNDP, *Gender Responsive E-Governance: Exploring the Transformative Potential. Primers Gender and Democratic Governance #4* (2008)
http://www.undp.org/governance/docs/GenderGovPr_e-governance_4.pdf

UNDP, *Quick Entry Points to Women's Empowerment and Gender Equality in Democratic Governance Clusters. Primers in Gender and Democratic Governance #1* (2007)
http://content.undp.org/go/bulletin/practices/gender/2008/2008-issue-14/new-undp-primers-on-gender-and-governance.en

UNDP, *Quick Entry Points to Women's Empowerment and Gender Equality* (2006)
http://www.iknowpolitics.org/files/Elaborating%20the%20Gender%20Dimensions%20of%20Democratic%20Governance.doc

UNDP, *Drafting Gender-Aware Legislation: How to Promote and Protect Gender Equality in Central*

and Eastern Europe and in the Commonwealth of Independent States (2003)
http://www.iknowpolitics.org/en/node/4222

UNDP, *Transforming the Mainstream: Gender in UNDP* (2003)
http://www.undp.org.mz/en/publications/publications/transforming_the_mainstream

UNDP/ IPU/ UNDP/ WBI/ UNIFEM, *Parliament, the Budget and Gender: Handbook for Parliamentarians No.8* (2004)
http://www.ipu.org/PDF/publications/budget_en.pdf

UNDP, *Women's Political Participation and Good Governance: 21st Century Challenges* (2000)
http://www.undp.org/governance/docs/Gender-Pub-21stcentury.pdf

UNDP, *Women are citizens too: the Laws of the State, the Lives of Women* (2003)
http://www.undp-pogar.org/publications/gender/nadia/summary.pdf

UNDP, *Gender Mainstreaming in Practice: A Handbook* (2005)
http://gender.undp.sk/files/docs/Gender%20Mainstreaming%20in%20Practice_en.pdf

UNDP, *Women's Right to a Political Voice in Thailand: Millennium Development Goal 3: Promote gender equality and empower women* (2006)
http://www.undp.or.th/download/MDGReport_goal3_exe_final_.pdf

UNIFEM & IDRC, *Gender Budget Initiatives: Strategies, Concepts and Experiences* (2002)
http://www.bridge.ids.ac.uk/gender_budgets_cd/Budgets%20CD%20subsection%204.1/4.1c%20Gender%20budget%20initiatives%20UNIFEM%20link%20for%204.4f.pdf

World Bank Gender and Development Group, *Gender Equality and the MDGs* (2003)
http://www.mdgender.net/upload/monographs/WB_Gender_Equality_MDGs.pdf

Ministry of Women, Family and Community Development & UNDP, *Manual on Gender Budgeting in Malaysia* (2005)
http://www.undp.org.my/uploads/Gender_Manual_Eng_May06.pdf

UNDP, Gender-Net & DG-Net, *Consolidated Reply: Afghanistan Comparative Experiences with Affirmative Action within the civil service* (2004)
http://stone.undp.org/system2/comp_stage/util/message.cfm?messageid_=JSFAJy4kLVhBCg==&src=20457615

Anti-Corruption

3 Anti-Corruption

This chapter covers the following topics[3]:

- Background, concepts and trends
- The relationship between corruption, human rights and human development
- UNDP approach and areas of support
- The United Nations Convention Against Corruption
- Practical guidance for programming
- Useful resources

Materials referred to in the text are listed in the Resource section.

1. Background, concepts and trends

It is evident that corruption negatively impact development. Former Secretary-General Kofi Annan characterized it as *'an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, hampers the provision of public services and the poor's access to them, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish'*.[4]

In the post-Cold War era and in the wake of globalization, there is increasing pressure from international business, multilateral institutions, human rights organizations, regional security blocks and international organizations to contain corruption, in order to strengthen public institutions, reduce poverty, promote sustainable development, and avoid possible spill-over effects to neighbouring countries. Corruption is therefore no longer perceived simply as an issue of ethics and morality, but has become a legitimate subject of international interest and concern subject to international regulations.

These international regulations have been codified into international norms and standards on anti-corruption that have continued to evolve, making it necessary for UNDP to reprioritize anti-corruption within its mandate of reducing poverty, meeting the MDGs, and promoting sustainable

3 It should be noted that most of the descriptions and data presented in this chapter are based on the UNDP's primer entitled *Corruption and Development: Anti-Corruption Interventions for Poverty Reduction, Realization of MDGs and Promoting Sustainable Development* (2008) and *UNDP Anti-Corruption Practice Note* (2008).

4 Kofi Annan, former Secretary General of the UN, in his foreword to the United Nations Convention against Corruption.

economic development. The codification culminated in the United Nations Convention against Corruption (UNCAC), which came into force on December 14, 2005.

At the time of writing, UNDP is redefining its anti-corruption work in the context of the UNCAC. The UNCAC poses immense challenges and opportunities to Member States, particularly with regard to the parts of the convention where implementation modalities are not clearly defined, such as preventive measures.

In its 1998 policy paper 'Fighting Corruption to Improve Governance', UNDP defined corruption as 'the misuse of public power, office or authority for private benefit'. Since then, the definition of corruption has been broadened to include '*the misuse of public power, office or authority for private benefit – through bribery, extortion, influence-peddling, nepotism, fraud, speed money or embezzlement*'[5].

Corruption is commonly defined as the 'misuse of entrusted power for private gain',[6] to accommodate corruption in non-public sectors. Today, corruption reflects a democracy, human rights and governance deficit that negatively impacts poverty and human security.[7]

Corruption can take many forms, and includes the exchange of money or material goods through bribery, extortion or kickbacks, as well as peddling in influence, cronyism, nepotism, patronage, and embezzlement.

5 *UNDP Anti-Corruption Practice Note* 2004, p. 2.

6 Note that this definition is limited because individuals in private companies are often in privileged positions and may take bribes to provide goods or services. Similarly, sexual extortion is among the forms of corruption, but it is not usually taken into account in the compilation of corruption indices.

7 *UNDP Anti-Corruption Practice Note* 2004, p. 1.

The impact of corruption

Corruption has a negative impact at all levels, but its consequences can be particularly damaging to the most vulnerable. An Indian grassroots organization describes the impact of corruption on the poor as follows:

> If you ask poor people why they do not get what they should, the most popular reply will be that it is because of corruption and nepotism. What is an irritant for the middle class and a theoretical debate for the affluent cuts at the roots of survival for the poor. But it is a unifying concern. The rural middle class is affected by corruption much more directly than the urban group, because the denial of services—the badly built road, the dry well, the dispensary without medicine, could be even a matter of life and death.[8]

In addition to being a major obstacle to achieving the MDGs, the economic cost of corruption can be high.

Corruption raises transaction costs, and creates economic instability by arbitrarily changing rules and applying favouritism. It can lead to the flight of business and capital, particularly where there is uncertainty in the regulatory framework.

Endemic corruption can lead to the looting of state resources by a few powerful and well-connected people. Similarly, corruption in public procurement processes can waste public resources or result in public works being executed poorly or not at all. It can also lead to non-compliance with manufacturing, construction or environmental regulations, leading to lower standards.

8 *MKSS Journal*, quoted in Kidambi 2008.

In addition, corruption can undercut government efforts to collect revenue, and compromise the ability of the state to provide essential public services like health and education. It can contribute to reducing the quality of the civil service through nepotism and discretionary promotion practices, undermining the legitimacy of the state.

More importantly, corruption is a human rights issue. Corruption violates human rights: a corrupt judiciary prevents access to justice and under-

The most common forms of corruption

Bribery: the unlawful act of offering money, services or other valuables, in improper exchange for an act or omission. Bribery is corruption by definition. Bribes are also known by other terms including kickbacks, baksheesh, payola, hush money, sweetener, protection money, boodle, and gratuity. Bribery is widely criminalized through international and national laws.

Extortion: the unlawful demand or receipt of property or money, through the use of force or threat. A typical example of extortion would be when armed police or military men extract money for passage through a roadblock. Synonyms include blackmail, bloodsucking and extraction.

Kickbacks: a kickback is a bribe, the 'return' of an undue favour or service rendered, an illegal secret payment made as a return for a favour. The word describes a bribe as seen from the angle of the bribed. For example, A grants B a favour and B gives a kickback, a 'little something', in return. The term is used to describe in an innocuous way the returns of a corrupt or illegal transaction or the gains from rendering a special service. It is also called a percentage, share, cut, commission, or pay-off.

Peddling in influence: this occurs, for example, when a public servant solicits benefits in exchange for using his influence to unfairly advance the interests of a particular person or party. Interest-peddling is addressed through transparency and disclosure laws, which aim to expose suspect agreements.

Cronyism: refers to the favourable treatment of friends and associates in the distribution of resources and positions, regardless of their objective qualifications.

Nepotism: a form of favouritism that typically involves family relationships. It describes situations in which a person exploits his or her power and authority to procure jobs or other favours for relatives. Nepotism can take place at all levels, from low-level bureaucratic offices to national ministries. Many unrestricted presidents have tried to secure their (precarious) positions by nominating family members to key political, economic and military/security posts in the state apparatus.

Patronage: the support or sponsorship of a patron (i.e., a wealthy or influential guardian). Patronage is used, for instance, to make appointments to government jobs, secure promotions, or gain contracts for work. Most patrons are motivated by the desire to gain power, wealth and status through their behaviour. Patronage transgresses the boundaries of political influence, and violates the principles of merit and competition.

Embezzlement: the misappropriation of property or funds legally entrusted to someone in their formal position as an agent or guardian.

Source: U4 Resource Centre-Corruption Glossary at www.u4.no/document/glossary.cfm

mines the right to equality before the law and to fair trial; corruption in the delivery of public services threatens the rights to health and education; it also subverts the principle of non-discrimination and political rights, through, for example, the distortion of election results.

The table below shows how contracts that are awarded through corruption have an impact on human rights and human development.

It is now evident that corruption has to a great extent contributed to the existence of some failed states. Corruption has contributed to instability, poverty and eruption of civil wars over resources in a number of countries. Experiences from Sierra Leone and the Democratic Republic of Congo, for example, show that blatant corruption is among

Corruption Facts

- More than US$1 trillion (US $1,000 billion) are paid in bribes every year, just over 3% of world income in 2002 (WBI estimate).
- More than 70% of SMEs in transition economies perceive corruption as an impediment to their business (BEEPS, 2000).
- US$148 billion leaves the African continent every year because of corruption (African Union estimate).

The impact of corruption in awards of contracts

Area of impact / Type of investment/ contract	Environmental Degradation	Erosion of tax revenues	Exploitation of labour	Erosion of sustainability of livelihoods	Erosion of basic social services
Illegal or corruptly gained logging	Yes	Yes		Yes	
Purchase of 'illegally traded' products	Yes	Yes	Yes	Yes	
Work and safety conditions ignored			Yes		Yes
'Informal agreement' on transfer pricing		Yes			Yes
Infrastructure with community displacement	Yes			Yes	Yes
Import of faulty drugs		Yes			Yes
Non cost-effective power project	Yes	Yes			Yes
Corrupt privatization contract in services		Yes			Yes

Source: Cockcroft, Laurence, *Business and Corruption: The Human Rights Dimension*, Transparency International (UK), March 2006.

the dominant factors driving fragile countries to state failure.[9]

2. The UNDP approach and areas of support

Recognizing corruption as the product of governance deficits, UNDP began addressing corruption through projects and programmes in the mid-1990s. It started with the programme for Accountability and Transparency (PACT) in 1997. The programme was later backed by the UNDP corporate policy paper entitled 'Fighting Corruption to Improve Governance (1998)', which highlighted the importance of addressing corruption as a development issue. While the emphasis initially was on awareness-raising, it eventually shifted to more technical advisory services to national governments coupled with the development of tools and methodologies.

There is growing recognition that success in meeting the MDGs will depend on the quality of governance and the level of effectiveness, efficiency and equity in resource generation, allocation and management. Consequently, efforts to combat corruption directly supports goals of eradicating poverty and promoting human development.
A holistic approach to fighting corruption has also been increasingly promoted by other international organizations. The World Bank, for example, has developed an anti-corruption strategy, in which it defines corruption as an outcome of the failures in accountability relationships that should characterize a national administrative system and stresses the importance of implementing activities that impact on multiple dimensions of the governance system. The OECD Development Assistance Committee proposes to fight corruption through the reinforcement of the key features of a governance system: political accountability; institutional checks and balances; effective public sector management; oversight by civil society and media; transparent private sector interface and local participation and community empowerment.[10]

Currently, UNDP is among the largest providers of capacity development services in the area of anti-corruption. For instance, during the 2004-2006 period, UNDP supported 51 countries with 113 anti-corruption projects related to institution, legal and policy frameworks established to promote and enhance accountability, transparency, and integrity.

In addition to supporting national governments, UNDP has worked closely with civil society organizations such as Transparency International (TI) in developing anti-corruption measurement tools in Latin America, as well as conducting a mapping exercise of anti-corruption measurement tools available in Africa. UNDP also supports and participates in the international anti-corruption conference held bi-annually by TI. UNDP has worked with the Raoul Wallenberg Institute to produce a primer on human rights and corruption, and it has recently worked with U4 to update its anti-corruption practice note. UNDP has also worked with UNODC to train UN field staff on corruption and development.

In order to realize and achieve the objectives and goals outlined in the new Strategic Plan entitled 'Accelerating Global Progress on Human Devel-

9 Rotberg, Robert I., 'The New Nature of Nation-State Failure', The Washington Quarterly, 25:3 pp. 85-96.

10 UNDP, *Concept Note: Public Administration Reform and Anti-Corruption, Regional Community of Practice Meeting*, Draft as of 07/09/2007. Online: http://europeandcis.undp.org/uploads/public/File/Concept_note_1.0.doc (accessed 7 January 2008).

opment' (2008-2011), UNDP, through its anti-corruption service area, develops programmes that aim to support national partners to implement democratic governance practices grounded in human rights, gender equality and anti-corruption.

These programmes ensure first and foremost that UNDP utilizes the UNCAC as the rallying international instrument on corruption, to support national government efforts to reduce poverty, achieve the MDGs and promote human development.

The United Nations Convention Against Corruption[11]

Prior to the UNCAC, there were several international norms and standards for fighting corruption. These conventions and instruments have provided a framework for anti-corruption efforts by complementing each other and reinforcing anti-corruption principles:

However, the UNCAC is a major landmark in the fight against corruption, as the first global legally binding anti-corruption instrument.

The Convention provides common standards for national policies and requires enhanced international cooperation to address cross-border crime. The obligations of states parties include adopting preventive measures, criminalizing a wide range of offences, cooperating across borders and providing mutual legal assistance, exchanging information and agreeing on implementation mechanisms. The UNCAC is not only a technical guide for targeted anti-corruption measures, but also a comprehensive development and governance framework. The UNCAC links corruption to sustainable development, national stability, human security, democracy and the rule of law. The UNCAC recalls the Johannesburg Declaration on Sustainable Development and recognizes that corruption jeopardizes sustainable development.

The Convention does not provide a definition of corruption due to the difficulty of reaching agreement on what the concept covers. Instead,

11 This section draws on presentations made by UNDP and UNODC, as well as the U4 Brief *The United Nations Convention Against Corruption: A Primer for Development Practitioners* 2007.

International Norms and Standards for Fighting Corruption

- Inter-American Convention against corruption adopted on March 29, 1996.
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on 21 November 1997.
- European Union Convention on the Fight against Corruption adopted by the EU in 1997.
- Council of Europe's Criminal Law (2002) and Civil Law (2003) conventions on Corruption, and the Additional Protocol to the Criminal Law Convention on Corruption (2005)
- SADC (Southern African Development Community) Protocol against Corruption adopted in August 2001.
- Monterrey Consensus (MC) on mutual accountability of developed and developing countries in achieving the MDGs endorsed by the UN General Assembly on 9 July 2002.
- African Union Convention on Preventing and Combating Corruption (AUCPCC) adopted on 11 July 2003 in Maputo, Mozambique.
- United Nations Convention against Corruption adopted by the UN General Assembly on 31 October 2003, entered into force on 14 December 2005.

it focuses on specific actions that are seen as corrupt everywhere, such as embezzlement and bribery. However, the Convention does define a 'public official' as anyone who holds a legislative, administrative or executive office. Additionally, anyone providing a public service is included, even an employee of a private company under a government contract.

Relating the UNCAC to UNDP activities

The UNCAC covers areas that UNDP has traditionally promoted under its governance portfolio. These issues include strengthening public institutions, support to media, civil society organizations, promoting civic engagement, transparency and accountability. Support to anti-corruption institutions, for instance, has to take into account provisions of articles 5 and 6 of the UNCAC on developing coordinated policies and independent institutions. There are also many new areas in the UNCAC that have traditionally fallen within UNDP programming areas – for instance, issues of asset recovery and mutual legal assistance. The United Nations Office for Drugs and Crime (UNODC), on the other hand, has traditionally worked on these issues in the past. There is thus a need to draw synergies as appropriate and leverage the comparative advantages of other UN partners.

The UNCAC does not devote a specific article to development, but its preamble acknowledges the ways in which corruption jeopardizes sustainable development. Similarly, the UNCAC contains chapters on asset recovery and technical assistance, both of which bear directly on development.

The Convention aims to:

» prevent and combat corruption more efficiently and effectively;
» foster international cooperation and technical assistance, including in the area of asset recovery; and
» promote integrity, accountability and proper management of public affairs and public property.

To achieve these objectives, the Convention includes preventive measures as well as law enforcement and criminalization dimensions.

Prevention

Articles 5 to 14 are on corruption prevention, a traditional area of UNDP anti-corruption programming (see table p. 40).

Criminalization

The Convention has both mandatory and optional provisions. This is one of the main differences between the UNCAC and human rights treaties, which do not provide for optional provisions.

Mandatory offences include the following:

» Active bribery of a national, international or foreign public official (Art.15 and 16)
» Embezzlement, misappropriation and other diversion of property (Art. 17)
» Money laundering (Art. 23)
» Obstruction of justice (Art. 25)

Other criminal offences include the following:

» Passive bribery of foreign public officials (Art.16)
» Trading in influence (Art.18)
» Abuse of function (Art. 19)
» Illicit enrichment (Art. 20)
» Bribery in the private sector (Art. 21)
» Embezzlement in the private sector (Art. 22)

International cooperation

The UNCAC also requires states parties to cooperate to address cross-border crimes. This may include gathering and transferring evidence of corruption for use in court elsewhere. This is a major step forward: in the past, for states to cooperate, any alleged action would have to be considered a crime in both countries, which made some forms of cooperation difficult.

Asset recovery

The issue of asset recovery was one of the most contentious issues in the negotiations of the Convention. Representatives from developing countries were among its keenest advocates, given the volume of resources diverted by former corrupt leaders in developing countries. Developed countries, on the other hand, were more concerned about transparency and accountability in the legislative and executive branches, as well as an independent judiciary.

The UNCAC contains provisions for asset recovery through a number of articles establishing measures for tracing, freezing, forfeiting and returning funds obtained through corruption. These include:

- measures to prevent and detect transfer of proceeds (Art. 52);
- measures for direct recovery of property (Art. 53);
- measures for recovery of property through international cooperation (Art. 54- 55); and
- measures for return and disposal of assets (Art. 57).

The UNCAC as a Democratic Governance and Development Framework

UNCAC Articles	Demand for Programming
Article 5: Anti-corruption policies	Policy framework, legal framework, strategies, coordination, and consultation processes.
Article 6: Independence of anti-corruption bodies	Technical assistance and capacity development to establish and strengthen oversight institutions.
Article 7: Civil service capacity-building	Public sector reform (e.g. introduction of fair procedures for the selection and promotion of civil servants, adequate salaries and training).
Article 8: Code of conduct	Promotion of integrity, honesty and responsibility among public officials; technical assistance to introduce the codes of conduct and systems for preventing conflict of interest.
Article 9: Public procurement and management of public finance	Promote the introduction of a transparent effective system of public procurement and public finance management.
Article 10: Public reporting	Increasing demand for anti-corruption efforts: Civil society empowerment; access to information, inclusive participation, awareness raising, efficient running of public institutions, role of media (capacity development for investigative journalism).
Article 12: Private sector	Role of private sector in delivering social services.
Article 13: Civil society	Social audit, citizens' audit, and budget tracking.

Technical assistance and information exchange

In the framework of the UNCAC, technical assistance is considered as mutual support between states parties to help one another comply with the Convention's provisions. Chapter VI includes a framework for such assistance, including training, provision of resources, research and information sharing.

What the UNCAC does not include

Some of the weaknesses of the UNCAC include the failure to make bribery and embezzlement in the private sector a criminal offence, and to address political corruption. Following intense negotiation, transparency in political party financing was downgraded to a recommendation.

3. Practical guidance for programming

UNDP links corruption to a broader reform agenda in partner countries by re-emphasizing anti-corruption as a cross-cutting issue closely linked to politics, human rights and other dimensions of democratic governance, as well as to the other UNDP practice areas: poverty, environment and sustainable development, and crisis prevention and recovery.

In order to have the anticipated impact, any anti-corruption framework should relate corruption to achievement of economic objectives and international goals such as the MDGs, for instance through poverty reduction strategy papers (PRSPs).

Similarly, in order to link corruption to broader economic and political reform, the anti-corruption framework should demonstrate how corruption weakens state institutions and legitimacy of government. The framework should also clearly demonstrate the cost of corruption to business and economic development, and relate corruption figures to values that people can easily assimilate.

Implications of UNCAC for UNDP

States parties to the UNCAC are required to undertake legal reforms and realign their laws and institutions to comply with UNCAC provisions. The legislative reforms needed to implement the mandatory provisions are only a first step; the serious implementation of the Convention would require in many cases comprehensive revision of the institutional structure. UNODC has been supporting initiatives to support states parties to comply with the legal requirements of the Convention.

However, the UNCAC provides only a framework, not a blueprint. Each country needs to assess its priorities and determine the most appropriate course of action. There is also the risk of countries adopting the UNCAC to satisfy donors, but without taking any real steps to implement it. On the other hand, an overambitious agenda can quickly deflate after initial setbacks.[12]

UNDP can play a valuable role in delivering effective technical assistance and producing sustainable results on UNCAC implementation. Ongoing activities in many areas affected by corruption, its territorial presence in more 166 countries and its proven capacity to mobilize partnerships position UNDP particularly well for supporting UNCAC implementation activities.

The UNCAC promotes the application of the principles of good governance through many of its

12 U4, *The United Nations Convention Against Corruption: A primer for development practitioners* 2007.

provisions, in particular under Chapter II (preventive measures):

» Article 5 stipulates that anti-corruption policies shall promote the principles of rule of law, proper management of public affairs and public property, participation of the civil society in public affairs, integrity, transparency and accountability.

» Article 6 provides for the establishment of preventive anti-corruption bodies to implement the policies outlined in Article 5 and to disseminate knowledge about the prevention of corruption.

» Articles 7 and 8 urge states parties to improve governance by introducing several measures, such as fair procedures for selecting and promoting civil servants, adequate salaries and training. It also urges states parties to promote integrity, honesty and responsibility among public officials through codes of conduct and safeguards against conflict of interest.

» Article 9 promotes the introduction of a transparent, effective system of public procurement and public finance management.

» Article 10 requests states parties to enhance transparency in public administration, including with regard to organization, functioning and decision-making processes. Article 10 also advocates for public access to information on the organization, functioning and decision-making processes of the public administration.

» Article 12 promotes transparency and integrity in the private sector, and Article 13 requests that states parties take appropriate measures to promote the active participation of society in preventing and fighting corruption, and to raise public awareness regarding the threat posed by corruption. Article 13 also calls on anti-corruption bodies to allow public access to information and undertake public information activities and education programmes.

These are a few examples of how the Convention can be leveraged for programmatic activities in the field of governance. Several articles have been published (e.g., on audit and financial controls, cooperation between national authorities, international cooperation and promotion of institutional capacity development) that generate demand for UNDP anti-corruption programming. However, it is important to bear in mind that anti-corruption programming is often used as political capital, and that this can discredit anti-corruption efforts as well as UNDP.

Situation analysis

When assessing a situation from the perspective of anti-corruption programming, it is useful to keep the following issues in mind:

» Political environment: Is there political will to support anti-corruption interventions?[13]
» Institutional capacities: What kind of democratic governance institutions are in place (ombudsman, parliamentary committees)? What are their mandates? Do the mandates conflict? How are the mandates coordinated? What is the lead institution? How strong is its human resources base? Is it adequately resourced? Can the available personnel deliver? How

13 See The World Bank, *Commitment to Reform Diagnostic Toolkit.*

are processes of appointment, promotion, demotion and dismissal carried out?
» Which oversight institutions exist? Are they effective?
» Are any anti-corruption strategies in place? What is the status of the legal framework (e.g., does it cover all mandatory crimes in the UNCAC)? Is there consistency of laws, punishment and definitions? What is the relationship between anti-corruption laws and the criminal code? Which institution carries out anti-corruption investigations? Does the Attorney-General investigate and prosecute? Is there delegated authority from the Attorney-General for prosecution?
» Is there demand for anti-corruption efforts? How many CSOs work in the area? Are there community initiatives? How does the community participate?
» Are there independent media and access to information laws? Are there official secret laws or defamation laws?

Below is a sample questionnaire that country offices can use when carrying out interviews with key stakeholders.

1. Policy framework against corruption:

» Is there a state strategy for combating corruption? What is its status?
» Have there been any other supplementary policy statements?
» What is the level of commitment by government to implementing the policy?
» Are there any policy gaps? If so, what is being done about them?

2. Implementation mechanisms:

» Which institutions are involved in the fight against corruption?
» What are the coordination mechanisms?
» How are the mandates derived? Constitution, decree or statutes?
» Have you identified any duplication or conflict of mandates? Consider the different levels of operation, e.g. national, provincial, district and community.
» What are the main constraints that institutions face?
» How are the institutions funded, and is the funding adequate?
» Is there a progress report on the work plan for the implementation of the state strategy for combating corruption?

3. Programming issues:

» Have there been any studies and surveys carried out during the past 12 months with recommendations made? What has been the outcome of any such studies, if any at all?
» Are there any public awareness programmes, such as school competitions, posters, radio and TV programmes? Are such programmes continuous or are they ad hoc? What has been the impact to date?
» Are there any requirements for declaration of assets by public officials? Where are the declarations archived and how do the public and media access it? What are the penalties for transgressing non-disclosure? Has the government any intention of developing these or expanding them?
» Are there any codes of conduct for public officials, and if so, which ones? If not, are there any intentions of developing codes of conduct in the near future?
» Are there any activities around asset recovery?
» In terms of criminalization of corruption, what are the relevant statutes?

4. International cooperation:

» Do you currently have programmes and/or cooperation with other international organizations?
» Have such cooperation arrangements contributed toward the government's strategy? If yes, how? If not, what are main problems that you have experienced?
» What are your technical support expectations from the UNODC and donors?
» Do you have recommendations for how UNDP may effectively contribute towards your country's programme of action to fight corruption?

Strategy development

In general, anti-corruption programmes should be implemented after a situation analysis, and should identify entry points. Grandiose strategies often do not work, because they involve too many activities or because governments establish inter-ministerial task teams who work on anti-corruption only on a part-time basis. The UNCAC requires that the development of the anti-corruption strategy should be done in a transparent and inclusive way. Public participation should be encouraged as much as possible. It is necessary to ensure buy-in from political players, while at the same time ensuring that the programme does not become politicized.

Identifying partners

UNODC is the specialized agency dealing with corruption. It also serves as the secretariat to the Conference of State Parties to the UNCAC. Important partners include:

» OECD, as the coordinator of donor activities in the area of corruption;
» Transparency International, which is the leading NGO in the area of anti-corruption;
» international finance institutions such as the World Bank, the Asian Development Bank and the African Development Bank. These are main funders of anti-corruption programmes, and also implement anti-corruption projects;
» national counterparts;
» local authorities;
» human rights institutions;
» academic institutions; and
» other institutions such as the Basel Centre and the Raoul Wallenberg Institute.

Monitoring and evaluation

To successfully implement anti-corruption projects, it is important to build in monitoring and evaluation mechanisms through regular onsite visits, regular meetings of stakeholders, reviewing compliance with activities in the original plan, as well as the effectiveness and impact of the project. It is necessary to have a set of indicators to measure impact and monitor the progress. Examples of indicators include:

» percentage of trained people in the UNCAC as a development tool;
» change in perception among stakeholders on UNDP internal capacity regarding the UNCAC;
» increase in anti-corruption activities integrated into CCAs and UNDAFs;
» percentage of change in joint missions at the regional level;
» increase in policy reforms benefiting from the information produced by associated knowledge products and diagnostic tools;
» enhanced clarity in the role of UNDP in fighting corruption;
» increased knowledge on linkages between corruption and human rights, gender, politics, conflict, poverty, and development;

- » increased availability of information on corruption at the country level that informs policy reforms;
- » increased availability of diagnostic tools to measure corruption (e.g., local corruption diagnostic and measurement tools);
- » increased knowledge of media and CSOs in anti-corruption through training;
- » more cases of corruption exposed by media through investigative journalism;
- » increase in demand for accountability by the citizens;
- » number of joint missions at the country level (particularly joint missions of UNDP and UNODC); and
- » increase in UNDP's cooperation/coordination among various institutions working in the field of anti-corruption.

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Examples

For examples and policy advice from the Europe and the CIS region:
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Access to Information

4 Access to Information

This chapter covers the following topics:

- Key concepts and trends in access to information
- The importance of access to information to human rights and development
- The UNDP approach to access to information and areas of support
- Practical guidance for programming

This chapter draws on documents from a variety of sources, especially UNDP's Access to Information toolkit. All materials referred to in the text are listed in the Resource section.

1. Key concepts and trends in access to information

What is access to information?

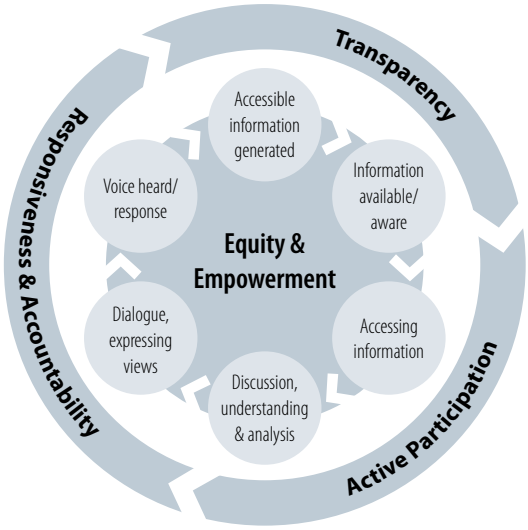
Access to information is about promoting and protecting rights to information and channels of communication that enable people to voice views, participate in democratic processes, and set priorities for action.

Information comes in many different forms. It can be held by governments, civil society organizations (CSOs), communities, the media and the private sector. Information held by government bodies is extremely important and represents one of many information types that ordinary people need in order to make informed decisions on matters that affect their lives.

Communication implies interaction. To communicate is to express opinions and preferences and to share and exchange ideas. People use a range of communication channels and mechanisms to seek, receive, use and share information. These include government institutions, formal consultation processes, traditional structures, and formal and informal media.

Freedom of expression and the right to information are different but related concepts. Freedom of expression, and the free flow of information and ideas, includes the right to information, while the right to official information is a more narrowly defined concept requiring specific legislation.

The information and communication circle (below) illustrates how the interrelated concepts of information and communication underpin and reinforce the key governance principles of transparency, active participation, responsiveness and accountability. Access to information should therefore be seen as an integral, cross-cutting part of all governance initiatives.



Source: *UNDP Access to Information Practice Note*, 2003

Governance principles and access to information

Transparency: Making information freely available is a transparent act. However, this means little if people are unaware that information exists and how they might access it. Information availability also has little meaning if the costs of accessing it, either in time or money, are unreasonable and if the information is not in a user-friendly form. Understanding the information needs of poor people and how they access it is critical in making transparency meaningful for large sections of society.

Active participation: Access to information is central to the empowerment of women and other marginalised groups. In order that these groups have a greater say in what happens in their own lives, there is an urgent need to improve their capacity to understand, analyse and act on information. Public hearings, meetings, participatory planning committees, roundtables, focus groups, lobbying, negotiation and mediation are all examples of mechanisms that help people access, understand and analyse information and communicate their views. Such processes help poor people to develop voice and to make demands on government for relevant information, e.g., with regard to health and education services or employment opportunities.

Responsiveness and Accountability: Responsiveness means listening to people's views, reflecting these views impartially in the design and implementation of policies and practices, and ensuring that people's rights are realised and protected. Accountability means being answerable to citizens for policies and actions.

Demand and supply sides of access to information[14]

DEMAND: develop and strengthen capacities and mechanisms that will increase demand for information, enhance communication and engagement in dialogue processes

e.g. building capacities of communities to organize and analyse information, and to communicate views to and make demands of policy makers; strengthening Civil Society Organizations (CSOs) and their networks; civic education activities on the right to information.

SUPPLY: develop and strengthen capacities and mechanisms that will enhance the supply (generation, availability, accessibility) of relevant information

e.g. building awareness at national and local levels on the importance of the right to information; developing the capacity of government to provide official information on request; strengthening the capacity of media personnel.

14 UNDP, *Access to Information Practice Note*, 2003, p. 7

Some key trends in access to information

1. ***The increasingly networked character of developing country societies.***

Increased democratization, use of communication technologies, rapid liberalization and proliferation of media together with the emergence of more dynamic civil societies within a globalising world is leading to new opportunities and challenges for empowering poor people.

2. ***An increasing tendency on the part of some governments to withhold information.***

In the post 9/11 world several governments have intensified surveillance and censorship activities and have moved to withhold information under the guise of national security.

3. ***The shifting concept of freedom of information.***

Globalising forces tend to emphasise the efficiency aspect of freedom of information and thus shift the concept from the purely moral stance as an indictment of secrecy towards a more 'value-neutral' meaning of more efficient administration of government and as a contributor to economic growth.[15]

4. ***The importance of power structure analysis to successful development strategies.***

Current development discourses, such as 'drivers of change' studies, are paying attention to the way vested interests and other political factors affect development interventions. The media's role in reinforcing or countering this influence is increasingly becoming a consideration in the design of effective development strategies.

5. ***A growing communication knowledge network.***

This is characterised by a rapid and diverse proliferation of communication initiatives across the developing world.

