

Strengthening the Rule of Law

in Crisis-affected and Fragile Situations *In Brief*

Why does Rule of Law matter?

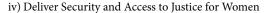
The rule of law is a state in which individuals, communities and governments submit to, obey and are regulated consistently by law, and not arbitrary action by an individual or a group of individuals. The notion of "consistency" is important. It means that regardless of colour, creed, origin, religion or sexuality, the law is applied consistently or in plainer terms "fairly". Rule of law is critical to enable development in conflict-affected and fragile countries. Organised violence, whether caused by criminal activity or conflict, leads to insecurity, abuse and perceptions of injustice.

In the worst situations life becomes cheap. This impacts development because people who fear for their lives and see no end to injustice, often do not plan for the future – sometimes to the extent of failing to plant crops. Measures of development consistently demonstrate that contexts classified as fragile and or conflict-affected perform badly against many indicators, most notably the millennium development goals (MDGs). There is also evidence to suggest that the necessary preoccupation with the present in conflicts can lead to dramatic deterioration of indicators, which can mean that conflict will lead to further crisis, like famine.

A rapid restoration of the rule of law, including access to justice and improved community security can prevent violence, help societies deal with the legacy and bitterness of conflict and ultimately provide the foundations for building inclusive, well-governed societies that can maintain stability.

Given the need to respond to the challenges of crisisaffected and fragile states, UNDP's rule of law, justice and security programming, knowledge exchange and policy guidance focuses on elements of rule of law which:

- Deal with the Legacy of Conflict including through supporting transitional justice initiatives and mechanisms
- ii) Improve Human Security through working with governing institutions and communities affected by insecurity and injustice
- iii) Increase Access to Justice for All by ensuring that the law is not discriminatory, holds to international and regional standards and norms, and is accessible to all







Since 2008, UNDP has provided support to approximately 37 conflict-affected and fragile countries and countries in transition, [1] through the *Global Programme* for Strengthening the Rule of Law in Conflict and Postconflict Situations (2008 – 2011). [2] This is part of a broader UNDP engagement in the rule of law area in all development situations.

UNDP recognises that rule of law permeates every aspect of society and that strengthening it requires changes at many levels. Our approach is one which integrates the concept of justice and security, and which provides rule of law support that will address the drivers of violence and conflict. National ownership is central to ensure success. Multi-year programmes link immediate support to a longer-term approach that is required to achieve real

change. We work with local communities, civil society, and informal mechanisms as well as with formal institutions.

Women's access to justice and security is a particular priority. Our support focuses on rule of law in the broadest sense – including promoting rule of law that is responsive to demand and that strengthens democratic governance and economic recovery.

2011 marked the end of the first phase of the Global Programme. In Phase 2, the Programme will ensure greater flexibility to respond to changing contexts as they emerge. Building on the successes of the past four years, Phase 2 also places increased emphasis on issues of citizen and community security, linkages with economic recovery, and civil concerns, such as land and property, which often underpin conflict.

Going forward, we will root rule of law programmes even more firmly in national political processes, thereby, further ensuring the sustainability of our interventions. We will focus on building confidence in legitimate and inclusive political settlements.

We will further develop effective joint programming and approaches with the Department of Peacekeeping Operations (DPKO), the Department of Political Affairs (DPA) and other UN and international actors in the process. In this context, UNDP will also take on its role in supporting the responsibilities and functions identified in the context of the Civilian Capacities Review.

^[1] There is no internationally agreed definition of crisis-affected and fragile situations – For the purposes of this report, we have included results of our work in 37 countries, including countries undergoing transition. These countries are: Afghanistan, Bosnia-Herzegovina, Burundi, Central African Republic, Chad, Colombia, Cote d'Ivoire, Democratic Republic of the Congo, Egypt, El Salvador, Georgia, Guinea-Bissau, Guinea (Conakry), Guatemala, Haiti, Honduras, Iraq, Jamaica, Kenya, Kyrgyzstan, Kosovo (UN Administered Territory, referred to in the context of UN Resolution 1244), Liberia, Libya, Nepal, Nicaragua, Occupied Palestinian Territory, Papua New Guinea, Pakistan, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sri Lanka, Sudan, Timor-Leste, Tunisia, Yemen.