6. ***Documenting experiences of what works and demonstrating impact.***

Evaluations of recent development experience, particularly of HIV/AIDS initiatives, have led to a reassessment of traditional communication approaches and greater attention paid to participatory communication strategies.

7. ***The importance of communication to achieving the MDGs.***

There is now a widespread recognition that meeting the MDGs will require people to have a much stronger sense of ownership of the development strategies designed to benefit them. Access to information has a vital role to play in building national ownership.

2. Access to information, human rights and development

Access to information and freedom of expression are international human rights norms embedded in key human rights instruments. Article 19 of both the UN Declaration on Human Rights and the International Covenant on Civil and Political rights (ICCPR) state that the right to freedom of expression includes not only freedom to 'impart information and ideas of all kinds', but also freedom to 'seek' and 'receive' them 'regardless of frontiers' and in whatever medium.

Article 19 of the UN Declaration of Human Rights covers both concepts of information and communication and in doing so recognises that people

15 Thomas S. Blanton: *Global Trends in Access to Information*, 2002.

are generators, users and conduits of information. Article 22 of the ICCPR also provides for the right to freedom of association with others, which enables collective analysis of information and can lead to collective action.

Some commentators suggest that information rights can be considered a fourth category of citizen rights, in addition to civil, political and social rights:[16]

> …the information rights are most of all an element of citizenship. They concern first and foremost the social functioning of citizens, not only in relation to the public authorities, but also in their mutual relations and their relations with private legal entities. Information rights should be part of the civil rights chapter of constitutions, together with the other individual rights.[17]

The 'supply' and 'demand' sides of access to information mirror the core relationship at the heart of the HRBA to development – that between citizens as rights-holders and government bodies as duty-bearers. Through the lens of access to information, rights-holders are citizens making demands on governments for accessible and understandable information on policies that shape their lives and exercising their right to access official information. Duty-bearers are state actors at national and local levels, who are required to be capable, responsive and accountable to citizens for ensuring an enabling legislative, judicial and regulatory environment for community and public interest media, and for providing relevant, up-to-date information to the public in a timely manner.

Under the HRBA to development, access to information should be seen not just as an essential underpinning of governance interventions but as a prerequisite for addressing wide-ranging poverty issues experienced through powerlessness and lack of voice. Access to information can therefore be regarded as fundamental for all development interventions including HIV/AIDS, the environment (see the Aarhus Convention on Environmental Information)[18], crisis prevention and recovery and gender.

3. The UNDP approach to access to information

UNDP's mandate is to reduce poverty. Its development priorities reflect a specific commitment to achieving the MDGs within the framework of the Millennium Declaration. UNDP considers democratic governance as critical to tackling poverty and realising the MDGs. The achievement of governance goals requires that information be widely available. However, in the particular context of the MDGs, UNDP believes that priority must be given to those who are poor, vulnerable and frequently excluded from mainstream governance processes and institutions. These groups lack visibility and voice to enable them to influence policy priorities and access resources.

UNDP's approach to access to information reflects a belief that success in achieving the MDGs and the broader human development agenda will be determined in large part by the degree of participation of disadvantaged groups in national

16 John M. Ackerman and Irma E Sandoval-Ballesteros (2006) *The Global Explosion of Freedom of Information Laws*; 58 Admin.L. Rev.85 quotes Mark Bovens, *Information Rights: Citizenship in the Information Society*, 2002.

17 Ibid p89.

18 Aarhus Convention on Access to Environmental Information can be accessed at www.unece.org/env/pp/

planning priorities and processes. UNDP believes that information and communication initiatives enable people to consider and discuss ideas, engage in public debates at local and national levels, negotiate, develop and act on knowledge and facilitate the formation of public opinion. UNDP understands that women and men have different information needs and sees the lack of gender-disaggregated data as an important challenge for achieving the MDGs.

UNDP's position on access to information

- » Implementation of the rights to freedom of expression and to access to information are prerequisites for ensuring the voice and participation necessary for a democratic society
- » Access to information and communication build on internationally recognised rights and together encompass the core principles of democratic governance: participation, transparency, responsiveness and accountability
- » Promoting and protecting access to information and flows of information among diverse constituents are of equal importance
- » Creating and strengthening communication mechanisms that enable poor people to influence national and local government policy and practice is essential

UNDP's core access to information support areas

UNDP is well placed to assist the capacity development and strengthening of the 'supply' and 'demand' sides of information and communication. Four broad, mutually reinforcing areas have been identified as the focus for access to information support:

1. Strengthening the legal and regulatory environment for freedom of information
2. Raising awareness on rights to official information and strengthening mechanisms to provide and access information;
3. Promoting communication mechanisms for vulnerable groups – communication for empowerment
4. Promoting an independent and pluralist media

UNDP supports a range of e-governance and ICT activities in order to enhance pluralism and public access to information across these four areas. Potential options for involvement are detailed below.

Strengthening the legal and regulatory environment[19]

UNDP can provide support in a number of ways at each of three distinct stages.

a) Pre-legislation

Possible areas of engagement include the following:

- » Conducting scoping exercises to analyse the current state of law and practice. These studies should identify the most important institutional allies and potential obstacles, as well as document current initiatives in this area
- » Raising awareness of various constituencies on the importance of right to information legislation
- » Convening meetings on the right to information among civil society organizations and government officials
- » Supporting greater transparency of government departments through publication of court decisions, parliamentary records etc

19 UNDP, *Right to Information Practical Guidance Note*, 2004.

b) Development of right to information legislation

Possible areas of engagement include:

- » Facilitating dialogue around the drafting of a right to information law. For example, UNDP could help assemble international and national experts to identify key issues to be included in a draft law
- » Identifying local and international expertise to ensure that the proposed law complies with the highest international standards
- » Helping to ensure that draft laws are widely debated and such debates inform subsequent redrafts of legislation

c) Implementation of right to information legislation

Possible areas of engagement include:

- » Supporting national public awareness campaigns on right to information legislation with outreach to poorest groups
- » Strengthening the capacity of public officials at local and national levels to manage legislation and respond promptly to requests for information
- » Providing advice on appropriate enforcement mechanisms
- » Advocating for adequate budget allocation to implement legislation at all levels

d) Raising awareness of rights to official information[20]

Possible areas of UNDP involvement include:

- » Establishing partnerships with CSOs that work with poorer groups to boost people's confidence and capacity to demand their rights and entitlements
- » Strengthening government officials' capacity to improve public records
- » Enhancing local government officials' understanding of their obligations under right to information legislation, and strengthening their capacity to respond to requests for information from the public

e) Promoting communication for empowerment[21]

Possible UNDP engagement in at least three broad areas[22]:

- » Increasing access to information for marginalised groups, focusing particularly on mechanisms designed to fill information and communication gaps
- » Amplifying marginalised voices to ensure that the concerns of those at the margins of political and social power structures are highlighted in the media and public debate
- » Creating space for public debate, dialogue and action

f) Strengthening the media[23]

Possible areas of UNDP involvement include:

- » Improving professional standards of the media

20 UNDP, *Right to Information Practical Guidance Note*, 2004; UNDP, *Civic Education Practical Guidance Note*, 2003

21 UNDP, *Communication for Empowerment; Developing media strategies in support of vulnerable groups Practical Guidance Note*, 2006.

22 Suggested entry points in each of these areas can be found in UNDP, *Communication for Empowerment; Developing media strategies in support of vulnerable groups'* 2006, pp32-35

23 UNDP, Communication for Empowerment; developing media strategies in support of vulnerable groups Practical Guidance Note.

» Improving the capacity of the media at national and local levels to make information available to the poor
» Developing journalists' capacity to use right to information legislation effectively, especially to obtain information for the use/benefit of poor people

Modalities for supporting access to information

There are two principal ways in which UNDP can support access to information:

1. ***Mainstreaming access to information into democratic governance and other practice areas.***

There is a growing recognition that one of the most serious impediments to sustainable development is the lack of inclusion and participation of poor and vulnerable groups in society, and that such participation can take place only if the information needs of all citizens are met. There is therefore increasing interest in integrating access to information processes more systematically into existing governance and other development activities.

Mainstreaming access to information in this way requires integrating the results of information baseline surveys and information and communication audits into the needs assessments that inform all democratic governance and other UNDP programmes. Including the access to information perspective at the design stage of development programmes allows greater synergies between access to information and other UNDP service lines, in keeping with its cross-cutting nature.

2. ***Supporting dedicated access to information projects***

This involves setting up or supporting projects that focus on various aspects of right to information, communication for empowerment or media strengthening. Ideally, these projects will have strong, structured linkages with other democratic governance projects or poverty reduction programmes.

In addition to these two modalities, UNDP can be a strong advocate for access to information within the development community. Drawing on its leadership role in policy dialogue and reform, UNDP can assert the importance of access to information in realising national development goals with government partners and other key development stakeholders.

UNDP's comparative advantage in the access to information arena

The UNDP experience and expertise in democratic governance, its traditional role as a trusted and neutral partner with host governments, and its widely acknowledged coordinating capacities among development actors enable UNDP to play a key role in promoting both supply and demand aspects of access to information, as well as their integration into national development processes.

4. Practical guidance for access to information programming

There are a number of steps to follow in programming for effective access to information interventions.

1. Understand the national context

Programme officers need to ensure that access to information activities reflect the political, socio-economic and cultural context and involve key players within the sector. An analysis of these broad contextual factors will provide the initial

landscape in which access to information interventions will take place.[24]

2. Conduct a situational analysis

The situational analysis builds on an understanding of the national landscape and explores in more detail important factors relevant to each of the support areas.

Some of the information needed for a thorough analysis may not be available in existing national planning documents. It is therefore important to work closely with others, especially government counterparts and CSOs. Such collaboration could include drawing on research and mappings undertaken by external actors, convening or taking part in consultations, and using existing surveys, polling and participatory appraisals.

For UNDP to systematically contribute access to information inputs into national development processes, information and communication elements should be included in the country analysis. Failure to incorporate access to information into this stage of programme development makes it unlikely that information and communication needs and gaps will be adequately reflected in the UNDAF.

There are five key sets of information and communication analyses that can add value to the broader political analysis and contribute to the country analysis:

» An analysis of information and communication needs and interests at national and local levels, particularly of the poorest groups of society;
» An analysis of the capacity of poor people to exercise their right to public information and communication, and the capacity of government to deliver;
» An assessment of the legal and regulatory environment governing information and communication;
» An assessment of media capacity as part of a broader capacity assessment; and
» In post-conflict and disaster contexts, an analysis of information outlets to measure access to credible and accurate information about peace, reconciliation, and humanitarian and reconstruction processes.

UNDP's Access to Information Practice Note and the Communication for Empowerment Practical Guidance Note include a range of core questions that should be considered as part of any situational analysis.[25]

3. Strategize, develop and review access to information projects

Programmes to improve access to information fall into one of two types:

Upstream programmes – those concerned with broad national issues such as policy development and legislation, where UNDP liaises with government to improve the overall national framework for access to information. UNDP can, for instance, provide expertise to a government to draft legislation on freedom of expression and access to information drawing on international standards.

24 See page 12 of Access to Information Practice Note (2002) for a summary of basic questions necessary for a minimum understanding of the access to information landscape.

25 UNDP, *Access to Information Practice Note*, 2003, p 13: UNDP, *Communication for Empowerment: Developing media strategies in support of vulnerable groups*, 2006, pp23-29

Downstream programmes – those concerned with hands-on support, such as developing the capacity of CSOs, the media and the civil service. For example, UNDP can partner with a CSO to conduct a baseline study of community radio programming or train civil servants on how to respond to requests for official information.

Once a thorough understanding of the situation has been established, the next step is to either develop or review project proposals to address identified challenges. These typically arise from one of three points of origin:

» Identifying a specific need in democratic and poverty programming and exploring how access to information initiatives can 'add value' to development outcomes; or

» Receiving a request to support an access to information initiative from a government counterpart or CSO.

In each of the three situations, programme officers should assess the extent to which the proposed initiative complies with and enhances:

(i) *The UN's five core inter-related principles:* a human rights-based approach, capacity development, gender equality, environmental sustainability, and results-based management.[26]
(ii) *The UN's three essential elements for development effectiveness:* national ownership, core comparative advantage and maximum effectiveness and accountability.[27]
(iii) Existing UNDP country programme activities – specifically governance and poverty reduction –initiatives – and government national development priorities.

UNDP can develop or help refine proposals, and work with counterparts on assessing capacity to ensure that projects are based on sound methodology.[28] Examples of access to information programme activities that might be considered under each of the four support areas are set out in a matrix on page 15 of the Access to Information Practice Note.

4. Form effective partnerships

UNDP can leverage its relatively limited resources to enhance the impact of its work in access to information by working in partnership with other development actors.

Strengthening and deepening existing partnerships is a key organizational priority for UNDP. Partnerships allow information to be shared, improve access to specialist expertise and reduce duplication of efforts. Critical components of a successful partnership include:

» clear criteria for identifying relevant partners;
» a project plan with clear objectives;
» clearly identified responsibilities and roles for each partner;
» expectations of the partnership that are transparent for each partner;
» ongoing monitoring of relationships within the partnership; and
» mutual trust and commitment.

UNDP's main partners in access to information programming include:

26 UN, *Common Country Assessment and United Nations Development Assistance Framework, Guidelines for UN Country Teams*, 2007. pp 2-7

27 ibid.

28 For more information on reviewing access to information proposals or on capacity assessments, see section 5,2 of the *Access to Information Practice Note*, 2002.

» government (national and local);
» civil society organizations;
» media organizations;
» media support organizations; and
» multilateral and bilateral development agencies.

5. Identify risk and risk mitigation measures

The risks inherent in both the strategic and operational environment should be broadly analysed for their potential impact on programme implementation, effectiveness and sustainability. For example, mediating dialogue between government and CSOs is a complex and sensitive area. The idea of sustaining a dialogue with, or providing funding for, CSOs, particularly media organizations that retain the right to criticise government policies, may sit uneasily with government officials. Specific risks related to each programme outcome should be identified and risk mitigation measures proposed.

Participatory risk assessment with all stakeholders should be carried out. This is in itself an important element of risk management.

6. Consider key points in monitoring and evaluation

Effective measurement of the impact of access to information initiatives depends on collecting baseline information on changes that can be monitored and establishing clear, realistic and time-bound programme outcomes.

When articulating programme outcomes:

» Review the precise wording and intention of the outcome. Ensure that the outcome statement is understandable and agreed upon by all involved.
» Avoid broad outcome statements. Focus on the most impactful aspects.
» Ensure that each addresses one key issue at a time.

The selection of access to information outcome indicators should begin with developing a list of potential indicators. This can be done through brainstorming with those formulating or directly involved with the programme, consulting with experts in the substantive area, reviewing documents prepared by other UNDP offices and other donors and CSOs.[29]

It is important to recognise that indicators are very specific to the situation and particular national context. Some important considerations in selecting information indicators include:

» using quantitative measurements whenever possible as these are easier and cheaper to monitor;[30]
» choosing indicators that are sufficiently reliable in quality;
» disaggregating performance indicators by gender and other population characteristics; and
» considering the practical implications of cost and time in collecting measurement data.

29 See: UNDP, *A Guide to Measuring the Impact of Right to Information Program*, 2006; Danida, *Monitoring and Indicators of Communication for Development*, 2007.

30 It is important to note that quantitative indicators are less able to capture changes in behaviour and attitudes and some qualitative indicators will be necessary.

5. Resources section

Online resources

Aarhus Convention on Access to Environmental Information
http://www.unece.org/env/pp/documents/cep43e.pdf

Database of UNDP supported Access to Information projects (2007)
http://db.undp.vrl2.com/

BBC World Service Trust's media development
http://www.bbc.co.uk/worldservice/trust/mediadevelopment

The Communication Initiative
http://www.comminit.com

Index on Censorship
http://www.indexoncensorship.org/

Institute of War and Peace Reporting
http://www.iwpr.net

International Covenant on Civil and Political Rights
http://www1.umn.edu/humanrts/instree/b3ccpr.htm

The Media Development Loan Fund (MDLF)
http://www.mdlf.org/look/mdlf/brochure/mdlf_bro_web.pdf

Radio for Peacekeeping, Africa
http://www.radiopeaceafrica.org

Search for Common Ground
http://www.sfcg.org/sfcg/sfcg_home.html

UN Declaration of Human Rights
http://www.un.org/Overview/rights.html

UNDP's database of over 100 communications CSOs
http://www.undp.org/oslocentre/resources/search_db_dev.html

UNESCO Communication and Information portals
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Civil Society and Democratic Governance

5 Civil Society and Democratic Governance

This chapter covers the following topics:

- Concepts and debates related to civil society's role in democratic governance
- Opportunities and challenges
- UNDP's strategic engagement with civil society and key operational mechanisms;
- Processes and tools for development, management and monitoring of programmes
- Key issues in development and implementation of civil society programmes

Materials referred to in the text are listed in the Resource section.

1. Background, concepts and trends

People have always gathered to support each other and to meet their needs, attain collective goals, express their views and exchange information.

Civic engagement or civic participation refers to people's involvement in shaping policies and decision-making processes that affect their lives. It can take place at an individual level, for example through voting, or through collective action. Examples of individual and collective civic engagement in public affairs can be found as far back as the 6th century BC. In ancient Greece, Athenian democracy provided for direct participation by citizens in legislative affairs. In India, the *panchayats* provided a space for villagers to come together to deliberate village affairs.

Modern Western thinking about civil society – distinguishing between civil society and the state – began when capitalism and modern ideas of democracy started to take root in 18th century Europe.

Over the past two decades, civil society has become increasingly acknowledged as a key actor in development at the global, national and local levels. Some observers talk about a 'global associational revolution' involving a great expansion of organised private, voluntary activity throughout the world, with an explosion in the numbers, diversity and roles of civil society groups.

There are many possible explanations for this expansion, including the impact of the following trends and ways of thinking:

- national ownership of development;
- citizens' participation;
- social accountability;
- good governance;

» decentralization;
» democratization of development co-operation; and
» improved quality, relevance and poverty-focus of official development programmes.

At global and regional levels, civil society organizations (CSOs) have formed coalitions to address important social, environmental and economic issues. Some of these coalitions challenge multilateral institutions, such as the World Trade Organization, highlighting the negative impact of trading systems on poor people.

Definitions

Many different terms are used to describe what is meant by 'civil society'. Some alternative terms with similar but not identical meanings include: the non-profit, the voluntary, the third, the NGO and the charitable sector.

Definitions of civil society vary, but most definitions agree that it is:

» a realm between the state and the family where groups are formed;
» made up of formal and informal organizations and institutions;
» based on voluntary activity;
» separate from the state and from the market;
» not primarily profit-based; and
» self-governing.

It is important to remember that groups within civil society are not always progressive or development-oriented. People can come together to promote exclusion on the grounds of ethnic, gender, religious or other differences, or to defend the causes of particular groups to the detriment of society as a whole.

UNDP defines civil society organizations as 'non-state actors whose aims are neither to generate profits nor to seek governing power. CSOs unite people to advance shared goals and interests'.[31] It takes a broad view of CSOs, of which NGOs are an important part, and recognizes that in practice civil society is an arena of both collaboration and contention.[32]

Civil society is often depicted as a third sector alongside the state and the market. However, many commentators suggest that this typology does not adequately reflect the complex social and political landscape that characterizes many development contexts, where there is often significant overlap both institutionally and individually between different sectors.

CSOs are not homogenous; they include a broad range of formal and informal organizations, associations and movements with a multitude of different aims.

Some examples are:

» professional associations;
» social movements;
» cultural and recreational organizations;
» religious organizations;
» media organizations;
» academic and research institutions;
» grassroots or community-based organizations;
» development-oriented organizations; and
» relief and rehabilitation organizations.

31 UNDP, *CSO Toolkit*, 2006.

32 UNDP, *Guide to CSOS working in Democratic Governance*, 2005.

Many different terms are used to indicate different variations of civil society organizations. Some common ones include CSOs, NGOs and community-based organizations (CBOs). Although these terms are often mistakenly used as synonyms, NGOs and CBOs in fact are subsets of CSOs.

CSOs can play many different roles in development processes, as illustrated in the table below.

Role	Example
Providing services	Legal aid, health services, water supply
Identyfying and addressing community needs	Training, education, livelihood support
Mediating between citizens and the state	Lobbying, reviewing budgets
Defending citizens' rights and articulating interests	Watchdog functions, advocacy, media campaigns

Civil society organizations and their environments

In many developing countries, the relationship between civil society and government is characterised by mutual mistrust, which often prevents civil society from playing its roles effectively. Restrictive laws, norms or other factors often limit CSOs from influencing policy or acting as watchdogs. For example, in Belarus, many CSOs advocating human rights and democracy have been driven underground because of the hostile political climate.

Other constraining and enabling factors include:

- the extent to which basic freedoms and rights are observed;
- the socio-economic and cultural context;
- the legal environment;
- relations with state and private sector; and
- political aspects of development assistance.

Civil society organizations respond to their environments. They manoeuvre in relation to key stakeholders, e.g., by positioning themselves to meet local needs, by holding the state accountable for delivery of services or use of funds, or by filling vacuums where leadership from government is absent.

In some cases, civil society organizations can significantly influence their environments. Attributes such as strong popular legitimacy, leadership skills and financial resources can create a strong basis for civil society influence.

2. Civil society organizations, development and human rights

Internationally, there has been increasing support for civil society as understanding has grown about the important role that CSOs can play in bringing about development goals. The Millennium Declaration and the Millennium Summit Outcome Document emphasise the relationship between sustainable human development and democratic governance and the need for civil society engagement to foster both.

CSOs play a vital role both internationally and locally advocating human rights, acting as "watchdogs" and engaging in human rights and development programmes. For a directory of civil society organizations that work specifically on democratic governance issues, see UNDP's *Guide to Civil Society Organizations Working on Democratic Governance*.

3. UNDP's approach to civil society

The United Nations once dealt only with Governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today's world we depend on each other.

– Kofi Annan, former UN Secretary-General

As this quotation asserts, governments alone cannot bring about and ensure sustainable human development and democratic governance. UNDP is therefore increasingly engaging with CSOs and promoting civic participation.

UNDP recognises that civic participation by individual citizens and their organizations is a fundamental human right. Collective civic participation helps to foster democratic governance, by giving people a powerful way of:

- protecting their human rights and fundamental freedoms;
- having a say in decisions that affect their lives;
- holding decision-makers accountable; and
- addressing issues that concern them, for example gender equality, environmental protection, better access to treatment for HIV/AIDS etc.

For UNDP, increased engagement with civil society has meant a significant shift in policy as well as practice, taking the organization from a mere acceptance of the role of civil society to a full-fledged strategy of engagement to further development work.

The main motivation for UNDP to engage with civil society is to:

Support the poor in articulating their needs: Collaboration with CSOs can lead to a better articulation of the needs and aspirations of those that are poor, vulnerable and marginalized.

Achieve sustainable development: Governments in developing countries cannot fulfil all the tasks required for sustainable human development on their own. This goal requires the active participation and partnership of citizens and their organizations.

Promote ownership: While external support can help, improved governance must ultimately come from within and be owned by a country and its citizens. CSOs therefore have vital roles to play as participants, legitimizers and endorsers of government policy and action, as watchdogs on the behaviour of governments and public agencies, and as collaborators in the national development effort.

Fulfil its role as a duty bearer: From the human-rights perspective, UNDP, along with member governments, bear duties and obligations towards the poor and excluded who are denied internationally recognised entitlements. To fulfil these obligations, the organization must engage with and involve a range of civic actors in its programmes.

Maintain trust: UNDP's position, public support and success are dependent on trust. In the words of former UNDP Administrator Mark Malloch Brown, 'you do not buy that [poverty reduction] agenda through loans, you win it through trust. And it is the same asset, trust, that allows us to assemble the partnerships with governments, civil society, labour unions and the private sector that UNDP – everybody's friend – can do'.

Promote democratic governance: CSOs can play a central role in promoting rights. They are often seen as intermediaries facilitating processes of interaction between the state and citizens. Participation in civic activities with other citizens can also help people learn civic values and skills for participating in public decision-making processes.

Remain a relevant and effective development player: Given the collective power of CSOs in building social, economic and political agendas – both locally and globally –strengthening partnerships with them is crucial.

The basis for UNDP's commitment (and that of the UN) to engage with civil society derives from a number of sources.

Key global instruments

The foundation of UN and Article 71 of the UN charter provides for a relationship between UN and civil society:

The Economic and Social Council may make suitable arrangements for consulting with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the member of the United Nations concerned.

Civil society is gaining prominence in UN affairs. During the 90s there was an explosion of NGO involvement in all activities – and particularly in the major conferences – of the UN.

At the *Millennium Summit 2000*, the then Secretary-General, Kofi Annan, reaffirmed the centrality of civil society and its organizations to the mission of the United Nations in the twenty-first century:

Not only do you [civil society organizations] bring to life the concept of 'We, the Peoples,' in whose name our Charter was written; you bring to us the promise that 'people power' can make the Charter work for all the world's peoples in the twenty-first century.

A key document in the evolution of the UN's relationship with civil society was the *Cardoso Report (2003).* The report was commissioned by the Secretary-General and led by the former president of Brazil, Fernando Henrique Cardoso. It outlines concrete areas for reform, highlighting:

- the leading role of the UN as a convenor;
- the need to invest more in multi-stakeholder partnerships;
- accreditation and access of civil society organizations to the UN; and
- organizational, managerial and financial arrangements for implementation of reform.

A UNDG working group on civil society relations, chaired by UNDP, has since followed up on the report with initiatives to strengthen engagement with civil society.

The 2005 *Millennium Summit* welcomed the contributions made by civil society to the work of the UN in development and human rights and the dialogue between CSOs and Member States in the first informal interactive hearings of the General Assembly. Civil society leaders and organizations, however, expressed dissatisfaction with the limited opportunities for participation at the summit.

The Millennium Summit Outcome resolution (A/RES/60/1) adopted by the General Assembly

made a number of statements on issues related to broader civic engagement:

Participation of local authorities, the private sector and civil society, including non-governmental organizations

172. *We welcome the positive contributions of the private sector and civil society, including non-governmental organizations, in the promotion and implementation of development and human rights programmes and stress the importance of their continued engagement with Governments, the United Nations and other international organizations in these key areas.*

173. *We welcome the dialogue between those organizations and Member States, as reflected in the first informal interactive hearings of the General Assembly with representatives of non-governmental organizations, civil society and the private sector.*

174. *We underline the important role of local authorities in contributing to the achievement of the internationally agreed development goals, including the Millennium Development Goals.*

175. *We encourage responsible business practices, such as those promoted by the Global Compact.*

Finally, the report *In Larger Freedom* (2005) calls for the participation of civil society in promoting sustainable development and democratic governance.

UNDP partners with a wide cross-section of local, regional and global CSOs in programme implementation and policy advocacy. Supporting the capacity development of civil society organizations is central to this partnership.

UNDP also works to strengthen the legal, regulatory, and normative environment in which CSOs function and collects baseline information on civil society organizations to provide an accurate assessment of their characteristics.

UNDP country offices are normally the first line of contact for many national CSO partners. The CSO Division at UNDP headquarters provides policy and advisory support to UNDP staff and engages actively with CSO partners. UNDP also has civil society advisors located in global and regional offices, including some of the regional centres.

4. The UNDP approach to engaging with civil society

UNDP's approach to engaging with civil society is guided by five key principles and commitments:

1. Partnership founded on horizontality (equality), trust, inclusion and mutual capability

Partnerships with CSOs are founded on the principle of a horizontal relationship between parties, which, while institutionally different, are of equal standing in promoting the same development objectives. The relationship is premised on mutual trust that must be earned by both sides. UNDP is committed to investing in enhancing trust with CSOs that share its goals. In doing so, UNDP acknowledges the frequent asymmetry between its capabilities and those of CSOs with which it wishes to engage. Consequently, its contribution to CSO capacity development remains a cornerstone of its approach to development and partnership.

2. Recognition of obligations as a duty-bearer

Through its adoption of these five principles and through its policy on human rights, UNDP

implicitly recognizes its responsibility as a duty-bearer towards member governments, in terms of supporting their fulfilment of public obligations. UNDP is also a duty-bearer vis-à-vis civil society, as legitimate claimants on governments and UNDP as a public body. Correspondingly, interacting with civil society is a *duty* and not an option for UNDP at all levels of its work. UNDP is committed to engaging with CSOs as an expression of their right to development and not simply because of institutional convenience.

3. Negotiation and mutual agenda-setting with individual accountability

Neither UNDP nor CSOs are required to accept or endorse each other's agendas, interpretations or methods. Engagement with CSOs must be founded on the principle of negotiation towards a common interest that recognizes complementarity of roles. Each party is individually accountable for its behaviour to its owners or constituencies. While not imposing its own agenda, UNDP is committed to seeking mutual ground for action.

4. Respecting diversity

UNDP recognizes that CSOs are, by their very nature, heterogeneous. This diversity is a valuable development asset that should not be 'homogenized' by CSO engagement with UNDP. To this end, UNDP adopts the principle of respecting CSO diversity.

5. Macro-micro coherence and balance: connecting upstream and downstream

UNDP acknowledges the importance of the principles of coherence and consistency between engaging with CSOs in its in-country initiatives and in international policy work. It is committed to balanced treatment and investment between CSO engagement at local and macro levels, i.e. in its operations and policy dialogues within countries, regionally and internationally.

These principles and commitments pose a number of challenges to UNDP, including:

» creating genuine and equal partnerships between UNDP and CSOs;
» being conscious that CSO agendas should not emerge from UNDP and other donors, but be rooted with CSO constituencies;
» reaching beyond the most visible and resourceful NGOs;
» ensuring that civil society engagement translates into policy change;
» maintaining the trust of both governments and civil society in contexts where the two sides mistrust each other; and
» ensuring that UNDP engagement benefits the poorest and most vulnerable groups.

For more information on UNDP's overall policy on civil society engagement, see *UNDP and Civil Society Organizations. A Policy of Engagement* (2001).

Although the UN Charter and more recent key UN summits provide for relationships between UN and civil societies, they do not provide specific mechanisms to govern such relationships. Specialised UN agencies have the autonomy to decide if and how to provide for a relationship with civil society.

UNDP's operational engagement with CSOs

UNDP can engage with civil society by:

» *Promoting enabling legal and regulatory frameworks* for the operation of civil society organizations.

» *Developing government capacity* at all levels to operate in an efficient, transparent and accountable manner and interact constructively with citizens and civil society organizations.

» *Developing CSO capacity* and supporting and facilitating their networking among themselves, with government and with business sectors of society.

» *Facilitating vibrant civic engagement* in key national and regional decision-making processes. Central to this function is guaranteeing that the perspectives of civil society organizations, including indigenous peoples' organizations are provided the space for expression.

» Partnering with civil society for service delivery

Examples of different types of engagement with civil society can be found in UNDP's *Partnerships in Action*

Mechanisms that enable UNDP's strategic engagement with civil society

In May 2000, UNDP set up a *CSO advisory committee* to provide advice and strategic guidance to the Administrator and senior management on the future directions of UNDP. The committee meets once a year in New York and is composed of civil society leaders from around the world.

Based on the experience of the advisory committee at headquarters, some country offices have set up *national advisory committees*. Botswana was the first to do so (2003), followed by Brazil (2004) and Burkina Faso (2006).

A number of UN and UNDP-led policy processes can be substantially enriched through civil society engagement and mobilization. Examples include CSO involvement in:

» policy research and advocacy related to the Human Development Reports;
» conception, implementation and monitoring of Common Country Assessments (CCAs) and United Nations Development Assistance Framework (UNDAFs);
» advocacy and monitoring of the MDGs.

UNDP has much to gain in partnering in CSO-led policy processes. This often requires extending engagement beyond well-known organizations of civil society to peoples' movements and grassroots organizations that are embedded in processes of societal change.

As UNDP is stepping up its engagement with civil society, strategic partnerships with civil society organizations at all levels are becoming increasingly important. An example of a strategic UNDP-CSO partnership is that between UNDP and the Netherlands Development Organization (SNV). Following a Memorandum of Understanding signed in October 2004, UNDP and SNV partnered for a programme aiming to:

» strengthen local actors in the MDG and poverty reduction processes;
» enhance the generation of relevant capacity development expertise and its ongoing sharing and improvement by relevant practitioners;
» develop activities and systems for cross-fertilization and learning; and
» support MDG-based national development strategies.

The CSO Division in BRSP acts as coordinator and fund manager for this project, which is implemented in 15 countries.

Engagement modalities

UNDP has a range of modalities for working with civil society, including:

» a CSO as the implementing partner;
» making a grant to a CSO; and
» entering into a contract, long-term agreement (LTA) or Memorandum of Understanding (MoU) with a CSO.

For details on the differences among these arrangements, see UNDP's *Toolkit for Strengthening Partnerships*.

5. Practical programming guidance for engaging with CSOs

As UNDP increases its engagement with civil society, programming practices must be adapted to meet new opportunities and challenges.

As in any area of programming, the CCA and the UNDAF set the broad strategy for engagement. Key issues to consider when programming for civil society engagement include:

» When in the programming cycle should civil society be involved, and how does civil society engagement affect the programming process?
» How does the environment for civil society influence the programming options available to UNDP?
» What are the entry points for UNDP in promotion of civil society?
» How can UNDP address the issue of capacity development in its engagement with civil society organizations?
» What are the risks associated with engaging with civil society?
» What type of management arrangements should be used in civil society programmes/projects?
» What should appropriate indicators for monitoring and evaluation of civil society programmes look like?

Strategy development

As UNDP is moving to strengthen its civil society engagement, the strategies adopted must follow suit. The starting point for strategy development is the situation analysis, which provides a detailed understanding of the context, identifies key stakeholders and development problems. If the situation analysis identifies capacity gaps, the strategy may include a more detailed capacity assessment, which helps to devise concrete capacity development activities. Finally, a risk analysis should be made, identifying major risks and possible ways to overcome them.

Situation analysis

The purpose of a situation analysis is to gain an understanding of the context for civil society and civic participation and to identify key development problems and stakeholders, in order to inform policy and programming efforts. A situation analysis of civil society is particularly relevant in country or regional contexts where:

» CCA/UNDAF situation analysis of civil society is limited or where a new programming cycle is approaching;

» civil society engagement has been limited to a few well-known, established civil society organizations or NGOs; or
» extensive political, legal, social or economic changes have taken place.

A situation analysis may consist of a general *context analysis* and *civil society analysis* of the configuration and characteristics of civil society and civic participation. This is often based on a mapping of CSOs and their networks.

Key stakeholders should be identified and involved in the process in order to:

» enable genuine participation and ownership
» initiate dialogue about key development issues related to civil society and civic participation
» jointly identify capacity gaps in relation to public and/or civil society institutions and organizations

A *capacity assessment* of CSOs may be used to guide selection of partners and to assess their capacity development needs. A capacity assessment may include:

» legal status and history
» mandate, policies and governance
» constituency, networks and external support
» technical, lobbying and advocacy capacity
» managerial, administrative and financial capacity

For a table of questions to be asked about each of these areas, as well as sources for locating this information, see UNDP's CSO Toolkit. In some countries it may be appropriate to support a participatory needs assessment and planning process, for example, through the use of the CIVICUS civil society index. More details of this can be found on the CSO website[33].

Risk analysis

Bringing in a new and diverse group of development partners brings with it new potential but also new risks. For example, there may be political risks related to supporting organizations associated with one particular ethnic group and even the risk of fuelling conflict in this context. There may also be financial risks.

Key aspects of risk management for civil society programme engagement are to:

» do a risk analysis in cooperation with civil society partners and outside observers
» use participatory approaches to identify risk elements, assess the risk level and seek out mitigating measures
» consider how the civil society engagement may affect UNDP's other partnerships

Management arrangements

The choice of engagement modality depends, among other variables, on the amount of control UNDP can hand over and is therefore closely related to the characteristics of the CSO in question.

In order to decide on the most appropriate engagement modality and management arrangements, it is important to ask the following questions:

» How strong is the management capacity of the civil society organization?

33 http://content.undp.org/go/groups/brsp/brsp-cso/?src=brsp&g11n.enc=ISO-8859-1&bbp.i=d0.1&bbp.v=1336234&bbp.e=select&bbp.4.portal=179214&bbp.s=6

- How well does UNDP know the civil society partner?
- What is the scale of the programme/project?
- How much risk is associated with the programme/project?
- Are there any compelling reasons for a high level of UNDP control?

Monitoring and evaluation

Monitoring and evaluation mechanisms and indicators should be designed to ensure that:

- a broad range of civil society groups and citizen stakeholders are involved;
- indicators capture and assess processes of participation and influence;
- informal structures of power and influence are understood and taken into account.

6. Resource section

A guide to the multitude of CSOs working on democratic governance issues can be downloaded here: http://www.undp.org/oslocentre/docs05/3665%20Booklet_heleWEB_.pdf

A selection of key, international institutions and organizations working in the area of civil society support, capacity-building, networking and research are listed below. Many have useful websites with information about their activities, relevant publications etc. UNDP already works with a number of these organizations.

CIVICUS – World Alliance for Citizen Participation

http://www.civicus.org/new/default.asp

CIVICUS is an international alliance established in 1993 to nurture the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened. Among other things, it runs a Civil Society Watch Program and produces the Civil Society Index (CSI).

TWN – Third World Network

http://www.twnside.org.sg

The Third World Network is an independent, non-profit international network of organizations and individuals involved in issues relating to development. Its objectives are to conduct research on economic, social and environmental issues pertaining to the South, to publish books and magazines, to organize and participate in seminars and to provide a platform representing broad Southern interests and perspectives in international fora such as the UN conferences and processes.

CONGO – The Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations

http://www.ngocongo.org/index2.html

CONGO is an independent, international, not-for-profit membership association of nongovernmental organizations that facilitates the participation of NGOs in United Nations debates and decisions. CONGO is most active in the major UN centres of New York, Geneva, and Vienna but extends its work to all regions of the world.

International NGO Training and Research Centre

http://www.intrac.org

INTRAC is a non-profit organization working in the international development and relief sector. It supports NGOs and CSOs around the world by

helping to explore policy issues and by supporting management and organizational effectiveness.

The Society for Participatory Research in Asia
http://www.pria.org

This society is both a support agency and a networking organization. Based in India, PRIA provides support and assistance to civil society groups.

International Center for Non-profit Law
http://www.icnl.org/

This Center is an international, not-for-profit organization that promotes an enabling legal framework for civil society, freedom of association and public participation around the world. ICNL provides technical assistance and publishes the International Journal of Not-for-Profit Law on a quarterly basis.

Research Institutions

John Hopkins University, Institute for Policy Studies, Center for Civil Society Studies
http://www.jhu.edu/~ccss/index.html

The Center for Civil Society Studies of the Johns Hopkins Institute for Policy Studies is engaged in a wide variety of research and capacity-building activities designed to improve understanding of the role that philanthropy and non-profit organizations play in modern society and to strengthen the capacity of these organizations to carry out their missions. Current research projects include the Comparative Non-profit Sector Project and the UN Non-profit Handbook Project.

London School of Economics, The Centre for the Study of Global Governance
http://www.lse.ac.uk/Depts/global/index.htm

The Centre is an international institution dedicated to research, analysis and dissemination in relation to global governance. Based at the London School of Economics, the Centre aims to increase understanding and knowledge of global issues, to encourage interaction between academics, policy makers, journalists and activists and to propose solutions. The Centre's research on Global Civil Society aims to contribute to understanding "globalization from below" through four types of activity: research, graduate training, interaction with practitioners and trans-national institution building." The centre publishes the Global Civil Society Yearbook.

London School of Economics, The Centre for Civil Society
http://www.lse.ac.uk/collections/CCS/

The Centre for Civil Society is an international organization for research, analysis, debate and learning about civil society. It is based within the Department of Social Policy at the London School of Economics. Established initially as the Centre for Voluntary Organization, the Centre has for over 20 years pioneered the study of the voluntary sector in the UK, development NGOs and civil society organizations throughout the world.

The United Nations Research Institute on Social Development, Research Programme on Civil Society and Social Movements
http://www.unrisd.org/

The United Nations Research Institute for Social Development (UNRISD) is an autonomous UN agency engaging in multidisciplinary research on the social dimensions of contemporary problems affecting development. Through its research, UNRISD stimulates dialogue and contributes to policy debates on key issues of social development within and outside the United Nations system. For some time, UNRISD has had a research programme on civil society and social movements designed to generate a more realistic understanding of social actions and dynamics in civil society.

Institute of Development Studies
http://www.ids.ac.uk/ids/

The Institute of Development Studies is a global organization for research, teaching and communications on international development. The research programme of IDs includes, among others, programmes on governance and on participation, power and social change'.

5.2 UN Resource materials

Online resources

UN, *Reforms at the UN – Civil Society and Partnerships*
http://www.un.org/reform/civilsociety/index.shtml

UN Department of Public Information (DPI), NGO Section
http://www.un.org/dpi/ngosection/index.asp

UN Department of Economic and Social Affairs – NGO Unit
http://www.un.org/esa/coordination/ngo/

UNDP CSO Division
http://www.undp.org/partners/cso/

UNDP CSO Division, Intranet
http://content.undp.org/go/groups/brsp/brsp-cso/?src=brsp

UNDP, List of partnership agreements
http://content.undp.org/go/groups/brsp/BRSP-Workspace/

UNDP, MoU between UNDP and Open Society Institute
http://content.undp.org/go/groups/brsp/BRSP-Workspace/download/?d_id=673927&

UNDP, MoU between UNDP and American Bar Association
http://content.undp.org/go/groups/brsp/BRSP-Workspace/download/?d_id=418693&

UNDP, Partnerships in Action
http://content.undp.org/go/groups/brsp/brsp-cso/?src=brsp

United Nations Non-governmental Liaison Service
http://www.un-ngls.org/index.html

Recommended readings

CARE/Action Aid International, *Where to now? Implications of changing relations between DFID, recipient governments and NGOs in Malawi, Tanzania and Uganda* (2006)
http://www.careinternational.org.uk/Where+to+now+Implications+of+Changing+Relations+between+DFID,+Recipient+Governments+and+NGOs+in+Malawi,+Tanzania+and+Uganda+7240.twl

CIVICUS/Volkhart, Finn Heinrich, *Assessing and Strengthening Civil Society Worldwide*, Civil Society Index Paper Series, Volume 2, Issue 1 (2004)
http://www.civicus.org/new/media/CSIAssessing&StrengtheningCivilSocietyWorldwide.pdf

IDEA, *Handbook on Democracy Assessment* (2002)
http://www.idea.int/publications/sod/democracy_assessment.cfm

IDS/Jones, E. et al, *Concepts of Citizenship: a review*, IDS Working Development Bibliography 19 (2002)
http://www.ntd.co.uk/idsbookshop/details.asp?id=678

IDS/Manor, J. et al, *Civil Society and Governance. A Concept Paper* (1999)
http://www.uneca.org/itca/governance/Documents/IDS_CIVIL%20SOCIETY%20AND%20GOVERNANCE.doc

INTRAC/ Pratt, B. et al, *Official Agency Funding of NGOs in Seven Countries: Mechanism, Trends and Implications* (2006)
http://www.intrac.org/docs/OPS%2046.pdf

The John Hopkins University, Institute for Policy Studies, Center for Civil Society Studies/ Salamon, L. et al, Global Civil Society: *An Overview*, The John Hopkins Comparative Non-profit Sector Project (2003)
http://www.kpbooks.com/details.asp?title=Global+Civil+Society%2C+Volume+Two

LSE, *Global Civil Society Yearbook* (2005/06)
http://www.lse.ac.uk/Depts/global/yearbook05.htm#introduction

ODI, *Capacity Development for Policy Advocacy: Current thinking and approaches among agencies supporting Civil Society Organizations* (2006)
http://www.odi.org.uk/Rapid/Publications/Documents/WP260.pdf

ODI, *CSO Capacity for Policy Engagement: Lessons Learned from the CSPP Consultations in Africa, Asia and Latin America* (2006)
http://www.odi.org.uk/Rapid/Publications/Documents/WP272.pdf

ODI, *How Civil Society Organizations Use Evidence to Influence Policy Processes: An Annotated Bibliography* (2005)
http://www.odi.org.uk/Rapid/Bibliographies/CSOs/CSO_bibliography.html

ODI, *Partnerships and Accountability*
http://www.odi.org.uk/CSPP/Activities/PPA0203/Bibliography_Index.html

OECD, *Handbook on Information, Consultation and Public Participation in Policy-making* (2001)
http://213.253.134.43/oecd/pdfs/browseit/4201141E.PDF

The Rockefeller Foundation, *Making Waves: Stories of Participatory Communication for Social Change* (2001)
http://www.communicationforsocialchange.org/pdf/making_waves.pdf

United Nations Charter
http://www.un.org/aboutun/charter/

UN, *In Larger Freedom: towards development, security and human rights for all, Report of the Secretary General* (2005)
http://www.un.org/largerfreedom/contents.htm

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Electoral Systems and Processes

6 Electoral Systems and Processes

This chapter covers the following topics:

- History, trends, and key concepts
- Recent shifts in approaches to electoral assistance
- The link between electoral assistance, human rights and development
- Main international actors
- How and why UNDP provides electoral assistance
- The role of elections in democratic governance
- Practical guidance for electoral programming

Materials referred to in the text are listed in the Resource section.

1. Background, concepts and trends

Elections in a historical perspective

While the concept of universal suffrage is relatively new, election management is an essential part of any democratic process and has existed in some manner for more than 2,500 years. An early example is the counting of hands and reporting of voting results in the Athenian assemblies.

Throughout the centuries, whilst great importance has been placed on the outcome of elections, election management has received little attention. Therefore, *electoral management* is a relatively new field of study.

In what has been called 'the third wave of democratization' during the 1980s and 1990s, many countries in Central and Eastern Europe, Latin America and Africa held multiple successful post-transition elections. In South Africa, the first universal franchise election in 1994 was a key example of this phenomenon. In many places, long-standing authoritarian regimes fell when faced with popular movements demanding free and fair elections. The UN first became involved in electoral assistance in the late 1940s, and until the 1990s its contributions tended to focus on electoral observation or organization of elections in trusteeship contexts. With the third wave, however, UN involvement took on the character of technical assistance to electoral processes.

The holding of regular elections is a defining feature of democracy. However, examples of election rigging, the holding of so-called 'facade elections' with little or no choice of representation or pos-

sibility for free expression of opinion, or the holding of democratic elections where the rest of the political system is highly undemocratic, have all contributed to an increasing recognition that elections by themselves do not guarantee democratic participation. Rather, elections depend on the legitimacy, transparency, effectiveness and fairness of their wider institutional context. The relationships among electoral events, the constitution, the electoral legislation, the regulation of political parties, and power-sharing elsewhere in the political system are vital. However, only recently have these connections been studied in detail.

Key concepts

a) Electoral system

An electoral system, using the most basic definition, is the method used to translate votes cast into seats or offices won. In a broader sense, it helps define the level of political representation in government and can create incentives for those competing for power to appeal to the electorate.

The choice of the electoral system is one of the most important political decisions for any country and will usually be a factor of the individual country context. There is no right or wrong choice of electoral system; each presents costs and benefits. Electoral systems can have profound implications for the poor and other marginal groups, as some can result in fewer 'wasted votes' and greater representation of diverse viewpoints.

b) Civic and voter education

The objective of voter education is to motivate and prepare voters to participate fully in elections. Voter education raises awareness about voter rights and proper campaigning and polling. It also encourages people to vote in a free and independent manner. In circumstances where there may be attempts to unduly influence a voter's choices or hinder people in voting altogether, voter education can help mitigate this through raising awareness of voters and campaigners as to what constitutes appropriate conduct and hence assist in preventing intimidation and violence.

Civic education is a broader concept focusing on citizens' rights and responsibilities in a democratic society, and is often mainstreamed into school curricula and media messages.

For more information on the concepts of electoral systems and civic and voter education, see the *ACE Encyclopaedia*.

c) Electoral management design and Electoral Management Bodies (EMBs)

The complexity and specialist skills necessary for electoral management require that dedicated institutions be formed to be responsible for electoral activities. Examples of such bodies are election commissions, department of elections, electoral councils, election units and electoral boards. The generalized term *Electoral Management Body* (EMB) refers to the body responsible for electoral management. In some countries, elections are run solely by the public administration of the government. In others, they are run by the public administration and supervised by an independent body. In still other countries, elections are run by permanent and fully independent electoral management bodies. This last case is the trend in many developing countries.

Core responsibilities of EMBs of the permanent and independent variety typically include:

» advising the government on electoral reforms;

» determining who is eligible to vote;
» identification and registration of voters;
» conducting voter information and education;
» development and maintenance of a national electoral registry;
» delimitation of electoral district boundaries;
» registration of political parties;
» receiving and validating nominations of electoral participants;
» planning and implementation of electoral logistics;
» training electoral staff;
» conducting of polling;
» counting and tabulating the votes;
» regulation of financing of political parties; and
» adjudication of electoral disputes.

Electoral management, regardless of the particular model used, should be independent, impartial and transparent. Electoral institutions at all levels should include women, the poor and minorities and there should be a clear and explicit policy on advancing the electoral participation of disadvantaged groups.

For more information, see *Electoral Management Bodies as Institutions of Governance* by Rafael Lopez-Pintor.

d) Legal framework for elections

The foundation of every democracy is the legal framework that governs its electoral institution. Important components of this framework are:

» the constitution;
» electoral code(s);
» other legislation relevant to elections;
» codes of conduct (political parties, media, etc.); and
» electoral procedures (counting, transmission, etc.).

For more information, see IDEA's *Handbook on Electoral System Design*.

Trends in electoral support

Support for elections was traditionally event-driven with elections seen as isolated events. However, elections are today viewed as longer-term processes where support during the pre- and post-election periods is as vital as the elections themselves.

The current view is that a holistic, long-term approach that links electoral assistance to the development of political frameworks and a democratic culture is more conducive to building strong and sustainable electoral administration than ad hoc contributions to electoral events. This is referred to as the Electoral Cycle approach (illustrated in diagram 1 below).

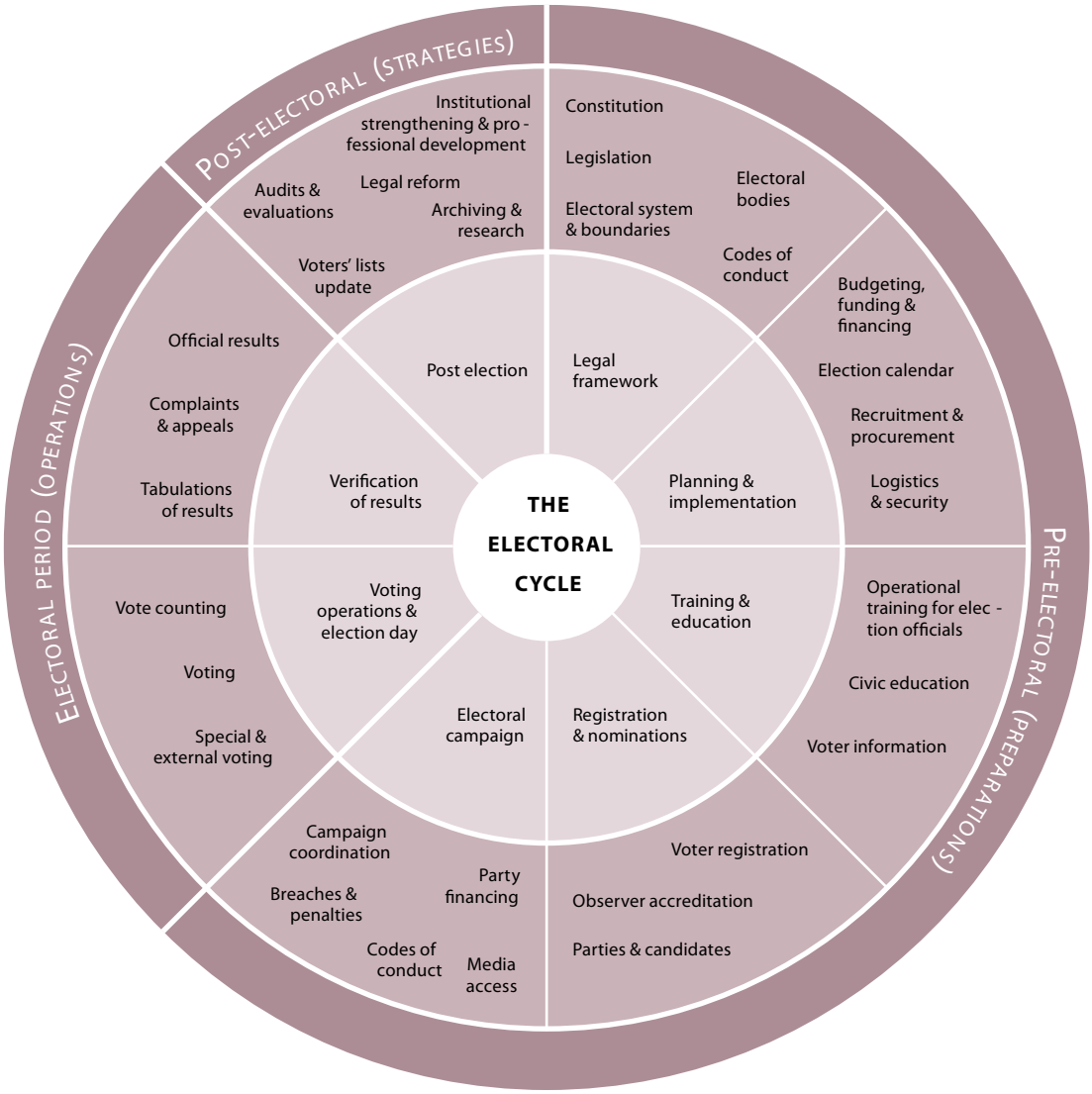
For more information, see IDEA's Effective Electoral Assistance: Moving from Event-based support to Process Support and UNDP's Electoral Assistance Implementation Guide.

Elections, development and human rights

Elections are a means for people to choose their representatives and/or their government and to hold them accountable. They also confer legitimacy on political systems by vesting them with a mandate from their citizens.

Elections are one of the most important ways through which people participate in decisions that affect their lives. The right to participate, including through elections, is recognized in the *Universal Declaration of Human Rights, Article 21* of which states that:

Toward sustainable electoral institutions and processes: The Electoral Cycle



Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

The will of the people shall be the basis of the authority of the government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.

Furthermore, the Secretary-General has stated that:

Inclusive public participation and competitive multi-party elections are essential for empowering the poor and for building lasting peace.

– The Secretary General's Report on the Work of the Organization

Voting in democratic elections adds a crucial element of governance from a human development standpoint, as they put the individual and his/her choices and options at the centre of the development process. In that sense they are about empowerment, which has been identified as a key driver to human poverty reduction. In addition, elections represent *enforceable accountability*. When a government fails to live up to the needs and desires of its people, the people can throw it out of office. The principle of "one person, one vote" gives every individual a say in the choice of government.

UNDP approach to partnerships

UNDP takes a partnership approach to its work in electoral systems and processes.

Within the UN, UNDP works in close collaboration with UNDPA/EAD.

Internationally, UNDP works with leading institutions in the field such as IDEA, IFES, EISA, Elections Canada, the Instituto Federal Electoral de Mexico and UNDESA through the partnership on Administration and Cost of Elections (ACE).

In 2007, UNDP also joined BRIDGE which is a partnership of the Australian Electoral Commission, EAD, IDEA and IFES. The BRIDGE project develops and delivers a training curriculum for electoral administrators in Building Resources in Democracy, Governance and Elections.

Linkages to other democratic governance work

Support to elections has also proven an entry point for other democratic governance focus areas. Synergies that are generated around a specific electoral event can contribute to consolidating democratic processes on a national scale.

Specific entry points include:

- decentralization programmes in support of local elections
- work with the new parliament, its elected members and staff, and political groupings;
- technical assistance to strengthen electoral legislation, which can provide an opening for support to broader legislative reform;
- assistance for voter registration, which can inform the creation of a permanent civil registry;
- voter education to enhance the participation of vulnerable and marginalized groups;
- electoral assistance to support the promotion of the right to access to information; and
- support to election campaigning, offering entry points for advocacy for a freer media.

For more information, see UNDP's *Practice Note on Electoral Systems, Processes and Practices* and the *UNDP and Electoral Assistance: 10 Years of Experience*. For case studies on Pakistan and Rwanda, see pp. 4-5 of *UNDP Essentials: Electoral Assistance*.

There are a number of national and international organizations which provide assistance and support to electoral processes, many having partnership arrangements with UNDP. Partnership development and coordination throughout the different stages of the electoral cycle allow for more efficient and cost effective electoral assistance.

a) UN Department of Political Affairs, Electoral Assistance Division (UNDPA/EAD)

http://www.un.org/Depts/dpa/electoral.html

Within the UN, the Electoral Assistance Division (EAD) supports the Undersecretary General for

Political Affairs in his/her role as the UN Focal Point for Electoral Assistance.

EAD was established in 1992, with its main responsibilities being:

- » evaluation of requests to the UN for electoral assistance;
- » identification and maintenance of UN electoral standards;
- » undertaking needs assessment missions;
- » assisting in the design of electoral assistance project activities;
- » developing operational strategies for electoral components of peacekeeping operations;
- » maintenance of a roster of electoral experts;
- » facilitation of international observation of elections;
- » to serve as the institutional memory of the United Nations in the electoral field.

Other UN entities involved in electoral assistance – in addition to UNDP and EAD – are the Department of Peacekeeping Operations (UNDPKO), the Department of Economic and Social Affairs (UNDESA), and the Office for Project Services (UNOPS). UN Volunteers (UNV), the Development Fund for Women (UNIFEM), and the Procurement Support Office (PSO, formerly IAPSO), are all part of UNDP and are very much involved in specialized aspects of electoral assistance.

b) The International Institute for Democracy and Electoral Assistance (IDEA)

http://www.idea.int

International IDEA is an intergovernmental organization whose objective is to strengthen democratic institutions and processes. Its programmes aim to support democratic reform, undertake policy development and analysis and provide knowledge to democracy builders.

Based in Stockholm, Sweden, it has offices in Africa, Asia and Latin America. It offers knowledge and expertise developed in collaboration with other major actors through global knowledge tools on electoral assistance.

c) International Foundation for Electoral Systems (IFES)

http://www.ifes.org

IFES is an election assistance organization based in Washington D.C., USA. It consists of more than 150 professionals from 25 countries who lead technical assistance projects for international and bilateral donor organizations such as the UN, the United States Agency for International Development (USAID), the UK Department for International Development (DFID), the Organization for Security and Co-operation in Europe (OSCE) and others. Since its inception in 1987, IFES has worked with election assistance and democratic development in over 100 countries.

d) EISA

http://www.eisa.org.za

Formerly the Electoral Institute of Southern Africa, EISA was established in 1996. Its mission is to strengthen electoral processes, good governance, human rights and democratic values through research, capacity building and advocacy. From its base in Johannesburg, the organization assists governments, electoral commissions, political parties and civil society organizations operating in the democracy and governance fields throughout Africa.

e) ACE Electoral Knowledge Network

http://aceproject.org

ACE is a comprehensive knowledge network on elections which is managed by UNDP and includes nine partner organizations: EISA, Elections Canada, the European Commission, IDEA, IFE (Instituto Federal Electoral) Mexico, IFES, UNDESA, UNDP and UNDPA/EAD. The ACE project makes available comprehensive, up-to-date and reliable information on election policy, planning, organization and management to a worldwide audience, and has evolved into a global practitioners' network and capacity development facility.

f) European Union

http://ec.europa.eu/external_relations/human_rights/eu_election_ass_observ/index.htm

The EU is a major global actor in terms of providing and financing electoral assistance and undertaking election observation. Its approach is outlined in the *Commission Communication on Election Assistance and Observation* (2000). The EC has also publicized a Methodological Guide offering field experience, best practices and advice from a donor point of view.

The European Commission and UNDP often work together in supporting elections and have signed a set of *Operational Guidelines on Electoral Assistance* (2006 and updated in 2008) to facilitate collaboration at country level. The two organizations have also developed a Joint Training Initiative to train field staff from both organizations in delivering together effective electoral assistance.

g) The National Democratic Institute for International Affairs (NDI)

http://www.ndi.org/globalp/elections/elections.asp

The National Democratic Institute for International Affairs (NDI) is a non-profit organization working to strengthen and expand democracy worldwide. NDI draws on a global network of volunteer experts to provide practical assistance to civic and political leaders in order to advance democratic values, practices and institutions.

Based in Washington DC, USA, NDI works in every region of the world to strengthen political and civic organizations, safeguard elections and to promote citizen participation, openness and accountability in government.

h) The International Republican Institute (IRI)

http://www.iri.org.

IRI is a nonprofit organization that provides support to developing political parties, civic institutions, open elections, good governance and rule of law. Based in Washington DC, USA and with offices in more than 40 countries, IRI conducts programmes that include training on civic responsibility, the legislative process for newly elected government officials and the mechanics of organizing political parties and election campaigns.

i) The Asia Foundation

http://www.asiafoundation.org/Governance/elections.html

The Asia Foundation supports election programmes in more than a dozen countries across the Asia-Pacific region. The Foundation's election programmes support local initiatives and build on long-term relationships with government and civil society organizations throughout Asia. The Foundation has provided financial support to Asian NGOs for voter education and poll monitoring programmes. The Foundation also provides local

partners with technical assistance in designing and implementing election programmes.

j) The Carter Center

http://www.cartercenter.org/peace/democracy/index.html

Focusing on electoral observation, the Carter Center observers analyze election laws, assess voter education and registration processes and evaluate fairness in campaigns. The Center played a key role together with NDI and UNDPA/EAD in building consensus on a common set of international principles for election observation resulting in the *Declaration of Principles for International Election Observation* and *Code of Conduct for International Election Observers (2000)*. These principles were endorsed by the African Union, the Organization of American States, the Commonwealth Secretariat and the Council of Europe, among others.

2. The UNDP approach to electoral assistance

Rationale for UNDP's involvement in electoral assistance

Assistance to the electoral cycle is a key aspect of the work that UNDP is doing as part of its democratic governance work in order to achieve the Millennium Development Goals.

Given the highly sensitive nature of electoral assistance, UNDP's reputation as an impartial broker constitutes an important advantage in establishing trust between the requesting country, donors and other stakeholders, to enable coordinated and more effective electoral assistance.

UNDP therefore often assumes the role of convener of donor countries for electoral assistance. Examples include Nigeria, (2007), Sierra Leone (2007), Bangladesh (2007/8), Yemen (2007/8) and many others. Through this approach, UNDP plays a significant role in mobilizing external assistance to national electoral processes.

Extent of UNDP support to elections

In 2007, 32 UNDP country offices provided support to electoral systems and processes. The reporting period of 2004-2007 (captured in table 1 below) covered some of the largest electoral assistance missions that the UN have been involved in, including Iraq and the Democratic Republic of Congo (DRC). In DRC, UNDP managed $500 million of donor funding in support of the electoral process and worked with the electoral assistance division of the United Nations Mission in the DRC (MONUC) to deliver this assistance. As seen in the table, about half of the country offices involved in supporting elections are consistently located in Africa.

The *Electoral Systems and Processes* service line averages approximately 21 percent of UNDP expenditures in the area of Democratic Governance. Overall, approximately 8 percent of UNDP's total programme resources are allocated to this important area.

Role and nature of the UNDP support to elections to date

In the conflict/post-conflict settings of Iraq, DRC, Liberia, Sierra Leone and Haiti, UNDP played a supporting and coordination role vis-à-vis the electoral assistance component of the UN peacekeeping and/or political missions.

Country Office and Regional Programmes by Region (2004-2007)

Number of countries/regional Programmes by region	2004	2005	2006	2007
Africa	20	17	17	14
Arab States	7	5	3	3
Asia/Pacific	4	8	8	7
Europe/CIS	2	3	2	2
LAC/Caribbean	8	5	5	5
Total	**41**	**38**	**35**	**31**

In more regular development settings (e.g. in Mexico, Zambia and Yemen) UNDP has taken the lead on a longer term electoral cycle approach to address capacity development, institutional strengthening, participation of women and other disadvantaged groups and the use of appropriate technology in electoral processes.

UNDP also places great emphasis on the link between elections and conflict prevention. In Cambodia, Lesotho, Nepal and Guyana, UNDP has supported civic engagement, electoral system reform, strengthening of the conflict management capacity of EMBs and the role of political parties in electoral processes.

In Guyana, UNDP's Social Cohesion Programme managed a complex set of relationships with the Government, the Guyana Electoral Commission, the donor community and other key stakeholders including civil society and private sector. A key focus of UNDP's support was the promotion of constructive political dialogue and impartial media communications. The elections of August 2006 were the most violence free in recent memory.

UNDP can also play a critical role in times of transition. After an election, there is frequently a change of cabinet members and high level government interlocutors. UNDP can play a crucial role in assisting the government with donor engagement and coordination to ensure that development assistance continues to flow during transition periods. For more information and case studies on Fiji and Guyana, see pp. 5-7 of *UNDP Essentials: Electoral Assistance*.

Provision of UN and UNDP electoral assistance

All UN electoral assistance is based on a request from the Member State. Before the UN decides whether and what assistance can be provided, the needs and political context of a country are evaluated. This is done either through a desk review

Election Expenditure as Percentage of Total (2004-2007)

Practice Area	2004	2005	2006	2007	Total 2004-2007
Democratic Governance	21%	27%	16%	18%	**21%**
Overall UNDP	**8%**	**10%**	**6%**	**6%**	**8%**

by the Department of Political Affairs (DPA) or, in most cases, through a *Needs Assessment Mission* (NAM) which provides technical and political assessments of the electoral environment. NAMs are carried out by DPA's Electoral Assistance Division in cooperation with the UNDP country office and other stakeholders. In a number of cases where the context permits, a NAM is undertaken with UNDP and the assessment and project formulation processed are combined.

The decision for UN involvement is based on whether there is a clear need, whether assistance is likely to improve electoral practices, whether political actors support international assistance and whether UN norms are likely to be respected.

The objectives of UN electoral assistance are to:

(a) assist Member States in their efforts to hold credible and legitimate elections in accordance with internationally recognized criteria
(b) contribute to building a sustainable institutional capacity to organize democratic elections that are genuine and periodic and have the full confidence of the contending parties and the electorate

For more information see the *Department of Political Affairs of the United Nations Secretariat and the United Nations Development Programme: note of guidance on electoral assistance*.

In most cases, when UN electoral assistance is provided, the UN Resident Coordinator/UNDP Resident Representative represents the UN at the country level.

Through its country offices, UNDP plays a lead role in the provision of policy advice and programmes to strengthen sustainable democratic institutions and processes, as well as in the coordination of electoral assistance. Multi-party elections can be complex and expensive undertakings that require a sophisticated governance capacity and a level of resources beyond the reach of many developing countries. External technical and financial assistance can therefore be crucial, particularly for first-time elections undertaken by transitional countries. In this regard, UNDP has often assumed a central role through its strategic position as convener of donor countries for external electoral assistance.

Types of UNDP assistance for the electoral cycle

UNDP electoral assistance is increasingly focusing on long-term capacity development, with priority being given to strengthening national institutions and processes essential to sustainable democracies. This section contains an overview of the types of electoral assistance that UNDP can provide for each part of the electoral cycle.

a) Legal frameworks and electoral systems (pre-election)

Support to strengthening the legal framework for election often involves reforms to make institutions more open, inclusive and representative. Assistance in this area typically includes high-level expert advice, research, legal drafting, public consultations and public outreach.

Electoral assistance to strengthen legal frameworks is intricate and complex and can be perceived as intrusive or biased if providers are not careful. However, where there is a need, this type of assistance is very important in order to ensure a proper legal foundation to enable the holding of democratic elections.

Through helping to design new electoral systems and/or reform existing ones, UNDP can help countries put in place representational arrangements that foster greater accountability between the government and its citizens.

For more information, see the Electoral Systems and Legal Frameworks sections of the *ACE Encyclopedia* and UNDP's *Electoral Assistance Implementation Guide*.

b) Boundary delimitation (pre-election)

Boundary delimitation includes the boundary-setting process for voting areas (also called polling areas or election precincts) needed in order to assign voters to polling places.

It is important to consider the social and political context in which delimitation takes place as well as administrative and cost implications. Boundaries must be adjusted periodically in response to demographic shifts.

For more information, see IFES/USAID's *Delimitation Equity Project: Resource Guide* and IFES' *Challenging the Norms and Standards of Election Administration*.

c) Electoral management design (pre-election)

A priority area of assistance for UNDP is building independent and permanent EMBs through institutional strengthening, legal reform, professional development for election workers, public information and outreach capacity. Technical assistance for the nomination of election board members (i.e. informing the EMB on ways other countries transparently nominate board members) can be critically important to improve public confidence.