^[2] Global Programme Priority Countries are: Afghanistan, Bosnia-Herzegovina, Burundi, Central African Republic, Chad, Colombia, Democratic Republic of Congo, Guinea-Bissau, Guinea (Conakry), Haiti, Iraq, Kosovo (UN Administered Territory, referred to in the context of UN Resolution 1244), Liberia, Nepal, Occupied Palestinian Territory, Sierra Leone, Somalia, South Sudan, Sri Lanka, Sudan, and Timor-Leste. In 2011, South Sudan seceded from Sudan, making 21 priority countries.

Box 2: UNDP's support to the Arab Spring

In Egypt, in collaboration with United Nations Office for Drugs and Crime (UNODC), UNDP is engaged with the Ministry of Interior on the extremely complex issue of improving policing to meet public needs, Simultaneously UNDP is developing dialogue with the newly formed parliamentary committees covering security and covering human rights to develop skills.

In Libya, UNDP has been closely engaged with the United Nations Support Mission in Libya (UNSMIL) in supporting the transitional authorities since the end of the conflict in October 2011. In January 2012, UNDP and UNSMIL facilitated a three-day dialogue on transitional justice which contributed to the finalisation of the Libyan transitional justice strategy. UNDP is also currently finalising an agreement with national authorities on a justice programme which will build the capacity of the Libyan rule of law institutions to provide services in a way which supports the transition to democracy and improves access to justice for conflict-affected populations, in particular women and the displaced.

In Yemen, following the departure of former President Saleh, the country is undergoing a two year political transition process. This presents a major opportunity and UNDP is developing a comprehensive rule of law programme which will seek to address major challenges to justice and security, comprising reforms of the whole legal system including police, security, Attorney-General's office, courts and prisons.



Key Achievements of UNDP's



Colombia:

Since 2008, UNDP has supported the creation of a comprehensive national framework to support victim's rights, resulting in the adoption of groundbreaking legislation to provide reparations for approximately 400,000 victims of the conflict.



Sierra Leone:

In 2011, as a result of UNDP support, courts heard 73 percent of 700 pending SGBV related cases, 27 percent of which were completed.



Democratic Republic of Congo:

UNDP supported the first ever conviction of 193 members of the Congolese National Army and Police for crimes relating to sexual and gender based violence, including crimes against humanity. UNDP also supported the establishment of 18 legal aid centres.

Global Programme on Rule of Law



occupied Palestinian territory:

In Gaza and the West Bank in 2011, UNDP supported the provision of legal assistance to approximately 17,000 men and women.



Afghanistan:

UNDP has provided support to the establishment of a 137,000 strong national police force and pioneered the development of community policing initiatives.



UNDP supported 2,000 paralegals to provide legal assistance to conflict affected individuals in 70 Village Development Committees.



UNDP supported the provision of free legal aid to 37,662 conflictaffected people through the Legal Aid Commission and a network of NGOs.



Somalia:

UNDP has supported the appointment of approximately 14,000 police officers increasing the capacity and reach of the police force.



Timor-Leste:

UNDP supported a comprehensive land registry which provided land rights to 50,000 Timorese people.



Solomon Islands:

UNDP provided comprehensive support to the Truth and Reconciliation Commission – this was critical in enabling the Commission to reach out directly to approximately 2,361 conflict-affected people and enable a nation-wide debate on the events of the past and the importance of reconciliation.



UNDP has provided support to extend police services to many remote areas, including establishing 50 police posts.



Deal with the Legacy of Conflict

Transitional Justice is not a 'special' kind of justice, but an approach to achieving justice in times of transition from conflict and/or state repression. ^[3] By trying to achieve accountability and redress for victims, transitional justice mechanisms provide recognition of the rights of victims and build confidence that the new authorities intend a different path from that which was followed before.

UNDP has provided support to different elements of transitional justice including truth commissions, reparations processes and support to national capacity to prosecute conflict-related crimes. UNDP has also developed a global dialogue on the interface between transitional justice and development through bringing together actors to share experience and producing a summary report. Since 2008, UNDP has provided support in a number of countries including Bosnia-Herzegovina, Colombia, DRC, Guatemala, Kenya, Liberia, Nepal, and the Solomon Islands and most recently, in a number of countries affected by the democratic transitions in the Arab region.

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[3] http://ictj.org/about/transitional-justice

Providing Support to Victims of the Conflict in Colombia

UNDP has played a critical role in supporting hundreds of thousands of victims of the conflict in Colombia. UNDP supported the formulation of the new Victims and Land Law, in collaboration with the ICTJ. It provides for compensation for the victims of state violence and is a major step towards strengthening the national legal framework to provide victim's rights and reparation. By April 2012, 75,000 victims had already been provided reparations. The government aims to provide more than 400,000 victims with reparations by

Strengthening Accountability for Conflict-Related Crime in Guatemala

UNDP's support has contributed to the fight against impunity and the lack of accountability in the justice system. In 2011, three convictions of high-level members of the army and the police for serious human rights violations during the internal armed conflict were achieved. UNDP's support has also resulted in improved operational effectiveness of the Attorney General's office, which in 2017 increased the number of cases being considered from 25,000 to 40,000 – representing an important step towards tackling impunity.