Guiding principles for design of EMBs include:

» independence;
» impartiality;
» integrity;
» transparency;
» efficiency;
» professionalism; and
» client service orientation.

Support to EMBs is a feature of almost all UNDP electoral assistance activities, including UNDP's long-term electoral assistance to Mali, Pakistan, Yemen and Mexico.

Further information on this topic can be found in UNDP's *Electoral Management Bodies as Institutions of Governance*, in the section on Electoral Management of the *ACE Encyclopedia* and in IDEA's *Handbook on Electoral Management Design*.

d) Planning and capacity development (pre-election)

The aim of capacity development in electoral assistance goes beyond a single electoral event, and aims for the development of professional, inclusive and sustainable institutions and processes that enable people to freely choose their representatives.

Support to capacity development of the EMB is at the heart of UNDP's electoral assistance, with assistance focusing on strengthening election planning, monitoring and budgeting to enable the EMB to plan and conduct elections in a professional and sustainable manner. A major component is support for voter registration, including electronic, continuous registries that can help reduce the overall cost of elections. Such long-term

capacity development has been a feature of UNDP programmes in Bangladesh and Mozambique.

EMBs typically need skilled personnel to:

- conduct training needs assessments;
- prepare electoral budgets;
- procure electoral equipment;
- conduct voter registration;
- understand party and campaign financing;
- conduct or supervise voter and civic education;
- help manage and coordinate stakeholder activities;
- engage in public affairs and communication;
- manage logistics for the election, including result reporting and tabulation;
- advise and apply electoral law reform; and
- organize and support observation.

At the systems (country) level of electoral assistance, capacity development aims at creating an enabling environment for credible elections through reform of electoral institutions, polices and laws as well as enhancing the ability of civil society, political parties and voters, in particular the traditionally marginalized, to participate in elections.

At the individual level, capacity development is aimed at enabling voters and candidates to participate in the electoral process, while freely exercising their choices.

For more information, see sections on Designing and Planning Electoral Assistance and Capacity Development of Electoral Authority in UNDP's *Electoral Assistance Implementation Guide.*

e) Civic and voter education (pre-election)

Support to civic and voter education aims to increase democratic participation, particularly among women and the poor. Successful civic and voter education programmes create a general awareness and understanding of electoral and democratic processes by providing citizens with information and encouragement to defend their rights, promote their interests in electoral and other democratic fora and contribute to society through appropriate civic actions.

Civic and voter education often involve the media, for example through training of journalists or assisting in the development of programmes for TV and radio. UNDP has pursued such work in Kenya, Armenia and Sierra Leone, among other locations.

Civic and voter education do not end with elections. For example, in 2002-2003, UNDP sponsored post-election voter education programmes in Lesotho to consolidate voters' understanding of new electoral legislation. UNDP also provided support for the creation of a post-election civic education strategy in Cambodia, Bangladesh and Indonesia.

Special circumstances, such as illiteracy or a plurality of spoken languages, must be taken into account and particular emphasis should be placed on the right of women to vote and to be elected. In Yemen, the targeted efforts at women's voter education resulted in a doubling in the number of women voters between the 1997 and 2003 parliamentary elections, so much so that almost 75 percent of the registered female voters participated in the 2003 elections.

f) Voter registration (pre-election)

Voter registration is complex, laborious and often the most expensive, time-consuming and controversial part of the electoral process. Modalities for voter registration range from high-tech to manual, from periodic to continuous. In some systems voters are asked to shoulder the burden of registration and in others the state tracks and updates their information. While many countries opt to combine civil and voter registration, so that a voters' list can simply be extracted from the civil registry when needed, other countries have political and social traditions that resist the centralization of such information. Hence, external assistance is often requested for comparative methods of voter registration and their costs and benefits, especially for adaptations to new technology such as digitalization of the voter roll.

For more information on civic and voter education and voter registration, see the relevant sections in the ACE Encyclopedia.

g) Assistance to political parties (pre-election)

Assistance to political parties is a highly sensitive issue where UNDP holds a comparative advantage because of its non-partisan approach. UNDP's work with political parties seeks to ensure their engagement in voter registration and education efforts, improve campaigning and media strategies, strengthen party caucuses within legislatures and make parties accountable for commitments to address gender imbalances at the leadership level.

A recent (2008) survey reveals that on average UNDP engages with parties in one quarter of the programme countries. Political party support is, moreover, delivered in a wide range of political environments, including Guinea, Sudan, Cambodia, Thailand, Kazakhstan, Tajikistan, and the Arab region (through a regional parliamentary programme). For more information see UNDP's *Handbook on Working with Political Parties* and IDEA's *Funding of Political Parties and Election Campaigns: Handbook Series*.

h) Voting operations (election)

The many aspects of the electoral process must come together in one well-functioning operation on Election Day. However, some contingencies will always arise, such as:

- late or incomplete delivery of materials;
- errors in materials and voter lists;
- polling staff not turning up or behaving inappropriately;
- attempts at fraud;
- political contestants challenging the election; and
- security incidents.

Increasingly, countries are creating arrangements for out-of-country voting, with more than 90 countries now allowing for this. Increasing migration and globalization are among the key reasons for these arrangements. UNDP provided support to the UN effort to organize out-of-country voting for the Iraqi elections in 2005.

For more information, see the section on Voting Operations in the *ACE Encyclopedia*.

i) Vote counting (post-election)

The credibility of the electoral event very much depends on how results verification is conducted and perceived.

Some of the main threats to transparency and credibility of election results are:

» poor technical management of results (e.g. technology failure, administrative errors);
» lack of understanding of electoral system and results aggregation system;
» unrealistic expectations from stakeholders (including EMB) of new technology;
» fraud and manipulation of result tabulation; and
» biased, unclear or inadequate complaints and appeals procedures.

Some of the areas in most need of support are:

» legal, regulatory and procedural frameworks;
» procurement and security issues;
» software design and management;
» testing and verification of materials and systems;
» impartial procedures to manage objections and disputes; and
» responsiveness to complaints and concerns.

Results and Media Centres often serve the purpose of highlighting the overall efforts made by the EMB to organize the elections. Results and media centres can allow for national aggregation in full sight of observers, political parties and media, providing greater confidence in the process.

j) Electoral dispute resolutions (post-election)

A continuing area of concern and request for assistance is the resolution of electoral disputes. The legal framework for elections should always provide effective mechanisms for the enforcement of electoral rights. The legal framework for elections must set forth sufficient provisions protecting voting rights as well as the many other potential areas of dispute that may arise before, during and after elections.

There is wide variation in the ways electoral disputes are resolved. Best practice in this area requires that at a minimum, every voter, candidate and political party have the *right to lodge a complaint* with the competent election commission or court. Best practices also show the appropriate election commission or court rendering a prompt and fair decision. Moreover, the electoral law should provide for the *right to appeal decisions* to an appropriate higher entity. Last but not least, the concerned institutions should be able to process complaints and appeals in a timely and transparent manner.

For more information, see the *ACE Encyclopedia* and IDEA's *Handbook on Electoral Dispute Resolution*.

k) Post-election assistance

Post-election assistance is key for strengthening institutions and the democratic environment beyond electoral events. Typical support areas include revision of the legal framework, boundary delimitation processes, electoral system redesign, capacity development of political parties and long-term assistance to EMBs. UNDP has provided post-election assistance in a number of countries including Liberia, Yemen, Mexico and Ethiopia. The analysis of the 2007 country office reporting shows that, for the first time ever, more UNDP country offices are providing electoral assistance in the post-election period than in the election period.

In the aftermath of an election, there may be a tendency among donors to move toward strengthening of other democratic institutions (e.g. recently elected parliaments). This can lead to a loss of momentum for long term support to EMBs after the Election Day.

Post-election support in Ethiopia

In Ethiopia, continued support for the Electoral Management Body was critical to ensuring that lessons learned after the 2005 election could be used to improve processes and institutional structures. An election expert spent two days facilitating an internal session with the EMB so that staff could reflect on the process and make recommendations on how it could be improved for the upcoming local elections.

The EMB agreed to a complete restructuring of the institutional setup, which included the creation of regional offices. Election experts worked closely with the Civil Service Commission to propose a new organigram and to revisit job descriptions to ensure that the EMB continued to prepare for future elections. The new organigram was approved by the Parliament in 2006.

Supporting electoral management and voter registration in Bangladesh

In 2007-8, UNDP worked with the Election Commission of Bangladesh to create a digital photo voter list for Bangladesh's approximately 80 million voters. Through the initiative, Bangladesh set a world record for electronic registration of the largest number of voters in the shortest period of time. UNDP played a key role in this, together with eight other development partners, bringing together contributions worth over $50 million.

The issue of the accuracy of the voter roll is a critical one in Bangladesh, where it was estimated that approximately 21.2 million names on the roll were in error or duplicates and where the issue was a main cause for postponement of past elections.

Over 10,000 laptops with webcams and fingerprint scanners had to be procured and distributed across the country; 100,000 voter registration centres were set up; and 3000 power generators and innumerable vehicles were mobilized. The project also trained 62,000 supervisors, 200,000 enumerators and 70,000 data entry operators.

For more information on the above and other case studies, see: http://www.undp.org/governance/sl-elections.htm.

Strengthening the EMB in Yemen

Since 2002, UNDP has provided a two-phased project of support to the Supreme Commission for Elections and Referenda (SCER). Phase II of the project (from 2004 to 2006), which was implemented in partnership with the European Commission, provided on-site technical assistance to the SCER for the Presidential and Local Council elections in September 2006. The overarching goal of the support was to contribute to ensuring the development and sustainability of institutional capacity of the SCER to organize free and fair, periodic and transparent elections that have the confidence of the Yemeni electorate and political constituencies.

The current project of support (2007-2011) incorporates into its design lessons learned and progress achieved during Phases I and II of the SCER support projects. The main concrete elements raised by the evaluators of the previous elections projects can mainly be summarized under three main categories; (a) the election procedures and process (b) electoral legal issues, and (c) gender and Civil Society Organizations (CSOs) participation in the electoral process. All of the mentioned issues have a capacity development component that includes the administrative, legal and financial reinforcement of the main SCER office and its branches.

First-time elections in Bhutan

The world's youngest democracy, the Himalayan Kingdom of Bhutan, held its first ever multi-party democratic elections to elect a National Assembly in March 2008. UNDP supported the emerging democratization process in Bhutan through civic education, promoting transparent and accountable government structures and strengthening a vibrant and independent media. Specifically, the institutional and human capacity of the Election Commission of Bhutan, established in 2006, needed strengthening in order to carry out its responsibilities during the first ever parliamentary elections. The UNDP project helped the Commission to meet its main objective to create an environment conducive to free and fair elections, so that all Bhutanese women and men who are eligible and interested could take part in the elections.

UNDP's support focused on human capacity development of electoral officers/staff on election management and trained other key actors such as the media. The project also supported the procurement of electoral equipment and the printing and dissemination of voter education materials.

As elections are a new experience for Bhutan, the Commission had an enormous task of educating and training citizens throughout the country on the electoral process. The project supported the development and dissemination of voter education material. A notable example is the Bhutan Voter Guide, which helped create a greater awareness and understanding of the electoral process among voters, particularly women, youth and people in remote areas. The project supported voter and civic education through the mass media. Feature films on democracy and election were produced. Story-lines covered how democracy impacts on village life and villagers' participation in local and national decision-making.

4. Practical programming guidance

Situation analysis and risk assessment

A political situation assessment can help determine whether the environment in a country is suitable for the organization of free and fair elections. The UN focal point decision on whether the UN will be associated with an electoral process in a Member State is made on the basis of the political situation in a country, the level of support for UN involvement among national actors and the likelihood of international standards being adhered to.

Where an assessment mission has been deemed necessary, UNDP typically provides EAD staff members with a political briefing and schedules appointments with key actors such as representatives of political parties, the executive, the legislature, the judiciary, the press, business community and civil society.

For more information on this topic see the UNDP *Practice Note on Electoral Systems and Processes* (pp. 15-20); as well as DfID's *Elections and the Electoral Process: A Guide to Assistance*.

Needs assessment

The needs assessment process aims to evaluate the financial and technical needs of the requesting country. The following are some typical questions that have been addressed in previous assessments:

1) Lessons learned

» What have been the lessons learned of previous UN involvement (if any) as well as recommendations of national and international observer missions? To what extent have these been addressed?

2) Legal framework

» What does the electoral framework look like in terms of the constitution and other fundamental texts? Who is responsible for administering elections? Does the legal framework provide for an independent electoral management body with its own powers, budget and controls?

» What is the level of expressed need within society and political will for legal reform around the electoral process?

» To what extent are political parties subject to regulation through registration and monitoring of party finances? Who is responsible for the oversight of political parties?

» What is the method by which votes cast are translated into seats/offices won? Does this represent a change over previous elections and if so, why was the change made?

» Is there a legal framework for the resolution of election disputes?

» What is the level of commitment of stakeholders to political or electoral reform?

» What specific reforms might improve the electoral environment?

3) Participation by women and minorities

» What are the key constraints to the political participation of vulnerable and marginalized groups such as minorities, women, youth, the illiterate, the disabled, or people living in remote areas? What is required to enable their participation?

» How engaged are women in political and electoral processes? What is the proportion of women in parliament? Are women candidates actively sought out and supported by parties? Are there gender or other quotas? Is the media coverage of women in politics based on issues and performance?

4) Electoral Management Institutions

» Does the EMB have the confidence of government and citizens? Is the EMB perceived to be independent, impartial, accountable and efficient? Has there been any history of interference in the affairs of the EMB?

» Does the EMB have effective relationships with political parties, civil society, media and other key stakeholders?

» What is the management structure of the EMB? Is the EMB represented in regional areas or does it rely on local government networks to act as its agents? How are appointments to the EMB made and does the appointments process have any bearing on perceptions of independence?

» Does the EMB receive an adequate budget in a timely manner from the government?

» Does the EMB have adequate facilities to conduct its work (offices, warehouses, transport, communications etc.)

» Are staff members of the EMB permanent civil servants? Is the EMB committed to the professionalization of its staff?

5) Voter Registration

» Is there a voter registry? Is it regularly updated? Is a new voter registry required (e.g. to

establish an electronic, centralized registry)? Is registry data vulnerable to tampering?

» Does reliable census data exist upon which voter registration activities are based?

» Has boundary delimitation been carried out at appropriate intervals? What criteria have been used?

» What are the proportions of men to women registered? Are young people registering? If not, why? Are the numbers of persons registering in remote regions the same proportionately as those registering in urban areas?

» What are the criteria for voter registration? What special issues need to be addressed (e.g. citizenship, internally displaced people, refugees, out-of-country registration)?

6) Voting Operations and Compilation of Results

» What do observer reports say about the management of the election process, timeliness and accuracy of dissemination of materials and the knowledge of polling officials?

» Is the process of voting manual or electronic? Where are the votes counted (at polling station level or regionally)? Are the counting and results transmission processes transparent? Do political parties receive a copy of the preliminary vote count?

» What are the impediments, if any, to rapid collation and announcement of results? Is there a centralized process of announcement and access to information by media?

» Is there a domestic observation force? Is it well trained?

7) Civil Society

» Are there enduring civil society structures and umbrella bodies? How well represented is civil society in non-urban centres? To what extent is civil society politicized?

» To what extent is the NGO sector controlled by government regulation? How engaged is civil society in civic and voter education?

8) Political Parties

» Is it a party-based political system? Which are the main political parties and what is the balance of parties in the parliament?

» Are parties based around ethnic/tribal groupings or are parties differentiated in terms of ideology, policy and platform? Do parties operate effectively in regional areas?

» Do parties receive funding from government and/or international bodies? What are the requirements for the reporting of funding and expenditure by the parties?

» Is there a Political Parties' Code of Conduct? Are party nomination processes transparent and subject to public scrutiny?

9) Media

» What is the balance between state-owned versus independent media? What proportion of media is owned or influenced by political parties or politicians?

» Has there been a previous media monitoring exercise in terms of qualitative and quantita-

tive election coverage? What is the standard of journalism training and practice and of independent, accurate and impartial reporting? Is access to the media provided to all parties? Is there a Media Code of Conduct governing the election period?

» Does the NGO sector utilize media as a tool of education? To what extent do media owners and editors engage in voter education?

10) Security

» Have previous elections been marred by violence? If so, has this been widespread or focused in particular areas? Is election-related violence a top-down or grass-roots phenomenon? Is enforcement of election and campaign laws applied equally to government and opposition parties?

» What is the role, if any, of private security forces? What has been the role of police in controlling or encouraging election-related violence? How effective is the relationship between the EMB and the police? Are police officers aware of their specific election-related responsibilities?

11) Coordination

» Who are the key stakeholders (domestic and international), and what is required to optimize their participation?

» What is the view of donors towards (i) a coordinated approach to election funding; (ii) their commitment to participate in an election programme; (iii) programming priorities; and (iv) funding modalities?

» In light of the expressed priorities, what kind of specialized staff is needed?

» In light of probable donor commitments, what are the most appropriate management structures for the programme? Who might take role of lead donor?

For more information, see UNDP's Electoral Assistance Implementation Guide, Chapter 7.

Developing a strategic plan

Electoral assistance should ideally continue in the immediate period after the last election as part of a long-term, electoral cycle approach. However, if there is no continuous programme in place, preparations should begin at least 18 months in advance of a given electoral event. An important first step is to review the UNDP country office's prior involvement in electoral support, paying close attention to challenges and lessons learned.

A strategic plan for supporting elections must find ways to address key risks such as political unrest, security, logistical challenges, or capacity shortfalls. It may be beneficial for planners to conduct a SWOT[34] analysis.

Ideally, EMBs should have a strategic plan of their own prior to the design of the UN assistance project. This is important for ownership as well as to ensure that the requesting countries' own perceived needs and priorities are addressed to the extent possible.

Essential aspects to cover in an electoral plan include:

» partnership-building among domestic and international actors;

34 Strengths, Weaknesses, Opportunities and Threats.

» identification and mobilization of stakeholders;
» mapping the electoral cycle;
» identification of where in the electoral cycle assistance is needed, wanted and feasible;
» building a timeline of key events and work processes;
» budgeting and procurement; and
» mobilization and management of resources.

The Strategic Plan constitutes key input to a project document for electoral assistance. For more information, read the section entitled Designing and Planning Electoral Assistance in UNDP's *Electoral Assistance Implementation Guide* (chapter 2).

Electoral procurement

A key element of UN support to elections is procurement, which is often large-scale, sensitive and essential to the successful organization of elections. An electoral assistance procurement strategy must meet the following requirements:

» Delivery of all goods and services in due time for voter registration, voting operations or any electoral process without delay or shortfall;
» Confidence among stakeholders that the procured materials are appropriate;
» Cost-effectiveness through implementation of a transparent and competitive process;
» Sustainability;
» Avoidance of unrealistic expectations.

Cumbersome tendering processes vulnerable to manipulation may delay procurement of election materials and increase the costs. UNDP, through the Procurement Support Office, can assist with transparent tendering processes given sufficient lead time. In any electoral assistance project managed by UNDP, UNDP's procurement rules apply. UNDP country offices have learned that it is important to:

» involve procurement advisory support from Copenhagen and/or New York, retain procurement staff and prepare a procurement plan early in the project design;
» get samples of all sensitive materials prior to placing orders;
» undertake tests to validate the pre-procurement evaluation for complex products such as digital voter registration, e-voting systems etc.;
» use outsourcing to avoid political pressures; and
» not wait for funds, but start the procurement process in order to save time.

For more information see *Comparative Costs and Cost Management. Case Studies Report* by Rafael López-Pintor, pp.13-54 in UNDP & IFES, *Getting to the Core: A Global Survey on the Cost of Registration and Elections; Cost of Registration and Elections (CORE) Project* by Fischer, J. and Lopez-Pintor, R and UNDP's *Electoral Assistance Implementation Guide* (chapters 4 and 5).

Using appropriate technology

For the past 25 years, new developments in Information and Communication Technology (ICT) have dramatically changed the operational methodologies for elections, especially with regard to:

» voter registration;
» boundary delimitation;
» operational planning;
» public information and voter education; and
» results analysis.

When used, ICT solutions should be implemented in good time before an electoral event. It should

be legally supported, cost-effective and sustainable for the longer term. Technology should not be driven by donor or vendor interests or be prioritised at the expense of more important needs.

For more information see section on Elections and Technology in the ACE Encyclopedia; as well as IFES' *Challenging the Norms and Standards of Election Administration* (pp. 11-19 on electronic voting, and pp. 21-31 on EMBs and the use of internet).

Coordination and fund management arrangements

a) Donor partnerships

Multi-party elections are complex and expensive undertakings that require a sophisticated governance capacity and a level of resources beyond the reach of many developing countries. UNDP can play a significant role in mobilizing international assistance to electoral processes.

Management structures will differ from one context to another. Election support programming carried out within peacekeeping or other political mission structures led by a Special Representative of the Secretary-General (SRSG) will differ from that managed by a UNDP country office in a more stable environment. In a peacekeeping context, the SRSG heads the overall mission and is supported by deputies responsible for political and development/humanitarian areas. It is vital that the political and development interests are communicating and coordinating closely.

The term 'integrated mission' refers to the strategy of placing all components of UN support – peacekeeping, humanitarian and development – in line to achieve a transition from peace to development. Integrated missions differ in their setup, with some having an Executive Representative of the Secretary General who is also the top humanitarian and development official in the country (wearing the so-called, "three hats") such as in Sierra Leone. In DRC, the Deputy Representative of the Secretary General in charge of the electoral assistance portfolio was also the UNDP Resident Representative. In more regular development contexts, the UNDP Country Office takes the lead among the UN on coordination and management of electoral assistance, either directly or through a Programme Management Unit.

b) Funding mechanisms

Mobilizing resources and contacting potential donors should start during the needs assessment phase. A range of funding mechanisms is open for consideration.

The two major types of mechanism are *pooled* (or *basket*) *funds* involving coordination among multiple donors and *bilateral* (*or direct*) *funds* usually given by a single donor directly to a host country government or institution. A third option that has characteristics of both direct and pooled funding is referred to as *joint project funding*.

Basket Funds

A basket mechanism is not a funding mechanism per se, but rather a modality that enables development partners to provide electoral assistance through a single basket with a common management structure. Baskets can accommodate cost-sharing arrangements or trust fund agreements. They provide for a high level of efficiency in resource use and service delivery by helping to avoid duplication of efforts.

Basket arrangements simplify administrative burdens associated with the multitude of agreements,

budgeting and reporting requirements that would be required if each development partners was to have a separate support agreement with recipient organizations. A common management structure means that baskets provide better overview of programming and disbursement. Very importantly, basket arrangements provide a common voice and presence for donors in what can be a volatile environment.

Basket arrangements require compromises to agree on common objectives. Donors may find that their specific political or strategic interests may be less identifiable in a basket arrangement. Some donor countries may be restricted altogether from contributing to a common basket.

There is a growing trend towards using a UNDP-managed basket, with this approach having been used in countries such as Tanzania, DRC, Sierra Leone, Nigeria and Togo.

Bilateral Funds

Some donors (e.g. USAID) may not be able to contribute to pooled funds due to administrative requirements and thus prefer to contract agencies or organizations directly to deliver support. Some donors may opt to support the basket approach by funding an activity identified in the common project but using bilateral funding outside the basket. The key factor to successful bilateral funding is participation in and commitment to a comprehensive coordination and information sharing process with other donors.

Fund Management and Disbursement

UNDP-managed basket funds can be set up as a standard UNDP cost-sharing agreements or trust fund or both modalities at the same time. The choice between these options and their relative benefits and drawbacks should be analyzed carefully.

Cost-sharing arrangements entail a simplified joint management of donor financial support. The country office has the authority to enter into these agreements so long as they are consistent with current UNDP legal models and regulations.

Multi-donor trust funds usually involve providing each partner with separate progress and financial reports. Some donors, however, only operate through specific (closed) trust funds with UNDP, EU being one example. Trust funds need clearance from the UNDP Associate Administrator and hence, sufficient time must be factored in for headquarter processing.

c) Programme monitoring and evaluation

For the monitoring and evaluation (M&E) of election projects, the following are some key issues to keep in mind:

- Ideally, the EMB should drive the M&E process. In carrying out its responsibility for M&E of progress towards outputs and outcomes, UNDP must keep in mind the need to encourage EMBs to take responsibility for monitoring and evaluating their own structures and processes.
- Regular monitoring reports and evaluation reports should be shared with EAD.
- Adequate resources for M&E must be set aside at the design stage of the project. The budget may need to include the cost of monitoring visits or a mid-term review by external experts or UN/UNDP policy advisors.
- The scope and objectives of evaluations should be defined in the project document.

» M&E reports and lessons learned should be shared as widely as possible with stakeholders (donors, government, civil society etc). Consultants employed by the project should be evaluated and reports shared with EAD.

5. Resource section

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Public Administration Reform

7 Public Administration Reform

This chapter covers the following topics:

- Key concepts and issues in public administration reform (PAR)
- Recent trends and approaches
- Links between PAR, democratic governance and development
- Main actors and their roles
- UNDP's approach to PAR
- Practical guidance for programming

1. Concepts, issues and trends

What is public administration?

Public administration is one of the main vehicles through which the relationship among the state, civil society and the private sector is realised. It refers to:

- the aggregate machinery (policies, rules, procedures, systems, organizational structures, personnel) funded by the state budget; and

- the management and implementation of government activities dealing with laws, regulations and decisions of the government as well as the management related to the provision of public services.

Public administration reform (PAR) refers to structural and/or process changes in areas such as organizational design, decentralization, personnel management, public finance, results-based management, access to information, and interaction with civil society and the private sector. Reforms can be comprehensive, covering a wide range of areas, or targeted, such as the revision of a civil service statute.

The evolution of PAR

Ideas for *public administration for development* – how to meet development goals when resources are scarce and capacities are limited – are continually evolving. The table below indicates some of the changes in approach:

Over the past 25 years, increasing concern for PAR in developing countries has derived from three intellectual threads:

Structural adjustment programmes, which were mainly initiated in view of fiscal pressures, concerns over budget overspending and overstaffed government machineries. They focused on reducing government costs, downsizing public

Traditional approach	Contemporary approach
Big government	Smaller government, restraint on public spending
Foreign expertise	Domestic capacity development
Top-down decision-making	Paricipatory/decentralized decision-making
Civil service delivers according to top-level mandates	Civil service delivers on top-level mandates but can feed ideas upward into the decision-making process
Minimal consideration for traditional culture	Human rights approaches (urban/rural, gender, diversity)
Limited public access to information	Mass communication, right of access to information

service and privatization. They have rarely been successful.

New public management aimed to improve the quality and efficiency of public service delivery. It focused on decentralization and on separating policy-making and implementation functions, and encouraged use of private partners for service delivery. New public management informs much of the current thinking on PAR.

Finally, the decline of single-market economies and one-party systems has also had significant influence on PAR, as democratization processes have called for increased accountability, responsiveness to citizens' concerns and more participatory approaches to decision-making.

According to Tait (2000), a modern public service reflects values that make it:

a) *democratic* (responsible government, rule of law, support for democracy, respect for the authority of elected office holders, loyalty, neutrality, accountability, due process);

b) *professional* (neutrality, merit, excellence, frankness, service to clients, teamwork, initiative, creativity, quality);

c) *ethical* (integrity, honesty, prudence, impartiality, equity, discretion, public trust); and

d) *people- oriented* (respect, caring, courtesy, tolerance, openness, participation, fairness, moderation, decency, humanity, courage)

Recent trends and approaches

Key trends and emerging issues affecting contemporary public administration include:

- globalization;
- decentralization;
- public-private partnerships;
- e-government;
- rights-based approaches; and
- transparency, accountability and anti-corruption.

a) Globalization

One of the most significant changes for public administrations has been the globalization of information flows. Not long ago, knowledge of government performance was limited as governments operated in relative isolation. Now, global integration, money flows, information and media are focusing more attention on the public sector. In order for public administrations to remain

adaptable to a rapidly changing global society, continuous reform is required.

b) Decentralization

Effective public sector management is concerned with more than improving structures and systems. It is also about bringing together civil society, the private sector and the public sector to improve service delivery and broaden citizen participation in decision-making. Bringing government closer to the people requires increased attention to decentralized and democratic local government. In many countries, decentralization provides the context in which PAR is introduced.

c) Public-private partnerships (PPP) for public service delivery

PPP is a system in which a government service is funded and operated through a partnership with a private sector company or NGO. With the advent of new public management, PPPs have flourished.

d) E-government

E-government is the exchange of government information and services with stakeholders through information technology. It aims to improve efficiency in internal government operations and public service delivery and to provide for open and transparent processes, as well as greater citizen participation and involvement.

e) Rights-based approach

An effective public administration is essential to a human rights-based approach to development[35]. The rights-based approach seeks to develop not only the capacities of rights-holders to claim and exercise their rights, but also of duty-bearers to fulfil human rights obligations. It increases pressure on the public administration to put citizens at the core of public policy and of development strategies, with particular attention to poor and marginalized groups. The following are key aspects of this approach:

» *Participation and transparency in decision-making:* participation throughout the development process is a right, and obliges the

35 See Chapter 1 Democratic Governance and Human Rights.

Different forms of decentralization

The term decentralization is usually applied to any shift away from the centre, whether administrative, political or fiscal. There are three main models of decentralization:

1) Deconcentration takes place when central government disperses responsibilities for certain services to its regional or local offices. This does not involve any transfer of authority to lower levels of government.

2) Delegation refers to a situation in which central government transfers responsibility for decision making and administration of public functions to local governments or semiautonomous organizations while retaining supervisory powers at the centre.

3) Devolution takes place when central government transfers authority for decision making, finance and management to elected bodies with some degree of local autonomy. Local governments have legally recognized geographical boundaries over which they exercise authority and within which they perform public functions.

state and other actors to create an enabling environment.

» *Non-discrimination:* equity and equality cut across all rights and are the key ingredients for development and poverty reduction.

» *Empowerment:* people should be enabled to exercise their human rights through social, political and legal action.

» *Accountability of actors:* public and private institutions and actors should be accountable to the public to promote, protect and fulfil human rights and to be held responsible if these are not enforced.

f) Transparency, accountability and anti-corruption

Transparency in decision-making and accountability to the public are essential elements in a human rights-based approach to PAR. Anti-corruption efforts aim to strengthen accountability, integrity and transparency in public administration as well as in private organizations and citizens.

Main actors and their roles

Effective PAR requires the synergy of various political and non-political actors.

Multilateral and bilateral donors have increasingly considered governance and PAR as essential to achieving the MDGs, reducing poverty and promoting economic growth. Donors have supported, inter alia, the development of governance indicators, e-government applications, civil service professional development and citizen involvement in transparent budgeting. Donors can assist with needs assessments, sharing knowledge and expertise and identifying change agents whose interests are consistent with citizen-centred service delivery and democratic reform. Fundamentally, however, PAR must be driven by domestic actors who will help to ensure relevance, ownership and sustainability.

For public service professional development, *international and regional public administration networks* can be a key source of inspiration, research and information exchange.

Local Transparency in Honduras

Municipal governments were perceived by Hondurans to be among the most corrupt institutions in the country. In support of decentralization in Honduras, UNDP formed strategic alliances with municipalities to strengthen local government through promotion of local transparency mechanisms and civilian participation in decision-making processes.

Workshops were held to identify local leaders who could help create transparency commissions for promotion of transparent management at the local level. Manuals for social auditing were prepared and training provided for commission personnel.

Alliances with NGOs, mayors' offices, municipal leaders, the National Commission of Human Rights and other development projects were part of a strategic effort to ensure a high level participation of stakeholders. For more details, see UNDP's *Experience in Local Transparency in Honduras*.

2. Public administration reform, democratic governance and development

The Millennium Declaration recognises good governance as an important means for achieving the MDGs. An efficient, responsive, transparent and accountable public administration is a central part of democratic governance. It is also the basic instrument through which government strategies to achieve the MDGs can be implemented.

Public administration plays a major role in the delivery of services and much needed economic infrastructure, particularly in Least Developed Countries (LDCs) and post-conflict situations where the private sector is underdeveloped.

Strong governance institutions and effective public administration are critical elements to successful economic reform and human development. Supporting PAR is a means towards improving governance and achieving development goals such as equitable growth, poverty reduction, peace and stability.

Democratic governance is not possible if public administration systems are weak. When public institutions lack capacity to manage integrity, efficiency and effectiveness, it becomes difficult to implement laws and policies that ensure accountability, transparency and citizen-centred service delivery.

A weak public administration system may be linked to a range of governance deficits that have negative consequences for development. These include:

» *Reduced economic growth and foreign direct investments*. Private sector transaction costs increase when public administration is inefficient, thus discouraging business operations, economic growth and employment.
» *Human rights violations*. When public administration is weak, basic human rights and liberties come under threat. In addition, public service delivery deteriorates if human rights are not enshrined in public sector culture, institutions and processes
» *Diminished trust in government*. When citizens do not see services delivered according to their perceived rights, or when public administration processes are cumbersome, corrupt or inequitable, trust in government diminishes.
» *Increased susceptibility to corruption*. Lack of transparency and accountability, unchecked discretion of public officials and lack of ethics standards in public administration increase opportunity for corruption.
» *Decreased government revenues*. State resources can be lost through inadequate capacity for tax and revenue collection and resources can be diverted. Lower revenues mean less money for governments to respond to the needs of society, which particularly affects the poor.
» *Ineffective government regulations*. Poor administration and enforcement of policies and regulations often leads to inequity as well as impunity.
» *Environmental degradation*. Lack of policy formulation or ineffective enforcement of environmental regulations can have a negative impact on the environment.

3. The UNDP approach to public administration reform

UNDP supports PAR as an important means for reaching the MDGs. Support to PAR is linked to achieving the MDGs in several ways:

» *Optimization of resources:* More resources in poor countries are directed to pursuit of the MDGs when public administration efficiency improves by increasing transparency and fighting corruption.

» *Provision of sustainable, responsive public service:* A public administration that responds to the needs of citizens, especially the poor and disadvantaged, is critical to ensuring development and achieving the MDGs.

» *Increased accountability of state institutions:* Accountability of state institutions to citizens helps to strengthen democracy, which is key to achieving the MDGs.