Women in Darfur celebrating international women's day UN Photo/Olivier Chassot

Improve Human Security

UNDP's approach to strengthening security prioritises the security of the citizen and the community. This imperative derives from dignity, the right of people to live free from fear and free from want. Security service provision is also central to securing peace and to establish the conditions for social and economic development. Safety matters, for individuals, for national development and to prevent a return to conflict. UNDP focuses on strengthening democratic governance of the security sector to improve accountability, meet public demand, ensure oversight and build trust. In complement, UNDP also works in communities and with local leaders to support a range of initiatives – from employment generation programmes to urban regeneration schemes - that tackle the causes of crime and violence and encourage community mobilization to improve safety. Since 2008, UNDP's engagement - both at national and community levels - has gradually increased. UNDP supports capacity development of the security sector, in a large number of countries. These include Afghanistan, CAR, Chad, DRC, El Salvador, Guinea (Conakry), Iraq, Jamaica, Kosovo, [4] Liberia, Somalia, South Sudan, Timor-Leste and Tunisia.

Strengthening Security for IDPs in Chad

Following the drawdown of the UN Peace-keeping Mission in Central African Republic (CAR) and Chad (MINURCAT) at the end of 2010, UNDP assumed joint responsibility with UNHCR to support (with PBF funding) the Détachement Intégré de Sécurité (DIS) – a Chadian police force tasked with policing in and around refugee camps and IDP sites and providing security escorts to humanitarian work in Eastern Chad.



South Sudan

With the assistance of UNDP's Community
Security and Arms Control (CSAC) project, we
went to the communities, heard their voices,
and together, identified possible solutions to
insecurity. Now, police posts are being built ir
strategic areas in Warrap, as well as boreholes
to provide communities accessible water
sources. CSAC has not only helped us reach
out to our people and extend our authority
and presence within communities to increase
their security, but it also facilitated greater
legitimacy of the government amongst our

John Chiek Bum Klzier Director of the Bureau for Community Security and Small Arms

El Salvador – Reducing Homicide through Community Security

UNDP's support to the implementation of 'gun free zones' in 20 of the most violent municipalities has resulted in an average 12 percent reduction in homicides, a 40 percent reduction in assault, a 21 percent increase in the seizure of weapons and a 7 percent increase in reports of theft.

^[4] UN Administered Territory, referred to in the context of UN Resolution 1244

Increase Access to Justice for All

People have a well-established right to remedy and redress. When people cannot manage their disputes peaceably through a legitimate process, it increases the likelihood of future conflict and violence. Barriers to justice exist in many societies but they are especially pervasive in conflict and post-conflict contexts. UNDP's assistance focuses on the delivery of – and access to – justice.

Building a justice system takes time – often generations. Many conflict-affected countries have extremely limited human and physical capacities in the justice domain with informal justice mechanisms dominating the local level whilst formal justice mechanisms remain largely in urban centres with limited access for the majority of the population. UNDP focuses on strengthening of the capacities of judges, courts, prosecutors and lawyers as well as line Ministries in order to ensure accessible, independent and speedy administration of justice services.

Legal aid services, including legal representation and legal awareness raising projects are also a central element of UNDP's support. These services provide assistance to bring cases and disputes to both formal and informal justice mechanisms. During conflict and in its aftermath, both criminal (e.g. SGBV) and civil matters (land disputes, birth certificates and other documentation issues and property rights) are important for communities. UNDP works with lawyers, Bar Associations, civil society groups (e.g. human rights and women's NGOs) and paralegals to provide these services to conflict-affected communities. UNDP programmes assist people to find their way through the justice system by sup-



Establishing a Justice System in Timor-Leste

Over the past decade Timor-Leste has made immense progress in establishing its justice central and UNDP has played a central role in providing support to this process. In 2002, UNDP supported the establishment of the Legal Training Centre. Since 2007 the first Timorese judges, prosecutors and public defenders were sworn in after graduating from the Centre. UNDP has also supported the creation of a Court of Appeal in Dili, four district courts and two prisons, as well as an independent prosecution service and the Public Defenders Office, and their district offices. Registry and notary services were established and today there are offices for civil registration in all the thirteen districts in Timor-Leste. UNDP also assisted in the comprehensive drafting of legislation and the establishment of a mobile justice programme to extend the reach of the formal justice system.