The UNDP comparative advantage

UNDP is well placed to support governments in the often sensitive area of governance, of which public administration is a key part. UNDP's focus on governance provides the ideal platform for an integrated and holistic approach to PAR. UNDP's key strengths include:

MDG-oriented mandate: UNDP emphasizes the voice of the poor to governments. UNDP approaches PAR from a human rights-based, pro-poor perspective and has a proven expertise in areas including public service delivery, access to information and participatory policy-making.

UN identity: UNDP is widely trusted by governments, NGOs, business communities and labour organizations, and leverages its credibility to convene development actors and facilitate open and participatory dialogue. As a broker of knowledge and innovative ideas, UNDP fosters trust and confidence to help governments identify and pursue appropriate policies.

Political impartiality: Rather than putting forward standardized theoretical or ideology-based approaches, UNDP is in a position to assist local partners in identifying, adapting, testing and deploying workable solutions. As a neutral broker, UNDP also facilitates professional networking to exchange experiences and good practices

Universality: UNDP is part of the UN family of agencies and is present in over 166 developing countries. Interventions benefit from the global and domestic experience of the larger community of practice in democratic governance.

The UNDP mandate to reduce poverty and foster respect for human rights implies designing programmes that will have the highest long-term impact on the poor and disadvantaged, especially women and marginalized groups. In the design and implementation of PAR programmes, UNDP is especially concerned with ensuring participation of these stakeholders.

Principal issues and UNDP support areas

PAR can be divided into four interconnected areas:

a) Policy-making

Reforms to increase the efficiency and responsiveness of the policy-making system focus on the policy-making bodies of government such as the cabinet or council of ministers, the presidential office and ministerial cabinets.

The politically sensitive nature of policy-making has meant that few donors have had much involvement in this area until recently. Traditionally, policy-making processes have been non-transparent. In many donor-dependent countries, the priorities of policy-making bodies have been ad hoc and set through donor pressure. In recent years, however,

some donors, notably in the context of the poverty reduction strategy papers (PRSPs), have focused on improving the policy-making process. Common PAR challenges are improving data collection to improve evidence-based policy-making and linking national policy goals with national budgeting.

Examples of interventions to support policy-making reforms are:

» strengthening the cabinet secretariat or equivalent;
» creating coordination mechanisms for policy-making and implementation;
» developing a process for setting a policy-making agenda;
» designing a system to ensure that draft policies are based on sound analysis;
» establishing systems to disseminate policy decisions and monitor implementation; and
» supporting legislative drafting processes.

b) Institutions and processes: reforming the machinery of government

The machinery of government refers to rules and guidelines, the allocation and reallocation of functions between and within departments (organization design) and processes for effecting government policy. Reforming the machinery of government may include changes in:

» the type of departments and their interrelationships;
» the allocation of functions between and within departments;
» the allocation of functions to bodies other than ministerial departments (e.g. creation of executive agencies and privatization of government bodies);
» interaction with citizens, NGOs and the private sector; and
» procurement processes.

c) Financial management

Reforming the financial management system involves looking at budget preparation and resource allocation, systems and processes for revenue and expenditure management and accountability mechanisms.

A country's budget *indicates the government's policy priorities and the corresponding spending*. The total expenditure should be closely aligned to what is affordable over the medium term and, in turn, to the annual budget. Furthermore, government spending should produce intended results at the lowest possible cost.

Ultimate oversight of public sector finances rests with legislative bodies. Other oversight institutions, such as the auditor general, also strengthen financial management systems. The public service is involved with communicating budgetary needs to policy and legislative bodies and bringing these to the public through implementation of policies and programmes based on government priorities and available resources. Thus, public sector financial management is a holistic system linked to policy-making, the civil service and institutions and processes of government.

At the central level, public sector financial management is traditionally a key area of activity of international financial institutions (IFIs) and is often approached primarily from a technocratic perspective that emphasizes moderation and control of finances.

A rights-based approach can advance pro-poor and gender-equitable outcomes in the budget process and support accountability to citizens. UNDP has been involved in supporting rights based approaches in three critical areas:

» budgetary oversight through developing the capacity of parliaments;
» local level planning and budgeting; and
» advocacy for gender-sensitive budgeting.

d) Civil service reform (CSR)

CSR implies developing the capacity of the civil service to fulfil its mandate. It includes issues of recruitment and promotion, remuneration, number of employees and performance appraisal. CSR is concerned with human resources in the public sector, including their professional development, wages and conditions.

CSR has historically focused on the need to contain the costs of public sector employment through retrenchment and restructuring. Recently, CSR has broadened to focus on the longer-term goal of creating a government workforce of the right size and skills mix, and with the right motivation, professional ethos, client focus and accountability.

Examples of CSR are:

» Civil service training in ethics, citizen-centred service delivery, leadership and other professional skills. (To be effective, training must be part of a human resource strategy which, in turn, is part of a wider organizational development strategy)
» Creating a system of merit-based recruitment and promotion
» Conducting functional analyses, developing job descriptions and reporting relationships for civil service positions
» Assessing and developing the skills mix within government departments and agencies

Improving gender equality

Women are rarely well represented in middle and senior management in public administrations in developing countries (or, for that matter, in many developed countries) even where some senior politicians are women.

Many governments pay lip service to greater gender equality. However, few reform programmes include serious efforts to increase the presence of women in senior positions through such measures as training for women, family-friendly workplace rules and gender sensitization.

Achieving gender equity may involve becoming aware of gender biases and re-examining long-standing attitudes, beliefs and practices.

e) Capacity development

A cross-cutting feature of reform efforts is capacity development. Strong public administration (personnel and institutions) and civil society capacity is essential for long-term, effective public service delivery. Capacity development for PAR involves establishing a continuous process whereby civil servants learn and adapt to change.

Managing change and continual learning requires a new approach to human resource management, with greater emphasis on holistic capacity development to strengthen the policy-making and leadership capabilities of senior decision-makers.

Development of the draft Civil Service Act in Timor Leste

The Civil Service Act is part of the Government of Timor-Leste legislative agenda to ensure that transparency, accountability and fairness are pillars of a lean and effective civil service. In June 2001, UNDP initiated a policy paper on civil service as part of the capacity development programme for public sector reform.

Following this report, UNDP provided assistance to the Public Service Commission to draft a civil service act. Consultative seminars were held with representatives from districts and the capital to obtain their views on relevant policy matters. Overseas comparative study missions were also organized, and an expert panel undertook a peer review of the initial draft. The draft act was finalized in February 2003.

A similar approach is required at the institutional level. Rather than creating new institutions based on foreign blueprints, support is better aimed at modernizing domestic machinery, particularly systems and processes. Here again, capacity development for policy support, organizational effectiveness and financial management is key.

Finally, capacity development at the societal level is required to support the paradigm of a more interactive public administration that learns from its actions and from feedback received from the population. For people to view the public administration as a responsive and accountable service provider whose performance needs to be monitored, societal change is required. Developing the capacities of rights-holders to claim and exercise their rights is integral to human rights-based approaches to PAR.

f) Coordination and exchange of information

Lack of coordination and duplication of effort are inefficient and compromise the strategic, effective and transparent policy and operational environment that is the aim of donor support to PAR.

UNDP's support to PAR: lessons learned

A complex array of PAR programmes have been implemented by national and sub-national governments over the past half-century. Over time, assistance programmes have expanded to include civil society and the private sector in their relationship with the public sector. Governments, donors, private sector and civil society have a wealth of programming experience from which to learn. The following are some broad lessons from the UNDP experience in supporting PAR.

a) An efficient and accountable public administration is the fundamental justification for PAR

Reform purely for the sake of reform is unwarranted and costly. As a guide to programme design and implementation, it is important to continually ask how PAR and renewal will help the public administration become more efficient and accountable. The PAR vision must be clearly articulated and linked to a citizen-centred service delivery.

b) PAR takes time

The pressures of needs and project delivery encourage UNDP and other donors to seek solutions that can be realized in the shortest possible time. However, governments need to be assured of UNDP's steady partnership in order to garner commitment and develop a long-term vision.

c) Genuine project ownership from inception is critical

This sense of ownership must extend beyond senior leadership to all levels of government and civil society. Reforms should move beyond capitals. Reform requires firm leadership, even through shifts in political leadership over time. It is therefore important to find change agents within the civil service and civil society who can consistently champion reforms.

d) Political will and participation is needed from the broader constituency

Often, there may be only a few reform-minded government officials who need support from other stakeholders to keep up the momentum. It is important to publicize results and provide incentives for continued support. This will broaden ownership and allay fears of change.

e) Resist the temptation to address too many reform objectives simultaneously

Donors tend to favour comprehensive reform programmes even where more limited, incremental, strategic and coordinated approaches would be more conducive to lasting transformation. Targets should be clear, realistic and reflect the scope of intended change.

f) Ensure effective donor coordination

PAR is complex and its contribution to better governance interests many donors. Donor coordination is necessary to ensure consistent support of government priorities and to sustain a broad strategic vision within which individual programmes can be implemented.

g) Tailor programme assistance to absorption capacity

Some challenges to keep in mind when programming PAR support:

- Long-term commitments to PAR may be compromised by fluctuations in political interests and by the difficulty of linking short-term results for donor programmes
- Inadequate information-sharing can hinder replication
- There is limited comparative evidence of the impact of PAR approaches
- Political will is often scarce
- Competition among donors may compromise coordination efforts

4. Practical programming guidance

There is no single system of public administration and no single approach to reform. Each country context – historical, economic, social, and political, as well as the structure of government and relationships between government and other actors – is unique.

Key steps in developing a PAR programme are as follows:

1. Undertake a situation analysis

In order to establish a thorough understanding of the context, it is essential to:

a) Assess

- the historical, political, social, cultural and economic context as a prerequisite to better understand the governance traditions at national, regional and local levels, the issues

faced by the public administration, the drivers of change and political will for reform; and
» the aspects of public administration that function well, and the causes of public administration malfunction.

b) Describe
» how policy decisions are made;
» the composition of the public service;
» key institutions and processes of public administration; and
» the capacity and willingness of political leadership, the public service and civil society to learn and change.

c) Summarize
» past and current reforms undertaken by various levels of government and by the private sector and civil society in relation to PAR; and
» the nature and timing of donor assistance programmes in PAR and in related fields such as judicial and legislative strengthening.

In the UNDP experience, PAR interventions have primarily targeted single institutions. More interaction is needed among institutions and sectors. For example, parliamentary budget oversight and gender-based budgeting in health could be linked.

Some examples of questions for a context analysis would be:

» What are the historical factors contributing to the need for PAR?
» What are the political factors?
» What is the extent of political will for PAR?
» What is the model and reality of separation of powers in the country?
» Do the judiciary and the office of the auditor general operate independently?
» Which institutions in the national integrity system are functioning?
» What are the major issues and obstacles to reform?
» Does government interact with the private sector and civil society?
» What is the state of access to information? What is the level of press freedom?
» How do compensation levels in public service compared with those in the private sector?

2. Do a stakeholder analysis

The context analysis will have described institutions and processes of government and other stakeholders, what role they have in reforms and how effective they are. Stakeholder analysis goes one step further to gain a better understanding of vulnerable groups and to identify change agents as well as those who may pose obstacles for reform.

Stakeholder analysis provides information that will lead to identification and formation of alliances for programming. Key stakeholders to consider are ministries, the office of the auditor general, local government bodies, public sector training institutes, etc.), private sector, political parties, media, women, youth/students, other donors, academic institutions and civil society organizations.

3. Develop a PAR programming strategy

It is best that there be a strategic, domestically led PAR vision for the country to which UNDP and other development partners can contribute. Piecemeal reforms can lead to fragmented approaches and a loss of strategic vision.

Key factors to consider are:

» government priorities;

- public administration strengths and weaknesses;
- absorption capacities at all levels;
- other ongoing programmes related to PAR activities or goals; and
- whether to take an upstream or downstream approach and whether to focus on national or local levels.

Institutional approaches are more likely to work where governance and political commitment are strong. When political will is weak, it may be more productive to focus on bottom-up approaches such as civil society, media and private sector programmes, as well as on joint donor consultations and external pressure to reform. Where PAR allies are weak or opposition is strong, awareness-raising and advocacy efforts may help pave the way for later PAR programming. Elements of PAR can be incorporated into most UNDP programmes and projects in combination with PAR projects or in situations where broad-based PAR programming may not be possible.

Fundamentally, PAR indicates a positive intention in that it is aspirational, continuous and progressive. However, the word *reform* may have a negative connotation in some instances, such as where there is fatigue from repeated intervention efforts. In such cases, it may be helpful to use terms such as *civil service professional development* and *public administration renewal* rather than *reform*.

Strategy and UNDP programming principles

UNDP principles provide comparative advantage and entry points for PAR programmes as well as guidance for programme implementation. UNDP programmes are pro-poor, gender-sensitive, rights-based and anti-corruption. UNDP fosters inclusive participation by engaging directly with key stakeholders to strengthen civic engagement at local, regional and national levels.

Entry points for UNDP support

As with other interventions in democratic governance, there are many possible entry-points to PAR. Consider some of these questions when thinking of entry point options:

- *Which government priorities can UNDP support with PAR measures?* A desire to reduce costs, maximize revenues or improve government's record of service provision with views toward elections all present opportunities to launch a wider discussion on the functions government should perform, how to enhance performance and the role of the state.

Fostering gender equality in public administration in Azerbaijan and Belarus

In implementing a national capacity-building project with UNDP support , the Government of Azerbaijan established a policy planning and strategic research centre. Experts conducted research that offered recommendations to the government on gender policies. As a result, the 'Women in Diplomacy' initiative was launched to support the career development of Azerbaijani female diplomats.

In Belarus, 'Support to Expanding Public Space for Women' funds educational programmes. This includes a master's degree programme in women's leadership, two-week programmes for women public administration officials and teachers, and research projects investigating factors that affect women's participation in public and political life.

» *How can UNDP link the MDGs and other poverty-focused commitments to PAR programmes?* PRSP processes open doors for discussion of government policy-making, institutions to implement pro-poor policies and protect human rights, and processes to enhance communication among stakeholders. Regional human development reports provide a similar entry.

» *How can UNDP link into or help coordinate the work of other donors or civil society organizations?* UNDP can serve as the focal point for a working group on PAR to enable national/international dialogue and to promote partnerships in research, project implementation and evaluation.

» *How can UNDP integrate PAR efforts into its existing project portfolio?* It is important to link existing UNDP programmes and projects to interventions that improve accountability to the poor. For example, citizen report card programmes could be linked to parliamentary oversight initiatives, financial administration reform to gender-based budgeting and ICT systems for centre of government to improvements in the policy-making systems. Also, there may be opportunities to feature transparency and accountability more prominently in ongoing activities. For example, UNDP-supported project procurement processes could be reviewed in cooperation with government to ensure transparency and develop capacity.

» *How can UNDP support the implementation of UN conventions*, such as the *Convention against Corruption (UNCAC, 2003)?* As an example, UNDP could help identify technical assistance needs for the UNCAC, support government reforms to implement it and support civil society monitoring.

Other examples of entry points

a) Decentralization

» Strengthening local electoral systems
» Local government revenue generation techniques and participatory budgeting
» Local government capacity to consult citizens and work with news media

b) Policy-making

» ICT systems for centre of government
» PRSPs or national development planning processes

c) Institutions and processes

» Functional reviews
» Strengthening management capacity and/or ICT systems, in order to carry out environment, health, or education projects

d) Post-conflict institution-building

» Establishing democratic institutions
» Creating opportunities for citizens to express their priorities

Management arrangements and partnerships

Identifying alliances

The stakeholder analysis helps to identify key champions within government (including the political leadership), civil society and private sector who could form a coalition of stakeholders to lead the PAR efforts. Alliances with other donors are also key.

A key challenge is to identify change agents who want public administration to become more professional, transparent, accountable and efficient and who also aim to enhance citizen-centred service delivery, particularly for the poor and disadvantaged.

The often fast turnover of government decision-makers can interrupt and distort PAR programmes. The long life-span required to implement successful PAR efforts requires the backing of government counterparts who will provide long-term national leadership and supervision to programmes even at times of political change or turmoil. Reforms carried out by senior civil servants who are unconvinced of the need for cultural change are unlikely to succeed. The bottom line is that PARs can only succeed in the right political conditions.

Involving civil society and private sector stakeholders enables their input into policy-making and provides broader support for reform.

Involvement of other international actors can be key. Diplomatic suasion has greater emphasis when:

- » donors speak with one voice;
- » information-sharing sparks innovation and helps avoid programme duplication; and
- » joint research, programming and project implementation leverage resources, skills and experience.

When donor programmes are piecemeal, PAR approaches become fragmented and lose strategic perspective. Better momentum is generated when they are coordinated in partnership with government.

Maintaining momentum

For effective PAR efforts, support must be maintained through:

a) Participation

Progress meetings, brainstorming sessions, briefings and discussions about international developments in PAR, multi-donor meetings with senior officials and other forms of consultation help to keep the PAR agenda at the forefront.

b) Networking

Contact with counterparts within the country and internationally helps to build awareness of issues and best practices and provides a support network. It also allows stakeholders to feel part of a worldwide movement toward developing professional, accountable and transparent systems and cultures. The Resources section provides a list of organizations and networks active in the PAR area. Convening local networks and facilitating communication with international networks can be helpful in maintaining momentum.

c) Expectation management

PAR is a continuous, incremental process of improvement and adaptation to change. There are no quick fixes. Setting objectives is important, however, much of PAR is about the process of changing public organizational culture and systems to meet the needs of citizens. Continual stakeholder involvement and communication about progress and obstacles helps to ensure reasonable result expectations.

Programme monitoring and evaluation

It is important to monitor and evaluate PAR work at three levels:

1) **Macro-level** monitoring to assess PAR in the broader national or local environment in order to gauge progress and to learn from experiences.

2) **Internal institutional assessments** to ensure that UNDP sets a good example in integrating public administration principles in its own work. Merit-based recruitment, transparent and accountable financial management, ethical conduct, open procurement and human rights approaches are based on internationally accepted principles and should be continually reviewed within UNDP to ensure high standards of application.

3) **Micro-level monitoring and evaluation** for accountability, contributions to UNDP as a learning organization and exchange of information with other stakeholders on best practice and lessons learned.

In that regard, many national and programme level indicators do not adequately measure the specific impacts on the well-being of vulnerable groups such as the poor, marginalized and women. UNDP can add significant value by introducing these perspectives to other partners, drawing upon lessons from monitoring and evaluation of its own projects.

For an example from the field, *see UNDP's Participatory Approaches for Assessment and Monitoring of Civil Service Performance and Public Service Delivery in Mongolia.*

5. Resource section

a) Recommended readings

Afghan Research and Evaluation Unit, *Moving Forward? Assessing Public Administration Reform in Afghanistan* (2006)
http://www.gsdrc.org/go/display&type=Document&id=2582

Aucoin, *The New Public Management: Canada in Comparative Perspective* (1995)
http://www.jstor.org/pss/3232432 [Article can be purchased online]

Bourgon, *Responsive, Responsible and Respected Government: Towards a New Public Administration Theory* (2007)
http://ras.sagepub.com/cgi/content/refs/73/1/7 [Article can be purchased online]

Chowdhury, *A Review of Current and Recent Public Administration Reform Interventions Implemented by UNDP*
http://europeandcis.undp.org/uploads/public/file/2A_FINAL_Review%20of%20PAR%20Projects%201%20Dec%202003.doc

Covey, *Seven Habits of Highly Effective People* (1989)
http://www.stephencovey.com/7habits.php

DFID, *Drivers of Change* (2004)
http://www.gsdrc.org/docs/open/DOC59.pdf

DFID, *Helping to build states that work for poor people: Making governance work for the poor* (2006)
http://www.dfid.gov.uk/pubs/files/whitepaper2006/wp2006section2.pdf

DFID, *Promoting Institutional and Organizational Development: A Source Book of Tools and Techniques* (2004)
http://www.gsdrc.org/go/display/document/legacyid/1542

European Institute of Public Administration, *The Common Assessment Framework: Improving an Organization Through Self-assessment* (2002)
http://www.gsdrc.org/go/display/document/legacyid/1499

Heeks, *Understanding e-Governance for Development* (2001)
http://unpan1.un.org/intradoc/groups/public/documents/NISPAcee/UNPAN015484.pdf

IMF, *Fiscal Transparency Codes and Manual* (2007)
http://www.imf.org/external/np/sec/pr/2007/pr0795.htm

Manning, *The legacy of the New Public Management in developing countries* (2001)
http://ras.sagepub.com/cgi/content/refs/67/2/297 [Article can be purchased online]

OECD, *Best Practices for Budget Transparency* (2001)
http://www.oecd.org/dataoecd/33/13/1905258.pdf

Tait, *A Strong Foundation: Report of the Task Force on Public Service Values and Ethics* (1999)
http://www.csps-efpc.gc.ca/Research/publications/pdfs/tait.pdf

UN Convention against Corruption (2003)
http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf

UNDESA, *Innovations in Public Service: Some Lessons Learned*
http://unpan1.un.org/intradoc/groups/public/documents/Harvard/UNPAN020642.pdf

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Parliamentary Development

8 Parliamentary Development

This section covers the following themes:

- Functions of parliament and the benefits of parliamentary strengthening
- Concepts, trends and lessons learned in parliamentary development
- Main international actors
- The UNDP niche and activities in parliamentary development
- Practical guidance for designing, implementing and evaluating parliamentary development programmes

Materials referred to in the text are listed in the Resource section.

1. Background, concepts and trends

Principal functions of parliaments

Parliamentary institutions provide a counterbalance to the executive branch (often simply referred to as "the government") and give the electorate a voice in public policy. They represent a forum for debate on public policy and a place for compromise and consensus-building. Parliaments have a direct impact on the policies that affect livelihoods and social services for the poor. Strong parliamentary institutions help to ensure democracy, rule of law and human rights.

Parliaments are typically viewed as having three core functions:

- Representation (expressing the will of the people);
- Law-making (passing laws); and
- Oversight (holding government to account).

Many consider parliament's responsibility in adopting the budget a fourth, distinct function.

1) Representation

Democratic advancement, particularly in fragile democracies, rests on the ability of parliamentarians to give voice to the expectations and interests of their constituents. Representation linkages are a two-way phenomenon:

Bottom-up: Parliamentarians represent their constituents' interests, advocating their collective welfare and, in some systems, taking on individual complaints against government agencies.

Top-down: Parliamentarians disseminate information about their actions to their constituents and

educate them about the political processes and current debate.

When individuals or groups feel that their views are represented in governing institutions and that their representative will address issues with constituents' interests in mind, they are less likely to resort to extra-legal mechanisms to have their voices heard.

A number of factors influence the representative nature of the parliament, including:

- the electoral system;
- women's participation;
- representation of minorities and marginalized communities;
- parliamentary procedures; and
- capabilities of parliamentarians to undertake constituency outreach.

Parliament is also an arena for expressing differences over policy. The richer the information environment, such as a vital civil society and vibrant member relationships with constituents, the greater the awareness to inform decisions.

2) Law-making

Representing the public means more than articulating citizen preferences; it involves having a say in translating preferences into policy through enacting legislation. Lawmaking requires parliamentarians to represent often opposing constituencies while – in an ideal scenario – achieving a compromise with the executive and between political parties that can be fashioned into a legislative decision. This requires legislative processes capable of reconciling conflicts and bringing to bear enough expertise to be taken seriously by the executive branch and other actors.

3) Oversight

Oversight is the ability to hold the executive accountable for its actions. It includes the process whereby the legislature and executive work together to ensure that laws are operating as intended. Oversight involves monitoring executive activities for effectiveness, efficiency (value-for-money), integrity and fidelity to the parliamentary intent.

Oversight is difficult to exercise because it requires sufficient information about executive branch activities, which can be difficult to obtain. It also requires the ability to process that information, the legislative will to act on this information, and the legislative power to back up demands for change. Hence, effective oversight can be a challenge to the capacity, structure and political will of parliaments.

The oversight powers of parliaments include the power to:

- remove the head of government from power through votes of no confidence, impeachment, etc;
- obtain information from the executive (compel testimony, require reports, etc.);
- approve, reject or amend the national budget submitted by the executive;
- question the government through established sessions or interpellations;
- review government accounts and programmes; and
- hold plenaries, committee hearings, inquiries and investigations into executive policy or the implementation of laws.

4) Budget process

By exercising legislation, representation and oversight, parliaments can also help to ensure that

budget priorities reflect policy priorities such as the conformity of the budget to the country's poverty-reduction strategies.

Legislative bodies in developing countries frequently encounter obstacles to effectively engage with the budget process and oversee public finances. These include:

» insufficient legislative involvement in strategic planning;
» limited formal authority and organizational capacity to deal with annual budgets; and
» executive failure to implement approved budgets, low levels of transparency, as well as political dynamics that are not conducive to effective legislative scrutiny.

Parliamentary structure and organization

The way a parliament is established and structured can bear significantly on its performance. Some of the key organizational structures within a parliament are:

a) Rules of procedure, which set out:

» the process for engagement between opposition and government parties;
» how time is allocated (e.g., for plenary debate or committee consideration);
» the rights of minority parties; and
» how the majority effects its will on parliamentary functions and legislative output.

b) The committee system

In most legislative bodies, the workhorses of parliament's legislative role are the committees. Committees are sub-groups of parliamentarians (normally from several political parties) entrusted with the consideration of proposed laws and/or the investigation of their implementation. Parliamentary committees are often vested with decision-making privileges.

Weak parliaments often have ineffective committee systems. Committee systems provide arenas for expressing differences and environments, which foster compromise and decision. Where committee deliberations are important in shaping the debates and decisions of the parliament, committee members have a strong incentive to specialize and to become advocates of popular positions and develop negotiating skills to shape outcomes.

c) Parliamentary party groups

Often known as caucuses, parliamentary party groups comprise members of parliament from the same political party. Effective parliamentary party groups are more than just mechanisms to transmit party voting preferences and instill party discipline. They can be forums for debating, analyzing and agreeing on coherent party policy. Engagement with parliamentary caucuses can be a low-cost strategy for donors to work on issues-specific projects that require political understanding and will.

d) Parliamentary service

Parliaments have a separate administrative structure to support parliamentary operations. It is ideally staffed by non-partisan officers under independent authority. This secretariat manages the information aspects of parliamentary business, such as preparing the parliamentary record (the official transcript of parliamentary proceedings) and disseminating proposed laws and meeting agendas.

Standing committees often have their own secretary to manage the work of the committee.

Some parliamentary secretariats have specialized research, legal and budgetary offices.

International support for parliamentary development

Parliamentary development began in earnest in the 70s and 80s, tied to the waves of democratization particularly in Central America and parts of Asia. Many early parliamentary support programmes focused on infrastructure, parliamentary libraries, equipment and information technology.

With the burst of democratization projects across Eastern Europe, sub-Saharan Africa, the former Soviet Union and the Middle East in the 1990's, international approaches to parliamentary strengthening began to recognize parliaments as political organizations. Increasingly, parliamentary assistance programmes took into account the wider political context and broadened their scope to include parliamentary functions processes and reforms.

International actors in parliamentary development

Parliamentary development is a relatively new but rapidly growing field and the number of international actors has increased markedly.

a) The Inter-Parliamentary Union (IPU)

The IPU is an international organization of parliaments of sovereign states. Established in 1889, it brings together representatives and secretariats from member parliaments to discuss topical and institutional issues. The IPU has no field presence but is one of UNDP's preferred partners because of its significant power to convene. Among other gatherings, it convenes the World Conferences of Speakers of Parliament, which are hosted at UN headquarters. The IPU has a formalized cooperation with the UN and has observer status in the General Assembly.

b) Regional parliaments, parliamentary associations and parliamentary networks

Regional parliaments and parliamentary associations represent regional identities and link parliaments. They are often under-funded, assistance being channeled instead to national parliaments. An exception is the European Parliament, which has a strong infrastructure and is able to engage in parliamentary development and exchanges.

A prominent example of a parliamentary association is the Commonwealth Parliamentary Association (CPA), which consists of the national, provincial, state and territorial parliaments and legislatures of the Commonwealth countries. Its programmes aim to improve MPs skills and provide technical assistance to strengthen poverty reduction and human rights. The Southern African Development Community Parliamentary Forum and the Assemblée Parlementaire de la Francophonie are also important partners on parliamentary strengthening activities.

Parliamentary networks conduct dialogues on thematic issues and produce declarations that can provide useful entry points for UNDP programming. An example of a parliamentary network is the African Parliamentarians Network Against Corruption (APNAC). See examples of other parliamentary associations and networks in the Resource section.

c) Multilateral and bilateral donors

The World Bank (WB) provides technical assistance to many parliaments. Their hub for global parliamentary outreach and activities is in the European External Affairs Office and is run by its Develop-

ment Policy Dialogue Team. The WB also works with parliamentarians through the World Bank Institute capacity building programme, which:

» offers workshops for parliamentarians and staff (e.g. for public accounts committees);
» raises awareness among MPs about the poverty reduction strategy process;
» publishes analytical work on parliamentary capacity building; and
» supports the establishment of thematic parliamentary networks such as the Global Organization of Parliamentarians Against Corruption (GOPAC).

The United States has a large parliamentary development programme which it implements through the National Endowment for Democracy, USAID and the United States Information Agency. Its programmes are often affiliated with non-governmental organizations such as the National Democratic Institute, the International Republican Institute, the SUNY Center for International Development and the National Conference of State Legislatures.

The European Commission is a significant donor supporting parliamentary development.

The Belgian government also has a large parliamentary programme that is implemented in collaboration with UNDP through the programme for Parliamentary Strengthening. Other donors which provide significant support for parliamentary development include the UK's DFID, Canada's CIDA and Sweden's SIDA.

d) NGOs and academic institutions

In developing knowledge products, UNDP often works in partnership with NGOs and academic institutions. One key partner, the National Democratic Institute, also provides technical assistance. Other NGOs involved in parliamentary support include:

» The State University of New York, Center for International Development at http://www.cid.suny.edu/
» IDEA (International Institute for Democracy and Electoral Assistance) at http://www.idea.int/
» Parliamentarians for Global Action at http://www.pgaction.org/
» East West Parliamentary Practice Project at http://www.ewppp.org/index.php
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» Konrad Adenauer Stiftung at http://www.kas.de/

e) National parliaments' international cooperation

UNDP maintains relations with several national parliaments. For example, the French Legislature hosts annual trainings for UNDP officers involved in parliamentary development. National parliaments are also often involved in parliamentary development through secondment programmes. In general, these tend to be visits aimed at building networks among parliamentarians rather than achieving specific development goals. The Swedish Parliament, for example, hosted a meeting of the International Conference of New and Restored Democracies (2007).

Trends in parliamentary development

Emerging trends in parliamentary development include:

Partners at UNDP headquarters

The Bureau of Development Policy (BDP) parliamentary team maintains a strong network of relationships with institutions involved in parliamentary development. The Democratic Governance Group (DGG) has worked to institutionalize such relationships and has prepared Memoranda of Understanding with the French National Assembly and Senate, CPA, IPU, APF and WBI.

- An increasing number of partnerships with multi-party reform committees and parliamentary development plans
- Growing recognition of the role for parliaments in improving aid effectiveness
- Emerging international consensus on standards for parliamentary strengthening and on the need to scale up parliamentary assistance.

In the process towards an international normative framework for parliaments, a number of themes have emerged:

a) Linking multi-party parliamentary reform and parliamentary development plans

Multi-party reform committees can be strong parliamentary reform partners. These committees frequently prepare long-term development plans that serve not only to guide priorities for parliamentary strengthening but also as mechanisms for donor coordination.

b) Parliament and aid effectiveness

Mutual accountability and national ownership are increasingly guiding international assistance, as set out in the Paris Declaration on Aid Effectiveness. Corresponding with this is an increase in use of direct budget support for aid disbursement. Consequently, donor pressure for transparent budget processes to account for the financial support is increasing demands on the parliamentary oversight function.

c) Scaling up assistance

Parliaments and political systems face growing demands as international systems become more integrated. The number of stakeholders in the private sector is expanding, and with increasing decentralization comes similar growth in the local authority structures. Often, citizens expect the state to buffer against changing circumstances and place high demands on governments and parliamentarians.

The IPU and CPA Guidelines

The IPU issued in 2006 a *Guide to Good Practice* for parliaments that outlines key democratic values to be realized by parliamentary institutions. The guidelines were developed with significant input from UNDP and were discussed at the International Conference of New or Restored Democracies in Doha (2006).

The CPA has published *Recommended Benchmarks for Democratic Legislatures*, illustrating the international move toward consensus on the expected functions of parliament in a democracy. The benchmarks are now being discussed at various regional and international parliamentary meetings with the objective of adapting the benchmarks to regional specificities. UNDP will now support various initiatives to establish and codify international norms and standards for democratic parliaments in collaboration with parliamentary associations and organizations.

With the heightened complexity, challenges and expectations facing parliaments, there is a commensurate need to scale up assistance. Achieving complex development goals requires assistance at a systemic level. This involves bringing parliaments in from the political sidelines to work with governance institutions on key issues confronting the state.

2. Parliaments, development and human rights

There is widespread recognition of the link between governance and development, as well as a growing conviction that development failures reflect failures of governance. The presence of an effective parliament is highly correlated with positive indicators of democracy. Working with parliaments can significantly strengthen democratic governance.

Effective parliaments can support development by:

- empowering the poor and vulnerable to advance their interests;
- ensuring fair and transparent allocation of national resources; and
- overseeing executive implementation of development policies.

Parliamentary development also strengthens the capacity of parliaments to address human rights concerns through their work to:

- ensure participation, transparency, accountability and rule of law;
- allocate resources to promote social and economic development and justice;
- align legislation with international human rights commitments; and
- create oversight bodies to protect and promote human rights.

A rights-based approach to parliamentary development programming empowers parliaments to better support national human rights protection systems as members become aware of their role, and that of national institutions, as duty-holders.

Parliamentary strengthening is an important tool for conflict resolution. An effective parliament is vital to the transition from conflict to peace because of its ability to:

- maintain non-violent debate on a range of grievances;
- provide legitimacy to fragile, post-conflict transitional governments; and
- represent different views and protect the interests of minorities or marginalized groups.

After conflict, parliamentary institutions are often weak in relation to the executive, armed groups and non-state actors. Effective democratic governance requires correcting this imbalance. External actors can assist in the timely strengthening of parliaments.

Parliamentary strengthening provides an avenue for working with political parties, often a sensitive point of engagement. Political parties provide a structure for political participation, serving as a training ground for future political leaders and transforming aggregated social interests into public policy. Working with political parties through parliament can increase engagement in important issues of democratic governance and develop-

ment and improve the functioning of the political system.