Legal Support for Resettlement in Sri Lanka

In Sri Lanka, UNDP trained 59 Divisional Secretaries and staff in the Eastern province on 'Land and Property'. This facilitated the return and resettlement of IDPs and helped to address the backlog of land-related cases and documentation needs following the conflict there.

porting legal aid and by bringing justice closer to conflictaffected populations through the establishment of mobile courts and alternative dispute resolution mechanisms.

UNDP has provided support to strengthening justice institutions and providing legal aid in a number of conflict-affected countries, including CAR, Colombia, Chad, DRC, Guinea-Bissau, Haiti, Iraq, Kosovo^[5], Liberia, Nepal, oPt, Sierra Leone, Sri Lanka, Somalia, Sudan and Timor-Leste.

UNDP supported Access to Justice Centre in Guinea-Blssua Credit: Sofia Carvalho de Almeida UNDP Guinea-Bissau

^[5] UN Administered Territory, referred to in the context of UN Resolution

Deliver Security and Justice for Women

Women and girls are most often the victims of SGBV. In addition to the trauma suffered by survivors of conflict related sexual violence, the use of rape in conflict brutalises whole communities. Impacts continue long after the conflict has ceased. The UN Security Council has recognised that sexual violence in conflict is an issue of international peace and security. [6] Strengthening women's security and access to justice is a cornerstone of UNDP's rule of law assistance in crisis-affected countries. [7] UNDP works closely with all parts of the UN system, especially UN Women and UN Action to make women, peace and security a priority.

Tackling Sexual and Gender Based Violence and Ensuring Access to Justice

UNDP support has led to improved access to justice and a stronger response to tackling sexual and gender based violence in a number of countries, including Burundi, CAR, Chad, DRC, Guinea (Bissau), Kosovo^[8], Iraq, Liberia, Sierra Leone, Somalia and Timor Leste.

UNDP has provided technical support to draft better legislation in areas such as domestic violence, gender-based violence and trafficking, and to improve the institutional response to these crimes, by supporting a comprehensive range of measures in both the justice and security sectors. For example, in Iraq, the adoption of the domestic violence law in Kurdistan improved the legislative framework protecting women's rights. Support to 49 police stations in Kosovo^[9] has strengthened the capacity of Domestic Violence and Child Abuse Investigation Sections.

Expanding Women's Participation and Leadership

Representative and inclusive institutions contribute to resilience and legitimacy. As well as improving gender equality, there is a positive correlation between women's



^[7] Data from 39 countries show that the presence of women police officers correlates positively with reporting of sexual assault, which confirms that recruiting women is an important component of a gender-responsive justice System. (Source: UN Women's Progress of the World's Women: In Pursuit of Justice, 2011 – 2012; pg 40



Women celebrate International Women's day in Cote Iviore Credit: Ky Chung

representation in the police and reporting of sexual assault. Ensuring that women are represented in courts and on legal teams can play an important part in making courts more accessible. UNDP has supported the professional development of women as rule of law actors systematically in crisis countries.

In Afghanistan, for instance the representation of women in the police service has increased by 10 percent in 2011 alone with UNDP support. In Timor-Leste, UNDP has supported the training of female lawyers and judges through the Legal Training Centre. In 2011 Timor-Leste's first female Court of Appeals Judge was appointed.

Supporting Women Lawyers in Somalia

In the justice sector, UNDP has supported the establishment of the Somaliland Women's Law Association (SWLA), which has given women a means to utilise the legal system to protect their rights and seek redress for harm. The group focuses on helping women defendants and victims in particular. Since 2009 they have provided legal services to 1,760 people, in particular to women and children. Through the SWLA the number of women in the legal profession has increased—from five to 50 female lawyers—with five of them being appointed as Somalia's first female prosecutors in 2011.

^[8] UN Administered Territory, referred to in the context of UN Resolution 1244

^[9] UN Administered Territory, referred to in the context of UN Resolution

Foster Partnerships



UNDP has made a concerted effort to deliver joint rule of law assistance with other parts of the UN system. The Global Programme has been a driving force in developing joint programmes including with UNWOMEN, UNICEF, UNHCR and UN peacekeeping and special political missions.