3. The UNDP approach

UNDP's parliamentary strengthening advances achievement of the MDGs. The UNDP *2007 Annual Report* identified parliaments as powerful agents of change and key to making poverty reduction and democratic governance work. One specific measure of progress towards the MDGs used in the report is the share of women representatives in parliaments worldwide.

Parliamentary development was institutionalized as a UNDP service line under UNDP's Multi-Year Funding Framework and is being taken forward in the Strategic Framework (2008-2011) as part of the effort to strengthen responsive governing institutions.

The UNDP niche contribution

UNDP plays a key role as a long-term partner in parliamentary development. As an example, the provision of electoral assistance by the UN in post-crisis situations (e.g. in Cambodia, Indonesia and Mozambique) has resulted in a surge in requests for UNDP to provide longer-term support and help coordinate international support for parliamentary institutions. Following a number of successes in coordinating electoral support, UNDP is regarded by the international community and national parliaments as a trusted partner capable of coordinating complex support to emerging elected institutions.

UNDP also often takes on the important role of convener. The UNDP Resident Representative, in his/her capacity as United Nations Resident Coordinator, is often the only partner with the convening power to bring diverse political actors to the table.

In countries under UN transitional administration, UNDP plays an important role in supporting the establishment of governing institutions, including parliamentary bodies. In East Timor, for example, it has assisted the efforts of the Constituent Assembly while providing support for the establishment of a more permanent parliamentary institution.

UNDP supports parliaments as key vehicles for national reconciliation and conflict prevention. In the Democratic Republic of the Congo, for example, UNDP support is facilitating the emergence of an elected parliament where national dialogue can replace violent means of dealing with social conflict. In countries undergoing democratic transition, UNDP is often the only organization with an uninterrupted long-term presence and the trust of all political partners. This offers it a unique advantage in acting as a conduit for international assistance to the parliament.

Main areas of UNDP support

More than 64 UNDP country offices are engaged in parliamentary development support, including:

- long-term multi-donor support to parliaments' plans for institutional development;
- issue-specific approaches, such as targeting particular committees or supporting the promulgation of specific laws;
- capacity building to improve representation, oversight and law-making capacity; and
- national-level programmes to support regional networks and global initiatives.

Key thematic areas of assistance are:

a) Supporting the legal framework of parliament

Constitutional and other legal frameworks, such as the rules of procedure, have a profound effect on the functioning of parliamentary institutions. UNDP can enhance these processes by ensuring that debates are informed by comparative experiences and proper process. UNDP provides technical support to parliaments for constitutional drafting and law-making and for preparing or revising rules of procedure.

Assisting parliaments in identifying their strategies and plans for institutional development is very useful in building cross-party institutional ownership of the process. UNDP can, for example, support the establishment of multi-party reform committees tasked with setting a long-term agenda for parliamentary strengthening.

In East Timor, for example, UNDP supported the operation of the Constituent Assembly process while also advising the Assembly on alternative constitutional models. A programme to support longer-term parliamentary capacity development has subsequently begun.

b) Supporting parliament's legislative role

The powers of parliamentarians to propose new laws vary across political systems. Even where parliamentarians do not commonly initiate legislation, the drafting and harmonizing of amendments is a key component of the legislative process.

UNDP's programmes support the following structures and functions:

Legislative drafting

This can involve assistance to enhance the work of a parliamentary legislative office or the legal capacity of staff as well as investigative and participatory legislative review processes.

Committee work

This can involve examination of proposed legislation, assisting in building the expertise of the committee secretariat or enhancing public participation in committee processes.

Policy analysis and research

This can involve establishing and enhancing the capacity of an independent parliamentary research centre or strengthening the institutional links between the executive and parliament.

c) Parliament's critical role in development

Capable and vibrant parliaments are essential to the achievement of the MDGs. A specific area of support for parliament's legislative role is strengthening its position as a stakeholder in achieving poverty reduction and economic development aims. UNDP programmes can target development areas for legal reform and develop policy analysis capacities for parliamentarians to better analyze budgets and understand policy implications.

In Mongolia, for example, UNDP assisted in the preparation of anti-corruption legislation and a new labor law with involvement of trade unions. In Malawi, Niger and Nigeria, UNDP is working with parliaments to enhance involvement in the poverty reduction strategy process.

d) Supporting parliament in its representative role

Weaknesses in the representative capacity of parliament pose a significant threat to legitimacy. UNDP programmes for strengthening the representative capacity of parliaments cover a wide range of activities, including:

» Working with parliamentarians to extend their constituency outreach
» Supporting parliamentary outreach to increase public awareness of the role of the parliament (e.g. through websites, school visit programmes or education centres)
» Working with media and civil society to facilitate interaction with parliamentarians

In Indonesia, UNDP supported the establishment of a national assembly media centre and assisted journalists and politicians to establish a code of conduct for their interaction.

e) Supporting the participation of minorities and women in parliament

Increasing the political participation of minorities and women is a key aim of UNDP's democratic governance programme. Parliaments are uniquely positioned to promote minority and gender equality and women's empowerment, because they represent a cross-section of societies. UNDP can work with legislative caucuses to promote the role of women and minorities in parliament or by supporting the development of cross-party minority and women's caucuses. UNDP can also engage in developing the public outreach strategies minority and women leaders, or in strengthening parliamentarians' capacity to engage with constituencies on gender and minority issues. For more information, see the site of the *International Knowledge Network of Women in Politics (iKNOW Politics).*

UNDP also partners with the IPU to promote the participation of minorities, including indigenous people, in parliaments.

f) Support for parliament-executive relations and the oversight role

Parliaments subject to executive dominance often do not investigate executive policies, actions and implementation of laws. UNDP programmes in this area aim to build proper parliament-executive relations, by strengthening parliament's knowledge and capacity of its oversight function through induction training and by supporting the parliamentary committee system in conducting inquiries and investigations.

g) Parliament and financial accountability

Strong financial accountability mechanisms are crucial to effective development processes. UNDP works with budgetary, audit and public accounts committee members and staff to improve their understanding of financial and budgetary oversight. In some cases, UNDP has supported the establishment of non-partisan economic review units.

h) Support for the parliamentary administration

UNDP's support to parliamentary administration falls into the following categories:

» *Infrastructure:* investments in information technology, parliamentary libraries and communication systems
» *Secretariat staff organization:* mechanisms to recruit, manage and retain staff which will be independent of the executive branch and political parties
» *Strengthening parliamentary information management:* improving transparency and efficiency of parliament by enhanced information systems.

i) Mainstreaming parliamentary development

In addition to direct assistance to parliaments, MPs and members of the secretariat can be invited to participate in non-parliamentary programmes. For example, in a programme on developing technical expertise in public health, the parliamentary health committee secretariat could be included. An added value of this approach is that it strengthens important, informal links between the executive and parliament.

UNDP's global and regional programmes

» The objective of the UNDP Global Programme for Parliamentary Strengthening (GPPS) is to enhance the capacity of parliaments and improve the ability of elected officials to represent and be accountable to the will of the people. The GPPS pilots legislative assistance strategies to hone in on variables critical to the success of parliamentary democracy in developing countries. The programme is managed from UNDP's Brussels office.

In its first phase (1999-2003), the programme supported national parliaments in Benin, Cambodia, Democratic Republic of Congo, Gabon, Kazakhstan, Malawi, Niger, Rwanda, Tajikistan, Timor-Leste, Uganda and Uruguay. Parliamentary staff and MPs were trained in budgetary processes and gender budgeting. Handbooks were developed for MPs on the MDGs and poverty reduction strategy, and legislative drafting manuals produced in several languages. The programme has also worked to strengthen parliamentary associations and promote networking among parliamentarians.

In its second phase (2004-2007), the programme focused on the Arab Region and West Africa, in particular five pilot countries – Algeria, Benin, Lebanon, Morocco and Niger – to test alternative parliamentary development approaches and documenting the lessons learned.

The third phase (2008 -2011) aims to strengthen parliamentary capacity for deepening democracy and delivering human development. Particular emphasis is put on parliamentary contribution to government effectiveness, MDGs and women's political empowerment. This phase links national, regional and global approaches around the following specific objectives:

» to provide leadership and advocacy in the field of parliamentary development at the global level;
» to ensure that expertise developed through GPPS III strengthens parliamentary development programming throughout UNDP and the UN system;
» to support South-South regional cooperation and promote regional knowledge development and exchanges; and
» to support parliamentary development at the national level in Algeria, Benin, Lebanon, Mauritania, Morocco, Niger, Rwanda and document and share those experiences.

The research of the GPPS has led to a number of thematic knowledge products and initiatives for parliamentary strengthening, including:

» *Handbook: Parliaments, the Budget and Gender* (2004)
» *The International Knowledge Network on Women in Politics (or iKNOW politics)*. This online workspace, launched in 2007, provides women parliamentarians with access to online resources and a forum for sharing experiences

» *Guidelines for the International Community on Parliaments, Crisis Prevention and Recovery* (2006)

Many parliamentary programmes are implemented with support from the Democratic Governance Thematic Trust Fund (DGTTF). In 2007, 11 projects received funding for activities ranging from budget strengthening in Paraguay to the promotion of women's participation in decision making in Lesotho.

Challenges and lessons learned

The growth in parliamentary development efforts over the last decade provides an opportunity to take stock of the results to date. While there are numerous activities undertaken with parliaments, there are still relatively few truly comprehensive initiatives that address parliaments in the broader political framework in which they operate.

Challenges to parliamentary development include:

» Lack of political support from the executive for parliamentary strengthening
» Legal and constitutional frameworks that inhibit parliamentary effectiveness
» Focus on short-term results rather than on longer-term institution-building
» Frequently changing political dynamics and players
» Securing parliamentarians' interest in long-term institutional strengthening faced with limited terms in office and competing demands on their time
» Potential for allegations of favouritism by UNDP and/or donors due to the sensitivity of parliamentary issues and of working with a range of political actors

Lessons learned from UNDP parliamentary development efforts are that:

» parliamentary support must be integrated with other programmes (e.g., on human rights and gender);
» linking national parliamentary programmes to regional or international initiatives, benchmarks or agreements gives greater political weight;
» parliamentary development is most effective under a long-term plan or strategy;
» timing and sequencing of support with the election cycle is vital;
» trust and confidence between a development partner and the parliament is crucial to successful programme design and implementation; and
» the political knowledge of the individuals designing and implementing parliamentary programmes impacts programme outcomes

For more information on tools and issues to consider when formulating a parliamentary development programme, see UNDP's Practice Note on Parliamentary Development.

4. Practical guidance for programming

Situation analysis

Initiating a UNDP parliamentary programme raises a range of risks. UNDP support could be seen as an endorsement of the legitimacy of a non-democratic parliament, or of the control by the executive over a rubber-stamp parliament, thereby indirectly supporting undemocratic practices.

The decision to initiate a parliamentary programme must be based on an assessment of whether there is adequate political will and opportunity for reform. Questions to ask include:

» Does parliament operate as intended by the legal framework?
» How does the political culture or social tradition affect the role of parliamentarians?
» What are the expectations of parliamentarians?
» How are parliamentarians viewed by the public? By the executive?

For a useful tool in carrying out this political situation analysis, see the *Drivers of Change analysis* developed by DFID.

Following the initial assessment, country offices exercise their discretion in determining whether support for the parliament is likely to succeed in achieving democratic outcomes and whether UNDP support ought to be provided.

Designing a parliamentary development programme is often a delicate balancing act among stakeholders who may hold a broad spectrum of political views. It is important to identify change agents and supporters for parliamentary development. Questions to ask include:

» Who are the political supporters and detractors of parliamentary development?
» Are they in the opposition parties or in government?
» What are the political interests of those who would spur or would hinder change?

Designing and establishing parliamentary programmes is also often a process of negotiation and developing partnerships with parliament, government and implementing partners. It is therefore vital to have a strong understanding of all stakeholders and their interests. For a useful approach to understanding of stakeholder roles, see SIDA's *Power Analysis*.

Comprehensive parliamentary needs assessments are generally undertaken once a country office has decided that it can provide added value by supporting a request for parliamentary development support. Such assessments require considerable time and resource commitments by both UNDP and the parliament, and raise parliament's expectations of follow-up support. It is therefore recommended that such assessments not be used as an initial diagnostic tool unless there is a high degree of certainty that follow-up support will be possible. However, in some cases, country offices may decide, based on assessment results, not to proceed with follow-up support.

Comprehensive needs assessments and capacity assessments should form the basis for designing UNDP parliamentary development support. It is therefore practical to combine assessment and programming missions where appropriate. In conducting a formal assessment mission, a balance between local and international expertise combines local understanding of political sensitivities with general understanding of parliamentary development trends and frameworks.

It is also valuable for the delegation to include members familiar with UNDP knowledge and experience, who can gauge the viability of UNDP support and leverage additional support as needed. The BDP/DGG and CDG teams can be a resource in identifying appropriate consultants. Finally, it is important that the mission take a

participatory approach, engaging parliamentary leadership and the range of political actors.

For more information, see UNDP's *How to Conduct a Legislative Needs Assessment*.

Strategy development

Developing a strategy involves assessing key insights about the parliament, the political context and the identified change agents through the lens of UNDP's human rights and pro-poor approaches. Where a government has clear development priorities, it is important to consider how parliamentary programmes can be included within this agenda.

It is convenient for programmes to coincide with an electoral cycle, to avoid starting new programmes as MPs are leaving. After an election, an induction programme for the new parliamentarians can help build relationships at the start of a new parliament.

Since parliamentary development requires long-term support, it is important to have a plan for sustaining the investment. One option to strengthen sustainability could be to establish an internship programme for graduates to work with the parliamentary administration.

Because of its political nature and involvement of public figures, parliamentary development can attract significant political, media and public interest. It is important to plan how UNDP will publicly present the programme and its aims. Sometimes having a public launch or media release can add to parliamentary enthusiasm for the programme. However, in very sensitive circumstances, low-key events may be more appropriate.

As parliaments have a role in the legislation, representation and oversight of a wide range of issues, there are many potential entry points for parliamentary development. When searching for entry points, some important issues to consider are:

- whether parliament has an existing development strategy within which UNDP can work;
- the viability of undertaking a small trust-building activity (e.g., inductions for new parliamentarians) before embarking on longer-term development efforts;
- how parliamentary strengthening can be integrated into UNDP's existing programmes;
- how to link a programme with the work of regional networks; and
- UN declarations and conventions that can be used as entry points for engaging parliament in areas such as anti-corruption, MDGs, gender and human rights.

In Niger, UNDP has worked with parliament to improve women's representation. In Madagascar, UNDP has supported the strengthening of the role of parliament role vis-à-vis the MDGs. In Sri Lanka, UNDP has supported a parliamentary committee on human rights.

In parliamentary development programmes, there is often a trade-off between requests for support to infrastructure (staff, ICT etc.), study tours, and activities more directly linked to ongoing reforms. It is important to include a good mix of various types of support in the programme design.

For more information on how to engage parliaments in vital development issues, see UNDP's *Strengthening Parliament Involvement in the Poverty Reduction Strategy Process and the Millennium Development Goals*.

Management arrangements and partnerships

In parliamentary development programmes, it is vital to be aware of the political agendas of counterparts and other partners. Common partners include:

- The Ministry of International Cooperation
- The Speaker of the Parliament (who is typically a member of the party associated with the executive and may see his or her career advancement being dependent upon loyalty to the party rather than on development of the parliamentary institution)
- The Secretary-General (while often ostensibly politically neutral, the Secretary General sometimes can have political allegiances to the Speaker, or have incentives to prioritize the needs of parliamentary staff over members)
- Reformist MPs (who often come disproportionately from the opposition)

UNDP must take care not to appear politically biased when engaging with reformists. However, this concern must be balanced against the impact on programming if partnerships do not extend to all political parties.

The ideal partnership structure (while often not possible in practice) is often to have a multi-party steering committee of MPs (also known as multi-partisan committees) that reaches consensus on the majority of programme decisions. This will encourage local ownership and can create a cross-party platform and identity, binding parliamentarians to the legitimacy of the parliament rather than only to their political parties.

UNDP assistance may take the form of helping to establish (or work with an existing) multi-party reform committee to manage the programme. Multi-partisan committees provide donors with one point of contact, making it easier to determine priorities and coordinate efforts. For the sustainability of programmes, practice also suggests that the Chief Clerk or Secretary-General of the parliament should be a member and provide a secretariat function.

It is vital that partnerships be formalized through written agreements, to clarify expectations and withstand political turnover. For the same reason, it is important to keep records of negotiations or interactions. Circulating draft minutes to participants to obtain their input can prevent misunderstandings and help cement commitments made verbally at meetings.

With a larger programme, there are likely to be times when some party in parliament is frustrated with the programme or feels that it has not supported him or her to the same extent as other MPs. Sometimes unfair criticisms of UNDP programmes may be made publicly, e.g. in the press. In other cases, the government may be displeased, for example, if parliamentary strengthening activities happen to expose some shortcomings of government.

In such cases, it can be helpful to have a group of senior figures or respected politicians intervene to support UNDP. Some programmes have set up an advisory team including senior retired parliamentarians, respected journalists and academics to advise on programme implementation and to assist when needed.

Monitoring, evaluation and indicators

Where a parliament has its own development plan, evaluations of parliamentary support should be

linked to the aims expressed in the plan. When evaluating legislative strengthening processes, the focus should be on the quality of the process used to deliberate on legislation, rather than on the immediately measurable outputs such as, for instance, the number of laws passed.

A starting point when establishing baselines and data for indicators can be the parliament's administrative data, which can provide such information as the number of women and minority parliamentarians. Surveys of parliamentarians are another commonly used data source. To measure improvements in quality, one example would be to undertake an in-depth analysis of legislation produced as a result of a parliamentary development programme.

Some notable evaluations of large-scale projects offer useful guidance on the structure of evaluations and type of recommendations that can result. These include the GPPS II mid-term evaluation, which provides a wealth of insights on the approaches and impact of global, regional and country-level programme activities.

For more information, see the UNDP presentation on GPPS and the USAID presentation on experiences with indicators at the joint DFIF/UNDP/WBI sponsored meeting in Brussels 2007[36], as well as UNDP's *Measuring Democratic Governance: a framework for selecting pro-poor and gender sensitive indicators* (2006), pages 20-21.

5. Resource section

a) Reference materials

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DFID, *Drivers of Change approach to situation analysis*
http://www.gsdrc.org/docs/open/DOC59.pdf

DFID/UNDP/WBI, Consultation on Parliamentary Development and Financial Accountability (May 2007)
http://sdnhq.undp.org/governance/parls/presentations.html

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http://sdnhq.undp.org/governance/parls/docs/IPU%20Parliament%20and%20democracy_en.pdf

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http://www.accessdemocracy.org/library/1682_gov_poverty_exec_050504.pdf

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http://www.un.org.vn/undp/projects/vie02007/News2005/parliamentary_institutions.htm

UNDP, *Guidelines for the International Community on Parliaments, Crisis Prevention and Recovery* (2006)
http://www.parlcpr.undp.org/

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UK Parliament, Glossary of Terms
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b) Regional parliamentary associations

Andean Parliament
http://www.parlamentoandino.org/

Arab Inter-Parliamentary Union
http://www.arab-ipu.org/

Asia Pacific Parliamentary Forum
http://www.appf.org.pe/

Assemblee Parlementaire de la Francophonie
http://apf.francophonie.org/

Assembly of the West European Union
http://www.assembly-weu.org/en/index.php

Association of Senates, Shoora and Equivalent Councils in Africa and the Arab World at
http://www.assecaa.org/

Baltic Assembly
http://www.baltasam.org/?CatID=84

Central American Parliament
http://www.parlcent.ca/

Commonwealth Parliamentary Association
http://www.cpahq.org/

East African Legislative Assembly
http://www.eac.int/eala/

European Parliament
http://www.europarl.europa.eu/

Latin American Parliament
http://www.parlatino.org/

NATO Parliamentary Assembly
http://www.nato-pa.int/

OSCE Parliamentary Assembly
http://www.oscepa.org/

Pan-African Parliament
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Parliamentary Assembly of the Council of Europe
http://assembly.coe.int/

Parliamentary Conference of the Americas
http://www.copa.qc.ca/

Southern African Parliamentary Forum
http://www.sadcpf.org/

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Parliamentary Network on the World Bank (PNOWB)
http://www.pnowb.org

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East West Parliamentary Practice Project
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Friedrich Ebert Stiftung
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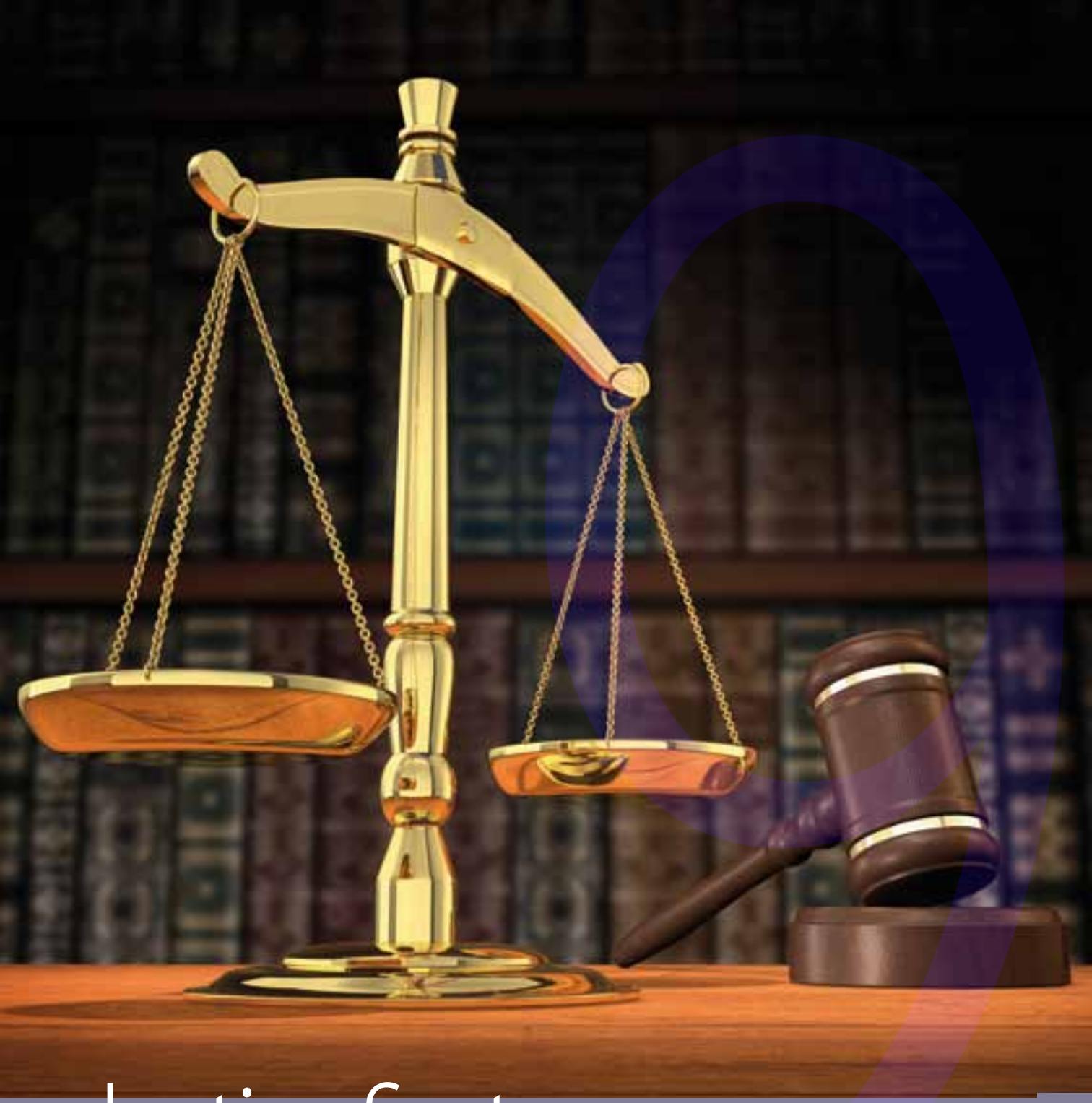

Justice Systems

9 Justice Systems

This chapter covers the following themes:

- Key concepts relating to access to justice, rule of law and the justice sector
- Issues and trends in justice systems
- The role of the UN and UNDP
- The human rights-based approach to justice programming
- Lessons learned and strategic entry points
- The principle areas of intervention for UNDP to rule of law and access to justice programming

Materials referred to in the text are listed in the Resource section.

1. Concepts, issues and trends

Justice sector

The term *justice sector* refers to both the criminal and the civil justice systems. It is made up of a range of institutions and actors, the core set of which includes at the state level the courts, prosecution services, attorneys and lawyers, police, correction and prison services. More broadly, social workers, community leaders, paralegals, traditional councils, faith-based structures and other local arbitrators are also important players.

It is crucial to recognize the importance of both the formal and informal institutions that comprise justice systems. Informal, traditional and even faith-based mechanisms of justice are often better known and more accessible to poor and disadvantaged people, and may offer faster and more affordable remedies. However, traditional mechanisms are not always effective. For example, they may not provide equal rights and treatment of women and men, or may discriminate against certain groups.

Justice systems in developing countries vary greatly in structure, application and effectiveness. The formal systems are commonly strongly influenced by the civil and common law systems introduced by colonial powers, with significant post-independence legal reforms. Most also have strong vestiges of traditional and customary law systems or faith-based systems, often linked to religious or ethnic identity. A term that captures this complexity is *legal pluralism*.

In post-conflict countries, justice systems are often compromised by the effects of war or other violent conflict. Legislative frameworks may suffer neglect or political distortion, contain discriminatory ele-

ments or only partly reflect the international human rights and criminal law standards to which the states may already have committed through ratification of international treaties and conventions. Emergency laws and executive decrees are common. Where adequate laws exist, the public and even official actors may be unaware, or lack the capacity to apply and enforce them.

Criminal justice systems

Criminal justice is the system used by government and the justice system to maintain social control, prevent crime, enforce laws and administer justice. Law enforcement, investigative police, prosecution services, courts and correctional services are the primary agencies charged with these responsibilities. The legislature and the systems of law production are essential to the legislative framework by which law enforcement agents and the judiciary are guided.

In modern times, the rights of offenders and victims have been increasingly recognized and respected, particularly with the adoption of human rights conventions on civil and political rights. New and more humane forms of punishment have been introduced, and corporal punishment and execution increasingly abolished. Prevention and rehabilitation have replaced retribution as the main objectives of criminal justice. In many countries, special justice systems have been set up for juveniles[37]. Particular assistance systems have been established for women and children who are victims of gender and/or sexually based violence, and witness and victim protection programmes are more widely available.

Reforming the criminal justice system

Many criminal justice systems are in dire need of reform, as many have been outstripped by new trends in society and criminal justice theory. Such reform may include:

- » de-criminalizing certain acts, such as adultery and defamation;
- » criminalizing others, such as environmental destruction and bribery; and

37 UNDP is part of the Inter-Agency Juvenile Justice Panel constituted by UN agencies and key NGO's focusing on juvenile justice. (http://www.juvenilejusticepanel.org/en/).

38 Confiscation of proceeds of crime.

39 The defendant gives up his gains to the claimant.

40 The defendant compensates the claimant for his loss.

The Criminal Process

The police work towards crime prevention and control as well as conducting crime investigation, gather evidence and identify suspect(s). Given sufficient evidence, the case is handed over to the prosecutor who will decide whether to issue an indictment, ask for further investigation or drop the case due to lack of evidence. If it is decided to go ahead an indictment will be issued and the case will move to trial. The case may after the first sentence be appealed to higher courts. It is preferable to allow the case to be appealed twice.

The offender may be sentenced to probation, incarceration, community service or some other form of sentencing. Other sanctions include fines, forfeiture[38], restitution[39] and compensation[40]. Offenders who have been sentenced to serve a prison term and have exhausted their rights to appeal are turned over to the correctional services.

» reducing sentences and introducing alternatives to incarceration, such as community services and other diversion programmes.

Reform initiatives may also address procedural issues, such as the appropriate mix of influences from adversarial and inquisitorial systems, evidentiary rules, and the structure of the appeals system.

Civil justice systems

The civil justice system provides the venue for litigation between two parties on non-criminal issues. It is comprised of courts, plaintiffs and defendants, attorneys and lawyers and court officials. There are usually several levels of appeal. Many civil justice systems offer alternative dispute resolution options such as mediation and arbitration, the terms of which may be stipulated in contracts between parties.

A common perception is that the civil justice system caters to the rich and privileged and is largely inaccessible to the poor and disadvantaged. Research indicates that gender and social and economic factors affect court use by the poor, both directly (affordability) and indirectly (negative perceptions of court impartiality).

Civil justice system reform falls into two main approaches:

a) Reform of the civil justice system

Reforms aim to make the justice system more accessible by reducing costs, simplifying procedures, ensuring access to legal assistance and improving geographical proximity. Measures include outreach programmes, mobile courts, awareness-raising, streamlining procedures, judicial training and capacity development programmes for justice officials.

b) Alternative dispute resolution

Measures to strengthen alternate dispute resolution mechanisms include offering recourse to traditional forums such as councils of elders, community courts and faith-based systems, enhancing already formalised customary legal systems or improving modern mechanisms such as commercial mediation and arbitration.

The UN and the concepts of rule of law and justice

The new UN rule of law architecture, which is a response to Member States concerns, comprises the Rule of Law Coordination and Resource Group (RoLCRG) composed of the principals of the main UN agencies (including UNDP) engaged in rule of law assistance, a working level, and the Rule of Law Unit in the office of the Deputy Secretary-General that facilitates the UN's work on rule of law. The architecture defines rule of law as 'a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency'.

The term justice is defined as 'an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs. Justice implies regard for the rights of the accused, for the interests of victims and for the well-being of society at large. It is a concept

rooted in all national cultures and traditions and, while its administration usually implies formal judicial mechanisms, traditional dispute resolution mechanisms are equally relevant. The international community has worked to articulate collectively the substantive and procedural requirements for the administration of justice for more than half a century'.[41]

The Secretary-General issued a Rule of law guidance note[42] containing guidelines for how to approach rule of law and justice assistance in various contexts at the national level. The note recommends that interventions:

» take account of the political context;
» base assistance on the unique country context;
» advance human rights and gender justice;
» ensure national ownership;
» support national reform constituencies;
» ensure coherent and comprehensive strategic approach; and
» engage in effective coordination and partnership.

The note furthermore suggests that a framework for strengthening the rule of law at the national level include the following:

» A constitution or equivalent
» A legal framework, and the implementation thereof
» An electoral system
» Institutions of justice, governance, security and human rights
» Transitional justice processes and mechanisms
» A public and civil society that contributes to strengthening the rule of law and holds public officials and institutions accountable

Approaches to criminal justice

Retributive justice

Retributive justice, in its original sense, was based on the concept of '*an eye for an eye*' and conferred on the victim the right to retaliate in kind to the offender. These ideas provided support for penalties such as capital punishment for murder and amputation for theft. While this approach held that the punishment should fit the crime, it sometimes failed to stipulate that the punishment need not be equivalent to the crime. Incarceration thus became a commonly accepted form of punishment, with an emphasis on retribution.

It is commonly argued that imprisonment has a deterrent effect on former offenders and on society at large. However, this reasoning is contested by some criminologists and sociologists, who recommend examining the root causes of crime rather than simply reacting to the symptoms.

Restorative justice

Restorative justice assumes that the victim can be restored through compensation to as good a condition as before the crime. This approach requires offenders to be penalized through community service, restitution or other alternatives to imprisonment that keep the offender active and re-socialize him into society. Transformative justice is commonly seen as part of restorative justice, but differs in that it takes the principles and practices of restorative justice beyond the

41 Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies Report of the Secretary-General (S/2004/616 of 23 August 2004)

42 Secretary General's Guidance Note on United Nations' Approach to Rule of Law Assistance April 14 2008.

criminal justice system. Using a systems approach, it explores the root causes of crime and regards offenses as transformative relational and educational opportunities for victims, offenders and the affected community.

Most often, retributive and restorative approaches justice are combined, with prison terms often supplemented by awarding damages to the victim.

Transitional justice[43]

Transitional justice is a response to systematic or widespread violations of human rights. It seeks recognition for the victims and to promote possibilities for peace, reconciliation and democracy. It is justice adapted to societies transforming themselves after a period of pervasive human rights abuse. The approach emerged in the late 1980s and early 1990s, mainly in response to political changes in Latin America and Eastern Europe – and to demands in these regions for justice. At the time, human rights activists and others wanted to address the systematic abuses by former regimes but without endangering the political transformations that were underway. Since these changes were popularly called 'transitions to democracy', people began calling this new multidisciplinary field 'transitional justice'. Governments there adopted many of what became the basic approaches to transitional justice. They include but are not limited to the following initiatives:

» Criminal prosecutions. Prosecutors frequently emphasize investigations of the "big fish": suspects considered most responsible for massive or systematic crimes.
» Truth commissions. The commissions have the primary purposes of investigating and reporting on key periods of recent past abuse. They are often official state bodies that make recommendations to remedy such abuse and to prevent its recurrence.
» Reparations programmes. They are state-sponsored initiatives that help repair the material and moral damages of past abuse.
» Security system reform. Efforts that seek to transform the military, police, judiciary, and related state institutions from instruments of repression and corruption into instruments of public service and integrity.
» Memorialisation efforts. They include museums and memorials that preserve public memory of the victims and raise moral consciousness about past abuse, in order to build a bulwark against its recurrence.

Issues in justice reform

Justice sector reform attracts significant development resources both in societies transitioning from authoritarian rule to democratic systems (such as those under the influence of the former Soviet Union) and in societies recovering from violent conflict (such as Afghanistan, the Democratic Republic of Congo, Liberia, Sierra Leone and the former Yugoslavia). However, a number of issues remain controversial, including:

» Suitability of common or civil law models in countries with different legal cultures
» Whether reform should favour a single national legal system or legal pluralism
» The role of traditional dispute resolution mechanisms, customary law systems, faith based systems, and new community justice systems
» Tensions between different approaches to crime prevention

43 see http://www.ictj.org/en/tj/

» Heavy prison sentences versus rehabilitation and decriminalization
» The role of lawyers in enhancing access to justice for the poor and disadvantaged
» Competing reform priorities of pro-growth and access to justice

Separation of powers and the justice sector

Separation of powers means that the legislative, executive and judicial branches of the state are assembled and maintained independently of each other. Each branch fulfils its functions based on its legally prescribed mandate. Checks and balances are thus built into the power relations between them and protect against inappropriate concentrations of power. The principle enhances the legitimacy and accountability of state institutions.

From the perspective of democratic governance, it is vital that justice institutions and in particular the judiciary be independent, accountable, impartial and non-discriminatory. Independence is manifested in:

» integrity and impartiality in the application of the law;
» security of tenure;
» transparency and accountability; and
» judicial authority to govern itself on matters pertaining to its independence, such as its budgets.

Access to justice

Access to justice is more than theoretical access to legal processes. UNDP defines access to justice as the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards. From the user's perspective, especially the poor and disadvantaged, justice systems are often weakened by:

» prohibitive costs and long, bureaucratic processes
» abuse of powers resulting in unlawful searches, seizures, detention and imprisonment
» gender bias and other barriers affecting women, children, the poor and the disadvantaged (such as people with disabilities and low levels of literacy)
» lack of protection in prisons or centres of detention
» inadequate information about the law, judicial practice and rights
» inadequate legal aid and counselling systems
» weak enforcement of laws
» limited public participation and civil engagement in reform programmes

There are also many barriers to justice sector reform, particularly the absence or lack of:

» peace and security
» political will for reform
» legislative frameworks
» technical capacity and financial resources.
» long-term strategic planning
» coordination and cooperation between the justice institutions

Rule of Law

Rule of law emphasizes the promotion of human rights, fairness and access to justice (see the agreed UN definition above). It is present when:

» there is respect for human rights and for the law;
» all individuals and institutions are treated equally by the law; and

» justice is accessible to all.

Three essential components to the rule of law are that:

» no one is above the law;
» all persons are entitled to equal protection of the law; and
» every wrong must have a remedy.

In a society founded on the rule of law, people respect and protect human rights, value justice and respect the law. A government founded on the rule of law is transparent, accountable and non-discriminatory.

As with many concepts relating to the quality of governance, the term is applied both restrictively and expansively depending on a country's political context. Used restrictively, countries will stress the actual enforcement of the law, regardless of whether the law is fair and just.

Support to the strengthening of the Rule of law has become a major field for bilateral and multilateral development assistance. Besides the UN, the World Bank, the European Union, African Development Bank, and several bilateral agencies including DfiD, Danida, Norad, and SIDA. The Netherlands, Spain, Switzerland, France, Germany and others are significant donors in this area. Some international NGOs and foundations are also engaged in this field.

The conceptual approaches to rule of law support have been categorised as follows:

» Law and development, which represented a distinct movement in the 1960s and 1970s
» Rule of law orthodoxy, a critique of international rule of law support as top- down and too narrowly focused on strengthening institutions
» People-centred access to justice
» Legal empowerment, which through legal services aims to increase disadvantaged people's control over their lives

The UN approach, based on the normative framework of human rights, would be an example of the people-centred approach. The initial World Bank approach, which places great emphasis on economic and political values such as the promotion of a market economy and democratic institutions, has been characterised as orthodox. However, the Bank has changed its approach in recent years through its justice for the poor programme, engagement in the legal empowerment initiative and most recently the establishment of a human rights and justice trust fund funded by the Nordic countries, DfiD, the Netherlands and others.

Criticisms about the rule of law orthodoxy approach point to its:

» top-down, state-centred orientation and emphasis on business;
» emphasis on legislative reform and strengthening of formal institutions;
» lack of attention to development, the poor and disadvantaged; and
» lack of involvement of civil society.

The problem from a pro-poor perspective is not so much the economic and political goals of the orthodox approach, but rather the questionable assumption that it automatically contributes to reducing poverty, its unproven impact from a human development perspective and inadequate

attention to the legal needs of the poor. In many countries, development aid under this approach goes mainly to a narrow range of state institutions, leaving unmet the legal needs of the poor.

A bottom-up access to justice approach that focuses on legal empowerment differs from the traditional rule of law orthodoxy in that:

- the disadvantaged play a central role in setting priorities, rather than government officials and donor personnel dictating the agenda;
- the use of law is part of integrated strategies that include other development activities; and
- attorneys support the poor as partners instead of dominating as proprietors of expertise.

Research suggests that access to justice and legal empowerment has helped advance poverty alleviation, good governance and other development goals as people are empowered to use the law to claim their rights through the justice system.

Adjudication

Adjudication is the formal process of determining the most appropriate type of sentence that contains a punishment, remedy or compensation. Adjudication mechanisms include the judicial machinery represented by justice sector institutions and actors such as the prosecutorial services, the courts, defence lawyers and attorneys on both sides in civil disputes. Adjudication may also be conducted by quasi-judicial processes, mainly in relation to civil disputes; criminal proceedings are generally handled by the judiciary.

Quasi and non-judicial adjudication avenues include national human rights institutions and alternative dispute resolution mechanisms (normally understood as mediation and/or arbitration services). However, such mechanisms are effective only when accompanied by enforcement procedures. Alternative dispute resolution can be regulated by formal or informal law, and can be attached either to the court system or to a government agency such as land or labour boards. In all cases, adjudication mechanisms should be independent from executive and legislative powers.

Enforcement

Enforcement in criminal justice systems

Functioning enforcement systems are vital to ensuring security and elimination of impunity. Many crucial problems in justice systems, both formal and informal, can often be traced back to deficient systems of enforcement.

In the performance of prosecutorial services, the Attorney General's Office greatly influences the effectiveness of the criminal justice system. Hence, it is vital that the prosecutorial services function effectively, efficiently and with integrity.

As the first point of contact in the criminal justice system, the police play a fundamental role in ensuring access to justice. However, justice reforms all too often fail to include police reform. Prisons have also been left out of most justice reform processes in the past as the prison system is a low priority for many governments.

Frequently the term law enforcement is understood as the law and order function of the police – the street police. This is also seen as a tool to prevent crime and protect people, their assets and to ensure personal security and safety.

Enforcement of civil disputes

Once a case has been adjudicated, the court must decide on procedures to enforce the decision. Judicial enforcement is often a weak link in the justice system. Civil dispute enforcement can relate to adjudication of disputes concerning private transactions such as bank loans, housing leases or rentals. Other civil dispute enforcements relate to family law, such as cases of child custody, maintenance, division of property after divorce, and inheritance.

Oversight of the justice system

Justice institutions often include independent bodies to oversee the functions and performance of justice sector actors. They are typically authorized to initiate inquiries into allegations of abuse of authority. These bodies also serve disciplinary functions such issuing penalties and initiating criminal investigations and proceedings. It is important that the decisions and actions of these bodies are published with due consideration to privacy concerns so that justice is seen to be done.

Civil society and parliamentary oversight

Civil society and parliamentary oversight are necessary to strengthen overall accountability in the justice system. Developing watchdog and monitoring capacities in CSOs and in parliament benefit disadvantaged groups as well as justice institutions.

Security sector reform

The security sector is defined as the institutions, groups, organization and individuals (state and non-state) that have a stake in security and justice provision, including:

» Law enforcement institutions such as police and armed forces
» Security management and oversight bodies, such as parliament and the executive
» Civil society organizations and media
» Justice institutions
» Non-statutory security forces (liberation armies, militias etc.)

An effective security sector undergirds peace, stability, poverty reduction, sustainable development, rule of law, good governance and respect for human rights. The overarching objective of security sector reform is to ensure that security institutions perform their statutory functions efficiently and effectively.

It is vital that the security sector always be under democratic control. In post-conflict and other situations where such a standard may be compromised, the risk of insecurity and human rights abuses is greater and peace may be difficult to sustain.

However, security sector reform is pertinent also in developed and developing countries where police brutality, racial bias and violence against women may occur. Specific attention must be given to gender considerations in designing security sector reform strategies, to effectively respond to under-representation of women in the sector and to address gender-based issues such as violence against women.

Despite the fact that security sector reform is receiving increasing attention, it remains a contentious and complex issue on which little international consensus has been reached.

2. Justice and human rights

A number of international instruments establish the principles for human rights and the admin-

istration of justice. They comprise the Universal Declaration of Human Rights and specific covenants, conventions, rules, guidelines and standards promulgated by the international community under the auspices of the UN.

The 1948 *Universal Declaration of Human Rights* makes it clear that human rights of all kinds – economic, political, civil, cultural and social – are of equal validity and importance. This has been reaffirmed repeatedly by the international community, for example in the 1986 Declaration on the Right to Development, the 1993 Vienna Declaration and Programme of Action and the Convention on the Rights of the Child.

The *International Covenant on Civil and Political Rights* enshrines the principles of equality before the law and the presumption of innocence until proven guilty. It guarantees freedom from arbitrary arrest and detention and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law.

The *Basic Principles on the Independence of the Judiciary* require that the independence of the judiciary be guaranteed by national law and prohibit inappropriate and unwarranted interference with judicial process. They protect due process through established legal procedures that are fair and respect the rights of the parties. These basic principles also oblige states to provide adequate resources to enable the judiciary to properly perform its function and set forth principles for the selection, training, discipline and conditions of service of the judiciary.

The *Basic Principles on the Role of Lawyers* require governments to ensure that procedures and mechanisms for equal access to lawyers are provided, including the provision of resources for legal services to the poor and disadvantaged. In addition, they entitle lawyers to form and join self-governing professional association.

The *Guidelines on the Role of Prosecutors* identify the responsibility of prosecutors in protecting human dignity, upholding human rights and ensuring due process.

Requirements of law enforcement officials, including military authorities that exercise police powers, are set out in the *Code of Conduct for Law Enforcement Officials*. The code requires officers of the law to uphold the human rights of all persons and to provide assistance to those who by reason of personal or other emergencies are in need of immediate aid.

The *Basic Principles for the Treatment of Prisoners* prohibit discrimination, insist on respect for human rights and call for the reintegration of ex-prisoners into society with due regard to the interests of victims.

These instruments and the standards that they promulgate inform and influence UNDP's support to the justice sector.

The normative framework for justice

1. Universal Declaration of Human Rights
2. International Covenant on Civil and Political Rights
3. Basic Principles of the Judiciary
4. Basic Principles on the Role of Lawyers
5. Guidelines on the Role of Prosecutors
6. Code of Conduct for Law Enforcement Officials
7. Basic Principles for the Treatment of Prisoners

3. The approach of the United Nations and UNDP

The normative foundation for the work of the UN in advancing the rule of law is the UN Charter and the four pillars of the international legal system – international human rights law, international humanitarian law, international criminal law and international refugee law.

While justice itself is universal, methods of dispensing justice must be home-grown and adapted to local context.

UN support to justice systems

On the ground, UN operations have worked to:

- » strengthen domestic law enforcement and justice institutions;
- » facilitate national consultations on justice reform;
- » coordinate international rule of law assistance;
- » monitor and report on court proceedings;
- » train national justice sector officials; and
- » support local judicial reform bodies and advise host country rule of law institutions.

UN operations have helped national actors to:

- » vet and select national police, judges and prosecutors;
- » draft new constitutions and revise legislation;
- » inform and educate the public;
- » develop ombudsman institutions and human rights commissions;
- » strengthen associations of criminal defence lawyers;
- » establish legal aid and set up legal-training institutes; and
- » build the capacity of civil society to monitor the justice sector.

Through initiatives such as the Standing Police Capacity, the UN has worked to support national authorities in building sustainable law enforcement institutions. Peace missions have also helped host countries to address human rights abuses by establishing tribunals, truth and reconciliation mechanisms and d victim reparation programmes.

At the 2005 World Summit, UN Member States decided to establish a Peacebuilding Commission (PBC) as an intergovernmental advisory body. Its main purpose is to bring together all the relevant actors to marshal resources and to advise on and propose strategies for post-conflict peacebuilding and recovery, laying the foundations for sustainable development. In Sierra Leone, the Commission has agreed on the need to pursue ongoing national efforts in the fields of justice and security sector reform, strengthen the administration of justice and promote further reform of the police and army. In Burundi, it has agreed that national efforts are needed to strengthen rule of law, as well as completing disarmament, demobilization and reintegration.

The role of the UN in promoting rule of law and transitional justice

When a country is in the grip of conflict, state institutions often collapse. Democracy is eroded and the culture for human rights, when present, degenerates. State organs such as courts, police and military begin to serve those that are in power rather than the people they have been created to protect and serve. Parties to the conflict often create their own private armies or militias.

In post-conflict settings, legislative frameworks often show accumulated signs of neglect and political distortion, contain discriminatory elements and rarely reflect international human rights and criminal law standards. National judicial, police and corrections systems have typically been stripped of the human, financial and material resources necessary for their proper functioning. They also often lack legitimacy, having been transformed by conflict and abuse into instruments of repression.

All this leads to a general breakdown of trust in state institutions. In such situations, there is need to build trust between the people and newly established or emerging democratic governance institutions. During transitional periods, national human rights commissions can play a vital role in affording accountability, redress, dispute resolution and protection. Transitional justice comprises the processes and mechanisms of a society's attempts to come to terms with past abuses in order to ensure accountability, justice and reconciliation.

The *Secretary-General's Report to the Security-Council on Rule of Law and Transitional Justice* (2004) identified lessons and outlined a strategy for UN involvement in promoting the rule of law in conflict and post-conflict countries, focusing on the need for the following:

» A common language on concepts of justice, transitional justice and rule of law

» Basic assistance on international norms and standards

» Strengthening the rule of law and transitional justice in the wake of conflict (through needs assessments, mission planning, deployment of specialized staff and provision of guidance and support to rule of law components of missions)

» Holding local consultations (the most successful transitional justice experiences owe a large part of their success to the public and victim consultation carried out)

» Developing and strengthening national justice systems and legal aid (with due regard to informal traditions for administering justice, to help them to continue their often vital role and to do so in conformity with international standards

» Integrated and complementary approaches

Rule of law and justice strategies must be comprehensive and engage all institutions of the justice sector, both official and non-governmental, in the development and implementation of a nationally owned and led strategic plan for the sector.

The UN approach to security sector reform

The UN has made significant contributions to the reestablishment of functioning security sectors in post-conflict environments. An increasing number of UN agencies, funds and programmes are engaged in support to *security sector reform.*

Addressing the Security Council on the matter, Secretary-General Ban Ki-moon pointed to three main lessons learned by the UN about the necessary conditions for peace-building and sustainable peace:

1. Building sustainable security after conflict goes beyond the scope of any one actor;

2. Security cannot be restored and maintained in a vacuum but must address the wider needs and perspectives of the state and communities;

3. Sustainable security must go beyond reintegrating soldiers and training and equipping individual police officers. Income generation and development for the longer term is essential in order to transform fighters into civilians and reintegrate them into society.

These principles guided security sector reform efforts in Kosovo, for example, where the UN carried out a province-wide consultation to obtain a full picture of security needs and perspectives.

Key conceptual issues in relation to security sector reform that need further clarification and agreement include:

» Norms and standards for security sector reform
» System-wide UN guidelines and best practices for security sector reform support
» The need for the UN to ensure consistency of approach to reform in related areas such as disarmament, demobilization and reintegration, rule of law and transitional justice
» The roles of the Security Council and the Peacebuilding Commission
» Ensuring sufficient UN capacity for supporting security sector reform
» Coordination among intergovernmental organizations and other international actors

The effective application of security sector reform requires implementation of policies on incentives, supervision and sanctions.

In February 2007, the UN Security Council concluded that security sector reform is critical in post-conflict countries in order to consolidate peace and stability; to promote poverty reduction, rule of law and good governance; to expand legitimate state authority and to prevent countries

Security sector reform: The example of Afghanistan

As a country emerging from prolonged conflict, Afghanistan is well aware of the importance of security sector reform in facilitating recovery, development, rule of law and respect for human rights. Security sector reform has been the lynchpin to the state-building process and is the flagship of international engagement in rebuilding the country's security forces and law enforcement agencies.

The reform process consists of five pillars each led by a different donor country: military reform, police reform, counter-narcotics, judicial reform and the disarmament, demobilization and reintegration (DDR) of former combatants. To date, more than 60,000 ex-fighters have been disarmed or demobilized.

The next phase of the security sector reform process has been the effort to disband illegal armed groups and to carry out further reforms in the ministries of defence and interior.

Despite this progress, Afghanistan continues to face significant challenges in strengthening the capacity of its security institutions. Lack of resources and modern equipment and low pay for soldiers negatively impacts the effectiveness of the national army and police. A sustained level of international engagement in strengthening the capacity of security institutions in post-conflict countries constitutes is an essential component of success.

from relapsing into conflict. The meeting identified priorities for achieving a better coordinated UN approach in order to:

- » reach consensus on the concept of security sector reform;
- » allocate clear roles and responsibilities among the various UN entities involved;
- » generate lessons learned, norms, standards and best practices; and
- » establish coordination mechanisms (with UN, external and partner country actors).

Internal UN coordination

According to the Secretary-General, there are three main areas in which measures could be taken to strengthen UN work on security sector reform:

1. The UN must further define the roles and responsibilities of the different departments, agencies, funds and programmes;

2. There should be a clear strategic lead within the UN to oversee and coordinate the work;

3. The UN should define system-wide core principles on security sector reform, drawing on its own lessons-learned and established best practices.

The UN acknowledges the contribution that non-UN actors, in particular regional, subregional and other intergovernmental organizations, including international financial institutions, bilateral donors and non-governmental organizations can bring in supporting nationally-led security sector reform. An example of input from non-UN actors is the work done by OECD/DAC in developing an implementation framework for security sector reform. For more information, see the OECD/DAC *Security Sector Reform and Governance* (2005).

As the UN develops its capacities in the area of security sector reform, the General Assembly and ECOSOC (in line with the latter's coordinating role) can play a key role in promoting a coherent and coordinated approach based on a shared understanding of the UN's comparative advantage relative to other multilateral as well as government and civil society actors.

Justice and UNDP

Justice is closely related to UNDP's mandate of poverty eradication and human development. Both development and democratic governance are undermined where access to justice for all citizens (irrespective of gender, race, religion, age, class or creed) is absent. In line with its mandate, UNDP takes a pro-poor and gender-sensitive approach to justice issues.

UNDP's specific niche lies in supporting justice and related systems as part and parcel of the promotion of democratic governance for poverty eradication and sustainable human development. UNDP aims to build and strengthen access to justice though processes that result in better protection of human rights.

UNDP takes a comprehensive approach to justice and rule of law which encompasses the entire criminal justice chain (including police, lawyers, prosecutors, judges and prison officers as well as issues that go beyond the criminal justice system by which may be relevant to its functioning such as illiteracy, gender inequality etc.

Access to justice is a basic human right as well as a means of protecting and claiming other rights.

UNDP's framework for support to action on access to justice is based on the twin goals of human rights (normative protection) and capacity development of rights-holders to claim their rights and of duty-bearers to fulfil their duties. UNDP is committed to a human rights based approach in its programming, guided by international human rights principles.

Access to justice is much more than improving an individual's access to courts, or guaranteeing legal representation. It is also about ensuring that legal and judicial outcomes are just and equitable. Using a human rights-based approach to development focuses the practitioner on identifying the grievance that calls for a remedy or redress, the potential obstacles to its redress and the way to overcome these.

UNDP is committed to the legal empowerment approach to rule of law. Priority is given to improving the situation for the poor and disadvantaged such as women, minorities, indigenous people, persons with disabilities or living with HIV/AIDS, migrants, refugees, internally displaced persons, rural and urban poor and victims of natural disasters.

UNDP access to justice programming focuses on both traditional and formal systems and on building interfaces between them. Therefore, UNDP's work in the area of access to justice complements that of other development actors who have prioritized criminal justice, security sector or civil law reform.

UNDP's justice sector programmes to date have focused on the following issues:

- independence and impartiality
- transparency and accountability (especially related to judicial corruption)
- effectiveness (implementation of court orders and decrees)
- administration (including case and court management)
- competence and training
- relationships with other institutions of governance
- reconstruction and transitional justice

UNDP's experience offers a number of principles for action on access to justice, such as:

- policies and programmes must ensure an explicit pro-poor focus
- capacity development for access to justice must build on existing strengths
- effective reforms require an integrated approach that includes:
  a) wide participation
  b) protection of rights, especially those of the poor and disadvantaged
  c) strengthening capacities to seek remedies
  d) improving institutional capacities to provide remedies in relation to adjudication, due process and enforcement mechanisms (police and prisons)
  e) civil society efforts to foster accountability
- access to justice programming must be linked to other development activities
- assessment of aid absorption capacities is crucial to avoid unintentional undermining of institutional systems and democratic processes

UNDP's approach is community-driven and works from the grassroots up to impact national legislation and institutions. It prioritizes civil society

support as a means of strengthening the legal capacities and power of the poor but also engages government wherever possible.

In sum, UNDP's approach to justice sector reform focuses on strengthening the independence and integrity of both formal and informal justice systems, making both more responsive and more effective in meeting the needs of justice for all, especially the poor and disadvantaged.

4. Practical guidance for justice system programming

UNDP support to access to justice

Promoting access to justice may include support to the six main capacities of justice systems in order to adequately address grievances identified in section 1. To recap, these are:

- » legal protection
- » legal awareness
- » legal aid and counsel
- » adjudication
- » enforcement
- » oversight (by parliaments, national human rights commissions, CSOs, etc)

As a starting point, UNDP can support:

- » needs assessments
- » determining national baselines on access to justice
- » national action plans on legal aid

When developing justice programmes, a human rights-based approach[44] helps to focus on immediate and underlying causes of the problems and identify claim holders or beneficiaries (the most vulnerable such as the rural poor, women, children, the disabled, ethnic minorities .etc).

Moreover, a HRBA can help identify the duty bearers and assess the capacity of both claim-holders to claim their rights and of duty-bearers to meet their obligations and use this as basis for capacity development strategies

For more information on the human rights based approach and how to apply it, see UNDP's *Access to Justice Practice Note* (2004).

Assessing request for access to justice programming

Key questions to ask:

- » What type of judicial system exists? Does the country have a history of free and fair justice? Does the system only serve for dispute settlement between the powerful and rich? Is the formal judicial system only operating in urban environments?

- » Are human rights explicitly guaranteed in the constitution? What international instruments has the country adhered to? Has human rights legislation been passed by parliament accordingly? What is the level of political commitment in parliament?

- » How independent is the judiciary? What is the balance of power between the judiciary and the executive? What is the size of the budget of the Justice Ministry?

- » What is the situation of judicial training institutions and of legal education in general?

44 See Chapter 1, *Democratic Governance and Human Rights*

» What is the level of awareness of the justice system by the public, particularly by poor and other vulnerable groups? Is there a public legal awareness programme?

» What factors prevent poor and disadvantaged from accessing the judicial system? What risks and costs are incurred in accessing justice?

» Are there mechanisms (traditional or other) for alternative dispute resolution?

» What is the relationship between traditional and formal justice?

» Is there a legal aid system? What are the resources devoted to the system? Is legal aid available in all parts of the country including rural areas?

» Are there national human rights institutions? Are there bodies addressing discrimination? Does anti-discrimination legislation reflect international standards?

» Is civil society involved in access to justice, legal aid, judicial reform and monitoring?

» How are resources allocated within the justice sector? Is there a balance in the resource distribution to the judiciary, public defence, prosecution, police and prisons?

» If corruption is endemic, has the judiciary demonstrated a willingness to combat corruption, including within its own ranks, and to promote anti-corruption legislation?

» Is the judiciary active in addressing corruption and human rights abuses by the police?

» Does the programme identify access to justice concerns of the poor and marginalized? Are there adequate baselines and indicators in this regard? Are there provisions for their participation in programme design and/or implementation?

» Are other agencies or donors supporting access to justice? Are efforts coordinated?

» Can UNDP work directly with the judiciary, i.e. through the High or Supreme Courts or will it have to work through government to get clearance for activities?

» Are the political actors at the highest level, Justice Ministry Senior Officials, Senior Justices committed to reform? Have any steps been taken toward reform?

» What is the perception among the public, civil society, media and the international community of the executive's willingness, status and prospect of reform?

Following the assessment, the UNDP Country Office, may wish to consult with regional advisors, headquarters or other experts and will exercise their discretion to determine whether support to the judiciary is likely to succeed in achieving access to justice outcomes. UNDP always retains the right to decline requests for support.

UNDP support to legal awareness and legal aid

Legal awareness is the foundation for fighting injustice as it can help disadvantaged people to better understand their rights. However, awareness in itself is not enough.

Ten steps in developing an access to justice programme

1: Familiarization with the programming context
Understand UNDP's policy on access to justice and the type of access to justice issues influencing poverty and/or violent conflict in the country.

2: Selection of a development problem
Determine the scope for analysis and programming.

3: Securing adequate capacities
Determine what time, financial and technical capacities are needed to complete the process.

4: Ensuring participation
Establish mechanisms for establishing participation in all stages of the programming cycle.

5: Analyzing the problem and its causes and effects
Understand the causes and effects of the problem including its human rights dimensions.

6: Setting objectives and selecting outcomes
Define the expected changes in the lives of people the programme will contribute to.

7: Defining and prioritizing strategies
Define what needs to be done, in what way, with whom and when, to produce pro-poor results on access to justice and promote equity.

8: Setting outputs and a partnership strategy
Define the tangible results and how key partners will be mobilized

9: Establishing an implementation framework
Define the activities needed to produce the outputs, determine roles and responsibilities and to ensure accountability and non-discrimination in programme implementation.

10: Designing a monitoring and evaluation system
Define what and how to measure and who will do it with what frequency

The often high costs of legal counsel and legal processes tend to discourage those who cannot afford them from seeking just remedies. Legal aid support can offset some of these impediments. Legal aid, like legal awareness, requires the intervention of both government and non-government actors.

Some strategic entry points of programming are:

- the enactment of pro-poor and human rights legislation, and treaty ratification
- legal reforms to bring formal and traditional justice systems into conformity with human rights norms and standards, strengthen judicial independence, enhance due process and improve legal aid
- capacity development for the analysis, scrutiny and drafting of legislation
- strengthening of capacity for law enforcement

» support to communication mechanisms for dissemination of legal information.
» support to training of government officials in legal awareness and access to information to break down institutional resistance to openness
» promotion of new litigation methodologies
» strengthening of coordination among state and non-state legal aid providers

When designing community education programmes, it is vital to involve non-lawyers and to use social networks to mobilize communities around access to legal information. Innovative use of information and communications technology (ICT) to reach disadvantaged groups can also be helpful if suited to local conditions.

UNDP support to adjudication, enforcement and oversight

Some strategic entry points of programming are:

» strengthening coordination of national human rights institutions with the judiciary, prosecution, police and prisons
» strengthening appointment systems and mechanisms for enforcing professional and ethical standards
» strengthening procedures and capacity for criminal investigation
» supporting police and prison reform
» strengthening civil society capacities for advocacy and watchdog functions
» explore and strengthen the role of the media

UNDP support to security sector reform

UNDP's involvement in security sector reform relates to its mandate to work towards poverty reduction, conflict prevention and democratic governance. As with UNDP work in general, the focus is on the poor and disadvantaged groups. Potential areas for support include:

» disarmament, demobilization and reintegration (DDR) of former combatants
» measures for arms control, particularly small arms and light weapons

UNDP also has a role in assisting in the creation of institutions oriented to public order and security and to support the adequate composition of their staff.

UNDP entry points in conflict and post-conflict areas

Some specific entry points for UNDP support to rule of law in post conflict societies include:

» assessing national needs and capacities
» facilitating consultations on justice reform and building capacity of justice institutions
» facilitating truth telling through e.g. support for truth commissions and reparations
» facilitating vetting of the public service, to guard against problems of lustration[45]
» support to delivering reparations
» coordination of donor efforts

Programme monitoring and evaluation

UNDP has developed a framework for pro-poor and gender-sensitive indicators in justice programming, covering the six main of justice systems discussed in section 1. The framework covers the following main questions:

1) Legal Protection

» Are women and the poor effectively protected by the laws? Do women enjoy the same rights

45 For an discussion on "lustration", see http://www.beyondintractability.org/essay/lustration/

(especially to land and other property) as men both in law and practice?

2) Legal Awareness

» Are women and the poor aware of the institutions tasked with protecting their access to justice, their right to seek redress and the steps involved?

3) Legal Access

» What legal aid services are available to women and the poor and are they being used?

» Do women and the poor make use of informal mechanisms of dispute resolution?

4) Adjudication

» How effective is the justice system in detecting and addressing domestic violence?

» Are men and women treated equally by the courts and other dispute resolution mechanisms?

» How do women and the poor assess the formal and informal systems of justice?

5) Enforcement

» Are women's property and land rights enforced as effectively as those of men?

6) Oversight

» How effective are CSOs in improving the treatment of women and the poor by the justice system?

» What institutional mechanisms exist in Parliament to oversee the justice system?

For more information on indicators for justice programmes, see UNDP's *Access to Justice: Practice Note* (2004) and *Measuring Democratic Governance: a Framework for selecting pro-poor and gender-sensitive indicators* (2006).

5. Resource section

a) Recommended readings

Anderson, *Making Legal Institutions Responsive to Poor People in LDCs* (1999)
http://www.ids.ac.uk/ids/bookshop/wp/wp178.pdf

Anderson, *Monitoring and Evaluation for Accessible Justice Programmes*
http://www.undp.org/governance/cd/documents/53.ppt

Bloomfield et. al, *Reconciliation After Violent Conflict: A Handbook* (2003)
http://content.undp.org/go/bcpr/BCPR-Documents/download/?d_id=293357

Douglas, *Justice and Gender Primer* (2006)
http://content.undp.org/go/practices/governance/docs/download/?d_id=1180193

Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative* (2003)
http://www.justiceinitiative.org/db/resource2?res_id=102099

Lilly et. al, *A Goal Oriented Approach to Governance and Security Sector Reform* (2002)
http://www.international-alert.org/publications/getdata.php?doctype=Pdf&id=83

OECD/DAC, *Security Sector Reform and Governance* (2005)
http://content.undp.org/go/bcpr/BCPR-Documents/download/?d_id=318828

UNDP *Access to Justice Practice Note* (2004)
http://www.undp.org/governance/docs/Justice_PN_En.pdf

UNDP, *Indicators for a Human Rights Based Approach to Development: User's Guide* (2006)
http://content.undp.org/go/practices/governance/docs/download/?d_id=477115

UNDP, *Practitioner's Guide to the Human Rights Based Approach to Access to Justice* (2003)
http://content.undp.org/go/practices/governance/docs/download/?d_id=356510

UNODC, *Handbooks and manuals on the United Nations standards and norms in crime prevention and criminal justice*
http://www.unodc.org/unodc/en/crime_cicp_standards_manuals.html

UNODC, *Handbook of basic principles and promising practices on Alternatives to Imprisonment* (2007)
http://www.unodc.org/pdf/criminal_justice/07-80478_ebook.pdf

UNODC, *Handbook on Restorative Justice* (2006)
http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf

UNODC/UNICEF, *Manual on the Measurement of Juvenile Justice Indicators* (2006)
http://www.unodc.org/pdf/criminal_justice/06-55616_ebook.pdf

Vera Institute of Justice/UNDP, *Justice Indicators* (2005)
http://www.undp.org/oslocentre/docs05/cross/Justice%20Indicators%20Background%20Paper.pdf

b) Website resources

Access to Justice at
http://www.accessjustice.ca

Access to Justice Network Canada at
http://www.acjnet.org

Asia Development Bank at
http://www.adb.org/Law/default.asp

Judgelink at
http://www.judgelink.org/

Open Society Justice initiative at
http://www.justiceinitiative.org/

UNDP, Justice& Human Rights Website at
http://www.undp.org/governance/sl-justice.htm

Local Governance and Decentralization

10 Local Governance and Decentralization

This chapter covers the following themes:

- The role and evolution of local governance and decentralization (LGD)
- The challenges and opportunities of decentralization reform
- Main actors and their roles
- The UNDP approach to LGD
- Practical guidance for programming

Materials referred to in the text are listed in the Resource section.

1. Concepts and trends

What is local governance?

Local governance is a set of institutions, mechanisms and processes through which citizens can express their interests and needs, mediate differences and exercise their rights and obligations at the local level. Local governance includes not only the machinery of government but also other actors and their interactions with local government institutions.

There are many actors participating in the local governance system:

- Agencies and departments of the central government
- Community members
- Local governments
- Traditional authorities
- Civil society organizations
- The private sector
- The international community

Local government is responsible for designing, promoting and implementing local policies in partnership with other local actors. It can play an important role in bringing together the actors to build a common vision of how to respond to a locality's problems in a co-ordinated way, in order to promote sustainable improvements to the quality of local people's lives.

Local government as a community leader

In a rapidly changing world, communities need strategic local leadership in order to:

- build a cohesive community;
- ensure that their communities have a viable economic future;
- adapt to demographic shifts, for example, in cases when many young people leave small

towns and villages for large urban centres; and

» assess and mitigate the impact of changes in economic, environmental and other factors affecting local communities (such as e.g. climate change).

In the past, local governments would typically address problems by themselves – setting up and operating utilities, organizing social protection for children and elderly people, and running schools.

Today, they are much more likely to discharge their role through partnerships, by developing a joint strategy with community members, or commissioning others to deliver services rather than providing them directly. This is often done through public- private partnerships.

Characteristics of good local governance

The building blocks of good local governance are many and include:

» Citizen participation
» Partnerships among key actors
» Capacity of local actors
» Multiple flows of information
» Institutions of accountability
» Pro-poor orientation

Good local governance systems require engaged and empowered local communities capable of articulating their needs and participating in setting priorities, making decisions, and monitoring and implementing programmes. Good local governance systems also require an effective and responsive democratically elected local government.

Effective local governments provide leadership for the local community, build trust and maintain open and accommodating relationships with local stakeholders. They promote broad-based participation through mechanisms such as town and interest group meetings, public hearings, and participatory planning and budgeting processes. Community members are well informed and provide input into decisions that affect their lives. Electoral accountability through regular local elections is at the heart of this process.

Democratically elected local councils play a central role in promoting local democracy. In addition to representing community interests within the council, municipal councillors should promote the involvement of citizens and community groups in the design and delivery of local government programmes. Effective local government pays special attention to promoting the participation of marginalized groups in community processes e.g. by promoting gender based budgeting and including marginalized groups in the planning process.

The functions of local government should be exercised in a way that has a positive impact on the social development of communities – in particular meeting the needs of the poor – and on the growth of the local economy. A good local governance system requires CSOs that have the capacity to articulate the needs of citizens, to engage with local governments and to serve as a mechanism for social accountability. International development experience indicates that vibrant and capable CSOs are an important element in minimizing elite capture[46] due to unequal power relationships, especially at the local level. Strengthening CSOs is therefore a key pillar to good LGD.

46 'Elite capture' occurs when a few members of the elite control resources or the power to allocate them, be it at local, regional, or national level.

'Big man' structures pose significant challenges in the Pacific

Local governments in many Pacific countries co-exist with traditional authorities. The influence of traditional authorities is based on their control over land and other local resources and their important role in conflict resolution.

In many parts of the Melanesia (e.g. Papua New Guinea and Solomon Islands) traditional authorities have high credibility and significant influence over local communities. This is in part due to the relative isolation and lack of presence of the government in many pacific communities, which are still organized along lineage and clans. Identifying ways to harmonize traditional systems with formal government systems is a major challenge.

In many of the developing countries which are still emerging from their post colonial history, CSOs are in an early stage of development and face many challenges in terms of internal governance structures, capacity and funding.

Local Governance and Decentralization (LGD) as a concept

D*ecentralization* is the process of dispersing decision-making from the centre to a point closer to the service delivery or action. It provides an opportunity to develop and strengthen local governance through equipping local governments with the authority, capacity and resources to better respond to the needs of citizens.

Decentralization refers to the restructuring of authority into a system of co-responsibility among governance institutions at the central, regional and local levels according to the principle of *subsidiarity*. Subsidiarity means that decisions should be taken at the lowest possible level capable (or potentially capable) of completing them and that decision makers should be accountable at that level.

Different forms of decentralization

The term decentralization is usually applied to refer to any shift away from the centre, whether administrative, political or fiscal. There are three main models of decentralization:

1) *Deconcentration* – central government disperses responsibilities for certain services to its regional or local offices. This does not involve any transfer of authority to lower levels of government.

2) *Delegation* – central government transfers decision-making responsibility and administration of public functions to local governments or semiautonomous organizations while retaining supervisory powers at the centre. It can be described as a *principal-agent relationship*[47], with the central government as the principal and the local government as the agent.

3) *Devolution* – central government transfers authority for decision-making, finance and management to elected bodies with some degree of local autonomy. Local governments have legally recognized geographical bound-

47 A 'principal-agent relationship' describes a relationship where a person or entity (called the agent) acts on behalf of another (called the principal). In this case, local governments act on behalf of a central government.

aries over which they exercise authority and within which they perform public functions.

The 'decentralization' that has occurred in many countries is actually deconcentration, since independent local governments do not exist and local field offices of the central government are simply used to improve the efficiency and effectiveness of service delivery. This is the case in many Asian countries.

A key issue is the relationship between devolved local governments and the deconcentrated agents of the state (such as prefects, district commissioners and local offices of central ministries). This concerns:

» Territorial authority – who is in charge?
» Division of functions – who does what?
» Representation – who represents the local population?
» Supervision and control – who supervises whom?

In some countries there are parallel systems (e.g. both prefect and local government) often with considerable friction between two. In other countries, the two are combined so that a provincial governor is both the head of provincial government and the local representative of the central government.

The evolution of local governance and decentralization

Since the 1980s, a consensus has emerged that too much centralization or too much local autonomy are both harmful. Instead, it is necessary to have a balance and a good system of collaboration among national, regional and local levels of decision-making. Furthermore, the general trend towards more democratic processes and demands by CSOs and citizens for participation in decision-making have led many states to turn to decentralized approaches.

Three major trends related to local governance and decentralization can be highlighted:

1) Towards a new distribution of responsibilities: from centralization to deconcentration

With some few exceptions, the early nation-states were highly centralized. Since the 19th century, waves of deconcentration have given rise to a new distribution of decision making between the central government and its regional and local branches.

Deconcentration was seen as a more efficient way of organizing the work of public administrations to better address the needs of citizens. Democratization later reinforced this trend. It was expected that deconcentration would increase the importance of local jurisdictions in the eyes of citizens and would reduce dissatisfaction, especially in the provision of services directly to citizens (e.g. health care, education).

2) Disengagement of the state

During the 80s and 90s, governments tried to overcome the failures of the centralized forms of state intervention and the limits of deconcentration reforms by transferring decision-making powers to elected officials of local jurisdictions. These new tendencies were characterized by four major changes, which sought to make the dual objectives of effective administration and local democracy compatible:

» Creation of new sub-national jurisdictions at regional or local level
» Generalization of elections by universal suffrage to cover all sub-national jurisdictions
» Transfer of authority with sufficient financial resources to enable sub-national jurisdictions to carry out the functions assigned
» Moving from an a priori (before the fact) supervisory role of state representatives to an a posteriori (after the fact) control of budgets, compliance etc.

3) Participation, consultations and partnerships

Devolution should be accompanied by mechanisms that institute popular participation in decision-making. Partnership is the most recent trend in decentralization, in recognition of the need to include other local actors (professional or representative organizations, private sector, CSOs etc.) in the decision-making and accountability processes.

LGD and New Public Management

Local governance and the decentralization reform process have been very much influenced by the thinking around *New Public Management (NPM)*. NPM points to the possibilities of organizational change from heavy, unresponsive, paternalistic bureaucracies to more flexible, customer driven, quality orientated and responsive organizations. Its emphasis is on effectiveness, streamlined decision making processes, customer service and executive managerial control. In the early 1980s, a number of Anglo-Saxon countries started implementing NPM reform strategies. For more information on NPM, see Aucoin, *The New Public Management: Canada in Comparative Perspective* (1995).

Decentralization reform

The past two decades have seen far-reaching decentralization of fiscal, political and administrative responsibilities to lower-level governments and to the private sector.

The arguments for decentralization fall into three overlapping categories:

Three principal models of local government – Anglo Saxon, Napoleonic and German

The impact of colonialism means that Anglo-Saxon and Napoleonic models are at the root of how many local governments in developing countries are structured today.

Anglo-Saxon: Influencing Great Britain /North America and former British colonies, this is a pragmatic model of limited local autonomy with strong central regulation and an emphasis on service delivery and economies of scale.

French (Napoleonic): Influencing much of continental Europe, Latin America and Francophone Africa, this is a dual model of a central agency combined with local representation. It is hierarchical with strong supervision by Prefects and an emphasis on representation by a Mayor in each commune.

German: Influencing much of northern and central Europe: a subsidiarity model of local autonomy, deriving from the free towns of the Middle Ages, with an emphasis on efficiency.

The *economic argument* for decentralization is that decisions that are taken by a level of government closer to its local constituency are more likely to reflect the local demand than decisions taken by a remote central government. It is also thought that people are more willing to pay for services if they have been involved in the decision making process.

The *political argument* for decentralization centres on citizens exercising choice about how resources are used and services delivered. Local self-government increases opportunities for participation, thereby deepening democracy. The close relationship between citizens and government at the local level fosters accountability.

The *administrative argument* for decentralization is that the centre lacks detailed knowledge about local needs and conditions. At the local level, programmes and services can be more easily adapted to particular local circumstances and needs.

Despite the many valid arguments for decentralization, the process of decentralization in most countries has been driven by local and national political elites and by external pressures rather than by sound economic or administrative arguments and local democratic demand.

What kind of decentralization?

The shift in responsibility between tiers of government is underpinned by political, administrative, fiscal and market dimensions which define the extent to which intergovernmental relations are deconcentrated, delegated or devolved.

1) Political decentralization

Political decentralization involves the transfer of political authority to the local level through the establishment of elected local government.

2) Administrative decentralization

Administrative decentralization is the transfer of responsibility for planning, financing and management of public functions from the centre to subordinate units of government agencies, semi-autonomous public authorities, corporations or regional authorities.

3) Fiscal decentralization

Fiscal decentralization refers to resource reallocation from central to local level. If local governments are to carry out decentralized functions effectively, they must have an adequate level of revenues as well as the authority to make decisions about expenditures.

4) Economic or market decentralization

Finally, market decentralization transfers public functions from government to voluntary, private or non-governmental institutions. This can be done through contracting out partial service provision or administrative functions, by deregulation or by full privatization.

Designing decentralization policy is difficult in any country because it affects many aspects of public sector performance. It is particularly difficult in developing countries because institutions, capacity and information are often weak. When designing decentralization policy, it is essential to consider the following factors:

Macroeconomic (in)stability:

Macroeconomic stability is of great concern to many countries. There is a fear that unchecked local governments may increase expenditures above their capacity to finance them from current revenues, leading to increased borrowing. The key to avoiding excessive borrowing is to put in

place adequate rules, regulations and accountability procedures.

(In)equity

The impact of decentralization on equity can vary greatly depending on the institutional arrangements and policy design. Richer local governments may have the capacity to attract investments, providing a tax base to facilitate local development. Poorer regions have fewer resources and more limited opportunities. The risk of inequity can be minimized through systems of intergovernmental transfers, including fiscal equalization mechanisms.

Accountability and participation

Many developing countries have weak representative decision-making processes. Local elites often take leadership roles, which can result in hijacking of resources unless transparency and accountability are effectively enforced.

Local elections are the most common and most powerful form of accountability. Ensuring accountability and participation can also be strengthened through mechanisms such as:

- participatory planning and budgeting;
- public hearings and consultations; and
- capacities of local community to effectively engage themselves.

Civil service capacities

Local governments need competent and well-trained people to carry out decentralized responsibilities. However, local governments often suffer from weak institutional and administrative capacity. Decentralization can exacerbate inequality if the most competent civil servants congregate in the more developed areas of the country or in the private sector. Decentralization requires reforms in order to create appropriate incentives for government employees at all levels.

There are two basic approaches to deal with the issue of capacity in decentralization. The *traditional approach* has been to develop capacities before transferring responsibilities and revenues. The dynamic approach involves doing both simultaneously. There has been a shift towards the dynamic approach as increasing evidence shows that capacities increase as decentralized system mature and that decentralization itself builds local capacity.

Local governance and conflict prevention

Experience has shown that many conflicts are caused by competition for access to state authority, power and resources. In many cases, secession or some form of autonomy have been the key demands of belligerents. In such cases, decentralization can be instrumental in resolving conflicts. However, the mere act of decentralising is usually unable to address the root causes of conflict. Decentralization would therefore need to be accompanied by changes in the way decisions are made, resources accessed and services delivered at the local level.

Decentralization is more likely to succeed in diffusing conflict where there is strong political commitment from the central state and it results in improved service delivery at the local level. It is also important that local authorities understand the dynamics of the conflict and are empowered to address these in a participatory manner, responding to the needs of all groups. This requires local decision making to be representative and not a mere extension of the central state[48].

48 For more information on this topic, see Devas, The Challenges of Decentralization, 2005, and Litvack and Seddon *Decentralization Briefing Notes*, 1999.

The success of decentralization reform depends, inter alia, on whether a coherent decentralization strategy has been developed, and whether adequate mechanisms exist for managing the implementation process, which often includes multiple reform components and divergent interests. In addition, strong and consistent support from the central government is key for success, as is a well-designed decentralized government system with a sound legal basis to ensure:

- clearly assigned powers, functions and responsibilities;
- adequate capacity (managerial, technical, financial) and reliable resources;
- electoral arrangements that safeguard representation of, participation by and accountability to local citizens;
- specific mechanisms to ensure democratic decision-making and accountability;
- sufficient real local autonomy to make it worthwhile for citizens to participate; and
- an enabling environment for civil society to engage effectively with sub-national governments.

Main actors and their roles

Domestic actors

Effective decentralization requires the synergy of various political and other actors. Reform is most likely when there is sufficient consensus among a range of key actors, such as:

a) Government institutions and officials

These may include line ministries, human rights bodies, transparency and integrity commissions, etc. There may be a core group of public officials, including mayors and governors, who are committed to the reform and able to push it forward. However, there may also be significant resistance from those whose interests are threatened by reform. Often, sectoral ministries are reluctant to decentralize functions, avoiding relinquishing some of their current decision making powers.

b) The media

Press freedoms have improved considerably in many developing countries and the media may be used to drive the decentralization agenda. However, media ownership patterns can also reinforce control by elite groups.

The European Charter of Local Self-Government

The European Charter on Local Self-Government is an international treaty which was adopted by the Ministers of the Council of Europe in 1985. It contains a model legal framework for the establishment of local self-government and provides recognized international standard of democracy for local self-government.

The Charter outlines the role and importance of local government in building democratic institutions, stating that:

- local self-government secures citizens' right to participate in the conduct of public affairs;
- it is at the local level that this right can be most directly exercised;
- local authorities can provide an administration that is both effective and close to the citizen;
- reinforcement of local self-government secures the democratic decentralization of power;
- local authorities must be endowed with democratically constituted local bodies, a wide degree of autonomy and the resources required for their fulfilment of their obligations.

c) CSOs

CSOs, including those involved in advocacy and/or in providing services to the poor, can play a key role in raising citizen awareness and increasing their ability to demand accountability from politicians.

d) Businesses and business organizations

Poor governance greatly increases costs for businesses. Hence, the private sector is often at the forefront of demands for improved local service delivery and greater accountability.

e) Independent policy research centres

Most countries have one or more policy research centres that are influential in shaping public opinion. Through activities such as open debates and publications, they can be a valuable source of public information on the need for decentralization reforms.

f) Associations of local authorities

The national association of local authorities is one of the keys to success in meeting the decentralization challenge and strengthening local governance. They can represent the interests of local government, work with central authorities as a strategic partner, build capacities of local authorities and tell the story of local government to the wider public.

International actors

International and bilateral donor agencies have increasingly recognized local governance and decentralization as essential to achieving the MDGs, reducing poverty and promoting growth.

Donors have engaged in numerous decentralization projects either through direct support to decentralization reforms or good governance programmes or as part of sector programmes. Examples include donor support to strengthening citizen's participation, participatory local budgeting, municipal training systems and fiscal decentralization.

Donors can also assist in assessing the needs of local governments and citizens and to share knowledge and expertise. Donors can be instrumental in identifying change agents whose interests are consistent with citizen-centred service delivery and democratic reform.

Donor coordination is another key challenge and requires concerted efforts from the donor community and the United Nations, in particular UNDP which often takes a lead role. Lack of coordination and duplication of efforts are not only inefficient but it is contrary to the strategic, effective and transparent policy and operational environment that donors aim to support through local governance and decentralization efforts.

2. LGD linkages to development and human rights

Decentralization is only one of many factors which contribute to development. A number of studies and think-pieces[49] have underlined that decentralization in itself is not synonymous with poverty reduction and that a wide range of external factors (e.g. central government political commitment to poverty reduction, literacy, strength and effectiveness of central government institutions, gender sensitivity in public expenditure manage-

49 e.g. Moore & Putzel *Local Democracy, Democratic Decentralization and Rural Development: Theories, Challenges, and Options for Policy* (2001) and Crook & Sverrisson, *To what extent can decentralized forms of government enhance the development of pro-poor policies and improve poverty-alleviation outcomes* (1999)

ment, etc.) determine whether the outcomes of decentralization are pro-poor or not.

Local governments have a significant role to play in the delivery of public services and often manage pro-poor priority sectors[50] such as:

- primary and secondary education;
- primary health care;
- agricultural extension;
- water and sanitation services;
- local roads and public infrastructure.

Where legislation exists to guarantee free access to information and freedom of speech, and individuals and/or civil society organizations have the necessary capacity, they can play an important role in monitoring the quality of public service delivery and holding public officials accountable[51].

Countries commit to human rights norms and principles through their central government and parliament, not regional or local governments. When powers, resources and administrative responsibilities are decentralized to lower levels, it must be accompanied by awareness raising on the country's human rights obligations and the responsibility of local government in that regard when exercising their new powers.

3. The UNDP approach

The starting point for UNDP's support to LGD is its mandate in supporting poverty reduction efforts and achievement of the MDGs. Specifically, UNDP/LGD support to MDGs encompasses three main aspects:

- participatory planning, monitoring and oversight to address the question of how the MDGs and their indicators can be made relevant to local realities;
- strengthening of local capacities, especially for planning and fiscal management, to ensure that resources are used in accordance with the intended development outcomes;
- local democracy and civil society involvement.

UNDP is steadily moving towards sub-national support in governance and other thematic areas. In local governance and decentralization alone, UNDP responds to a growing demand from countries by supporting such initiatives in two-thirds of the programme countries it serves, including countries in conflict situations.

Main focus areas of UNDP support

UNDP uses the term decentralized governance for development (DGD), which encompasses three areas:

- local governance
- decentralization
- urban/rural development and their linkages

Specific country conditions and political environments define which aspects of DGD should be stressed in a particular country. Some UNDP interventions might be focused on promoting and rolling out decentralization, some aim to improve capacities of local governments or improve effectiveness of local councils.

50 In many countries, responsibilities for reducing income poverty and improving food security are also assigned to the local government level. For more information on this topic, see Crook and Sverrisson, *To what extent can decentralized forms of government enhance the development of pro-poor policies and improve poverty-alleviation outcomes?*

51 For more information, please see chapters 4 and 5.

Support to Local Governance and Decentralization

UNDP support to local governance and decentralization can be divided into three interconnected areas:

» creating an enabling environment and institutional framework at national and sub-national levels through participatory approaches;
» developing capacities of local democratic institutions and the national agencies tasked with supporting them;
» strengthening citizen participation and community empowerment.

a) Creating the enabling environment

In many countries there is an ad–hoc implementation of reforms due to poor inter-ministerial coordination and cooperation, weak policy making capacities and inadequate legal and policy frameworks. Furthermore, lack of awareness and understanding of the benefits of LGD reform and insufficient political will to move this process forward are all common reasons which inhibit progress.

Creating an enabling environment for LGD reform means:

» raising awareness at central and local level;
» supporting the development of the legal framework;
» development of a national LGD strategy;
» strengthening policy making capacities at central and local levels;
» strengthen coordination and cooperation between central and local levels;
» developing capacities of local government associations to defend their interests.

b) Developing capacities of local democratic institutions

Capacity constraints can be a significant stumbling block for decentralization, effective local governance and realization of the MDGs. UNDP LGD programmes often address the lack of:

» cross-cutting and technical capacity to undertake MDG-based strategic planning linked to local and national priorities;

Promoting transparency and accountability in Macedonia through decentralization

The ongoing decentralization reform in Macedonia is viewed as an opportunity for creating transparent, responsive and accountable local governments which will provide better access of citizens to public services. However, it is vital that the transfer of responsibilities is accompanied by the necessary capacities, procedures and means of implementation.

UNDP, in partnership with the State Commission for Prevention of Corruption and the Ministry of Local Self Government, has started a capacity-development project for developing local policies and practices aimed at obtaining transparent and responsive municipal management. The main objective of the project, entitled Fighting Corruption to Improve Governance, is to promote accountability and transparency by encouraging local authorities, private sector and civil society to develop effective strategies for fighting corruption and system for monitoring and reporting on performance of local authorities.

Establishing a local government association in Cambodia

The first local (commune/sangkat) elections in Cambodia were held in 2002. In 2006, commune councillors established provincial associations of commune/sangkat. The first 11 provincial associations established the National League of Commune/Sangkat as a federative umbrella. By August 2007, a total of 15 provincial associations had been established.

With support of the EC and UNDP, the national and provincial associations have developed their own internal governance mechanisms through the project Democratic Decentralized Local Governance. Presently, they are developing administrative and financial policies and guidelines to support transparent and accountable use of the donor contributions and membership fees which will fund the implementation of their strategic plan.

- capacity to manage limited financial resources through proper budgeting methods, tax administration and collection;
- capacity of democratically elected councils.

Capacity development initiatives for elected local officials can be targeted at the following:

- promotion of principles of good local governance founded on a human rights-based approach and pro-poor orientation;
- political skills for civic dialogue, negotiation and conflict management;
- participatory approaches for monitoring of progress towards the MDGs, local planning and decision-making and service delivery.

It is important that community needs and priorities are not considered in isolation from higher government levels (municipal/district, provincial/regional, national) concerns but are instead reconciled with higher-level policies, strategies and plans to the degree possible.

Capacity for both bottom-up participatory planning and top-down strategic planning will need to be strengthened and, to the extent possible, integrated into a vertically aligned planning structure. This may facilitate effective coordination of interventions and resource allocation between the various stakeholders.[52]

A wide range of case studies on electoral representation in decentralized governance in the Asia and Pacific region can be found in UNDP's *Local Democracy in Asia: Representation in Decentralized Governance – Concepts and Issues*.

52 For more information on capacity assessments and capacity development strategies, please see www.capacity.undp.org.

Support to local elections in Syria

This project aims to foster local governance and democratic practices by advancing free and transparent local elections. At the request of the Government, UNDP is reviewing local election laws and providing advice on amendments to ensure that the laws facilitate free elections in 2007. As part of the effort to promote democratic culture, the project will build local capacity for strengthening gender equality and women's empowerment by ensuring women's participation both as voters and as candidates.

Rights-based Municipal Development Programme (RMAP) in Bosnia and Herzegovina

RMAP carries out rights-based assessments, development planning and implementation of priority projects in selected municipalities in Bosnia and Herzegovina. It uses the international and domestic human rights frameworks as guidance in identifying priorities.

RMAP is unique as it addresses grassroots issues by assisting the lowest government tier – municipalities - in formulating rights-based development plans as well as providing technical assistance and seed funding for implementation of priority projects.

Introduction of a rights-based approach in the assessment and planning process at the local level facilitates inclusion of marginalized groups and helps to initiate constructive dialogue between majority and minority populations in joint decision making on priorities for development. Fostering dialogue and a joint future perspective is of particular relevance. Due to the war, many municipalities are fragmented along ethnic lines and communication between different groups is still weak.

c) Strengthening citizen participation and community empowerment

Examples of UNDP support to citizen participation and community empowerment are:

- » improving capacities and developing potential of civil society not only as service providers but also as a powerful sector that could influence national and local policies;
- » establishing mechanisms that enable the broader and deeper participation of communities and CSOs in local development planning and participatory budgeting;
- » promoting self-governing citizen's professional and community organizations and institutionalizing participatory mechanisms for regular dialog with local authorities;
- » establishing service centres which provide support to civil society and citizens in dealing with the authorities and government departments and where citizens have access to information on local government policies, programmes, budgets and plans; and
- » raising awareness about the role of local government institutions, citizen's rights and goals of the decentralization reform.

Creating parallel structures through direct support to CSOs and user committees can undermine legitimacy and effectiveness of local governments. Rather than setting up new structures at the community level, which would duplicate local government functions, it is important to support the strengthening of implementation capacity within existing government structures. In situations where formal local authority is absent (e.g. in remote areas and conflict situations), a key approach is to link up with existing informal decision-making structures within communities with a view to create models that can subsequently be formalised into structures of local administration.

Urban/rural development

Urban/rural development covers a broad range of issues affecting dwellers in cities, towns and villages such as shelter, jobs and income, water

Strengthening decentralized governance in Kiribati

The Government of Kiribati has made a commitment to address the imbalance in development between South Tarawa and outer islands. With support from UNDP, a framework for outer island development is being developed based on people's needs which are determined through consultative and participatory processes. The project addresses a number of issues that have hindered development of outer islands in the past, such as:

- preparing a development and financing framework for outer island development
- reforming local governance practices
- locally relevant participatory planning and monitoring processes
- conducting trials of and evaluating ICT services to outer islands
- increasing awareness around civic and human rights issues to ensure better relations amongst religious groups, communities and island councils
- giving due recognition to the needs of women and youth who have been denied a voice in local decision making processes

and HIV/AIDS. Examples of UNDP support in this area include:

» Improving revenue generation and financial management
» Community and women's empowerment to participate in decision-making processes
» Integrating macro and micro strategies
» Enhancing urban governance through initiatives to strengthen capacity, public sector management, urban planning, sustainable livelihoods and living environment, and policy development to support urban-rural linkages
Strengthening urban-rural relations

4. Practical guidance for LGD programming

Some lessons learned

UNDP and other donor experience provide important lessons for LGD programming.
Some key lessons learned are to:

1) Make sure that government is committed to LGD reform

Government commitment and political will are of particular significance to LGD reforms. Even when governments declare their commitment to pursue reforms, there may still be a deeply entrenched lack of political will to move the process forward. Furthermore, the term 'decentralization' is not unambiguous, and is often interpreted differently by donor agencies and partner countries that can lead to a difference in expectations among stakeholders.

2) Recognize that LGD reform takes time and requires long term support

Sometimes the pressure to deliver results encourages donors to seek quick fix strategies. However, LGD reform is a very complex process and the benefits take long to materialize. LGD programmes must therefore take a long-term view.

3) Avoid ready-made solutions

What works in one country may not work or be feasible in another since the context of LGD varies greatly. Assistance must be tailored to meet

the specific needs of the country and the choice of strategies and the design of specific developmental activities should be based on the comprehensive situation assessment.

4) Design an exit strategy at an early stage

It is essential to design an exit strategy at the beginning of the project with the aim to leave behind a stable structure of social and institutional ties as well as concrete arrangements for sustainability once project activities cease. There is a general concern about the lack of sustainability of donor interventions. Some of the mechanisms for strengthening sustainability include institutionalization, strategies for scaling up and co-financing arrangements.

5) Prioritize donor coordination

There is limited donor coordination in the area of LGD reform. Effective donor coordination is necessary to ensure consistent support of government priorities as well as to support the development of a broad strategic vision within which individual programmes can be implemented.

6) A holistic approach is important

LGD reform is a complex process that requires interventions at different levels, with different actors and in different sectors of society. The impact is better when complementary initiatives are implemented in a parallel and balanced manner. For example, encouraging national ministries to decentralize while attempting to strengthen local governments at the same time, is more likely to result in mutually reinforcing outcomes.

7) Be demand driven and ensure effective stakeholder involvement

If support for decentralization is to be sustainable, it must respond to grassroots needs and priorities. When pilots are determined in collaboration with local stakeholders, ownership and sustainability are enhanced. Good local governance requires the effective involvement of government, communities, civil society and the private sector in order to ensure relevance, ownership and sustainability.

Programming

LGD programming consists of four main phases:

Phase 1 – Situation analysis

Because LGD reform is a country specific process, considerable information is required to assess and analyse the context. Information for a situation assessment can be gathered from:

- *document analysis* (review of reports, research documents, government policies and plans, legal frameworks, statistics and surveys);
- *stakeholder analysis* (interviews with central and local government representatives, CSOs, donors and international organizations and local government associations); and
- *participation in meetings and workshops*.

In order to analyse the context, one must assess the following:

- historical, political, social, cultural and economic context;
- local governance tradition (level of public participation, capacity to perform, political, financial and administrative autonomy etc.);
- the degree of decentralization and the level of effectiveness and responsiveness of formal local government institutions to the community at large;
- political will and commitment to carry out reforms, the drivers and champions for local governance and decentralization reform;

» the nature, impact and timing of donor assistance programmes in area of local governance and decentralization; and
» issues where there is consensus or disagreement among stakeholders in regard to the development challenges; implications of the identified challenges for LGD reform.

The following are some example questions for a context analysis:

» Is local governance and decentralization reform a political priority? Who are its primary advocates or opponents?
» Is there widespread understanding of the political and socio-economic implications of decentralization?
» Do ethnic or indigenous forms of local governance exist and, if so, how do this relate to the formal local level structures? Are these relationships stable or conflict prone?
» Is the national legal and regulatory framework for decentralization in place? Does this framework empower localities to carry out their duties?
» Does local government retain resources that are raised locally?

Stakeholder identification and analysis
Stakeholders in the LGD area can include:

» politicians and political parties;
» central and local government institutions/ representatives (governors, civil servants, line ministries, agencies, local government associations etc.);
» international/donor organizations;
» non-governmental organizations and private sector;
» civil society and media;
» users/consumers.

It is important to understand the interests of the main stakeholders in order to determine the existing potential political support for the policy or programmes and to agree on the best strategy and tactics (timing, sequence, duration).

A stakeholder analysis aims to identity the key actors and to assess key considerations regarding stakeholders, which include:

» knowledge of the policy/programme;
» interests related to the policy/programme;
» position for or against the policy;
» potential alliances with other stakeholders;
» ability to affect the policy process (through power and/or leadership).

Stakeholder analysis is important because it helps to strengthen interaction with key stakeholders, increase support for a given policy or programme and establish programming alliances. Furthermore, early contact can help detect and prevent potential misunderstandings about the policy or programme and guide a participatory, consensus-building process. For more information, see Schmeer's *Stakeholder Analysis Guidelines*.

Phase 2 – Strategy development
Strategy options can be grouped into three areas of focus:

a) Creating the enabling environment and institutional framework

Examples of possible entry points include:

» development of local governance and decentralization reform strategy and action plan;

» revision and implementation of administrative laws, regulations and policies;
» awareness raising to promote local governance and demystify decentralization;
» establishment of a national training system for local governments.

The word "decentralization" may have negative connotations in some countries and situations e.g. where resistance is strong or where previous efforts have failed. In such cases, decentralization may be better referred to as capacity development at local level for quality provision of public services and the promotion of democratic practices.

b) Developing capacities of local democratic institutions and the national agencies tasked with supporting them

Examples of possible entry points include:

» developing the capacity of national electoral commissions to organize and oversee elections at the local level;
» developing the capacities of local government associations to competently represent and defend the interests of local governments;
» strengthening the capacities of local governments to provide quality services;
» developing a supportive legal framework and capacities for public-private partnerships;
» developing local capacities to introduce participatory budgeting;
» assisting the relevant local government ministry in redefining its mission, roles and responsibilities and in long term strategic planning.

c) Strengthening citizen participation and community empowerment

Examples of possible entry points include:

» supporting the development and institutionalization of different participatory mechanisms and tools for public participation in the decision making processes;
» supporting CSOs to develop and implement projects;
» creating watchdog mechanisms to promote accountable local governance.

Important issues to consider when thinking about entry points are:

» How is the LGD initiative linked to other democratic governance projects, particularly public administration, poverty reduction, e-governance and civil society empowerment?
» Is the LGD initiative in line with priorities of government? Which government priorities can UNDP support?
» How can national ownership be enhanced to improve sustainability?
» How can the participation of vulnerable groups, especially the poor and women, be ensured in the development and implementation of LGD initiatives?

Phase 3 – Management arrangements and partnerships

The stakeholder analysis provides important information for development of UNDP's LGD partnership strategy since it helps to identify key champions within government, civil society, private sector and the donor community with whom UNDP can collaborate to support the implementation of an LGD programme.

The partnership strategy:

- highlights the role of UNDP as a facilitator, catalyst and broker of knowledge and resources;
- enhances donor coordination and creates new alliances;
- emphasizes the role of civil society, private sector and partnerships with local authorities;
- explores different modalities for supporting LGD initiatives, e.g. common basket funding for interventions that are consistent with the vision of UNDAF, MDG strategies etc.;
- explores the potential of working with decentralized cooperation (DC) actors which are entities from the North providing development cooperation to the South. They can be public entities like cities, provinces and regions but also NGOs, trade unions, universities etc. DC actors can provide technical assistance through experts and channel funds to the local counterpart either directly or through a UNDP project;
- seeks diverse implementation arrangements, considering not only government institutions but also CSOs and private sector organizations.

One approach which is important to consider is partnerships with so-called *anchor institutions*, e.g. local consulting agencies or training institutions, in the design and implementation of DGD initiatives. This approach which is being applied e.g. by the Urban Management Programme, offers the benefit of having expertise provided by institutions which could also help secure the sustainability of innovations introduced.

Stakeholder participation

Key stakeholders who should be included in the planning, implementation and monitoring of LGD initiatives process are:

- the poor and the vulnerable, especially women, and the legitimate groups representing them (such as women's groups, trade unions and CSOs). These stakeholders should be given voices in governance and development processes at the local and national levels to make them true partners and not just target beneficiaries;
- traditional authorities, especially those of indigenous and tribal peoples;
- private businesses, especially those that operate at the local level and which could engage in partnership with local bodies in community projects (e.g. for water supply, waste management, environmental protection, income generation etc.);
- local governments, elected officials and civil servants;
- government agencies operating at the national and local levels, e.g. ministries of local governments, finance, health, social services, agriculture, industry etc.

Phase 4 – Monitoring and evaluation

Monitoring and evaluation help improve performance and achieve results. It is an essential tool for effective management of local governance and decentralization programmes.

The main objectives of monitoring and evaluation are to:

- enhance organizational and development learning;
- ensure informed decision-making;
- support substantive accountability and UNDP repositioning;
- build country capacity in monitoring and evaluating functions in general; and

» promote openness and citizen-customer awareness and satisfaction.

In monitoring and evaluation it is important to consider the:

» level of analysis (e.g. entire sector or specific agencies or subunits);
» results to be assessed;
» project design (based on solid assumptions and a realistic sequence of outcome, outputs and activities); and
» presentation of results (results should be provided in a timely, relevant and practical manner).

Partnering closely with key stakeholders throughout monitoring and evaluation processes promotes shared learning and helps to transfer skills. In this way, good practices at the heart of monitoring and evaluation are continually reinforced, making a positive contribution to the overall effectiveness of development.

For case studies on monitoring and evaluation, see UNDP's *Practice Note on Decentralized Governance for Development*.

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Local Government Associations, resource centres and universities

Council of European Municipalities and Regions
http://www.ccre.org/

International Council for Local Environmental Initiatives
http://www.iclei.org

International City/County Management Association
http://www.icma.org

Sister Cities International
http://www.sister-cities.org/

World Associations of Cities and Local Authorities Coordination
http://www.un.org/ffd/statements/waclacE.htm

World Association of the Major Metropolises
http://www.metropolis.org

Other relevant institutions and resources:
Africa Governance Forum
http://www.undp.org/agf/

Asian Resource centre for Decentralization (ARCD)
http://www.gdnet.org/middle.php?oid=211&zone=org&action=org&org=2561

Democratic Dialogue in Latin America
http://www.democraticdialoguenetwork.org/index.pl

European Group of Public Administration (EGPA): Study Group on Local Governance
http://www.iiasiisa.be/egpa/aggroup/aggrlocal-dem.htm

Fiscal Decentralization Initiative
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Institute for Housing and Urban Development Studies (The Netherlands)
http://www.ihs.nl

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Open Society Institute/Soros Foundation
http://www.soros.org/

Programme on Governance in the Arab Region
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School of Planning and Architecture (India)
jhansari@bol.net.in

School of Public Policy, University of Birmingham
http://www.bham.ac.uk

School of Urban & Regional Planning, University of Philippines
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Taubman Center for State and Local Government and Kennedy School of Government, Harvard University
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World Bank and World Bank Institute
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United Nations Capital Development Fund
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United Nations Governance Centre
http://www.ungc.org/

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