Since 2008, UNDP has significantly strengthened its collaboration with both peacekeeping and special political missions and has supported the development of joint rule of law and security approaches, in the context of broader integrated UN strategic frameworks. ^[7] UNDP has contributed to the development of joint approaches with peacekeeping missions and political missions in Chad, Côte d'Ivoire, the DRC, Guinea-Bissau, Haiti, Liberia, Libya, South Sudan and Timor-Leste.

UNDP is also committed to improving UN headquarters coordination processes for the rule of law, justice and security. UNDP and DPKO co-chair the Inter-Agency Security Sector Reform Task Force and UNDP participates in the Rule of Law Coordination and Resource Group and other related task forces including the newly formed Task Force on Transnational Organised Crime and Drug Trafficking. Between 2009 and 2011, UNDP, working closely with DPKO and OHCHR, established the Team of Experts for the Special Representative of the Secretary General on Sexual Violence in Conflict^[10] and has made available an advisor to that team.

Supporting the Civilian Capacities Review Process

The Secretary-General's 2010 initiative to strengthen the Civilian Capacities of the UN system to support countries emerging from conflict is a critical process for improving coherence and collaboration between different UN entities in providing rule of law, justice and security assistance. The 2011 Secretary-General's Report identified capacity gaps in specific rule of law sectors such as police, justice and corrections. [11]

UNDP has actively participated in discussions with the newly established Civcap Secretariat and DPKO and other partners to examine mechanisms for improving the ability of UN entities to alleviate these capacity gaps. UNDP is fully committed to supporting more efficient and effective delivery of UN assistance and improving the UN's ability to meet the extensive rule of law needs of post-conflict settings. This includes examining new modes of operating with other UN entities; building partnerships with UN member states; think-tanks and regional organisations; and enhancing South-South co-operation.

UNDP is also committed to improving its operational capacity to enhance funding to rule of law assistance and to support the rapid and flexible deployment of technical and advisory expertise in the immediate aftermath of crisis. At the same time UNDP remains committed to linking initial response to longer term development progress, the foundations for which have to be built post-conflict and then sustained. At a more strategic level, UNDP is committed to augment collaboration in the future to enable the UN to leverage the wealth of its expertise. These will be priorities of the second phase of UNDP's Global Programme on Strengthening the Rule of Law in Crisis-affected and Fragile contexts.

^[11] The Report of the Secretary-General on Civilian Capacity in the Aftermath of Armed Conflict (A/66/311-S/2011/527) 19 Aug 2011

Contribution from the Government of The Netherlands

The Government of The Netherlands has been a strong supporter of UNDP's Global Rule of Law Programme since its inception in 2008. It has become evident that the Millennium Development Goals are unlikely to be met in conflict-affected and fragile situations. Sustainable security, development and economic growth can only be achieved, if and when countries have the capacity to secure people's physical safety and to uphold the rule of law. In fragile situations this entails prevention of violence and consolidation of peace and stability. This includes alignment with international peace

missions to foster people's safety, creation of jobs for former combatants, promotion of inclusive access to justice and building a functioning judicial system. A new approach is required, as presented in the New Deal for Engagement in Fragile States and the World Bank's World Development Report for 2011, Conflict, Security and Development. The Netherlands prioritises, within its development cooperation policy, investment in national capacities to enhance security for citizens and to strengthen the rule of law. In doing so the overall aim is to contribute to an enabling environment for sustainable development and

self-reliance. In our view the UN has a leading role to play in coordination of and support for international efforts to promote freedom, security and prosperity. UNDP's Global Programme is an important cornerstone of the UN's support for the Rule of Law in developing countries and the Netherlands is grateful to be a partner in these efforts in the past and in the future.

Mr. Joost Andriessen,
Director, Peacebuilding
and Stabilisation Unit

Ministry of Foreign Affairs,

The Netherlands



The Way Forward & Phase 2

UNDP has contributed to improvements in the justice and security sectors in many countries. We have also made significant progress in making the UN work better together, through joint programming and strengthening our capacities to understand whether assistance generates measurable results. We have improved our operational capacities and our ability to respond rapidly.

The challenges and threats to progress in many countries, however, remain significant. The ongoing security challenges in Afghanistan threaten to undermine years of investment there. Widespread organised crime and violence in many Latin American countries contributes to chronic state fragility and stifles economic development. Continued political instability in many countries, such as Guinea-Bissau and Mali, highlight how interconnected drivers of conflict are. The proliferation of small arms and transnational crime will continue to have a destabilising effect on countries across the world.

Critical lessons have been learned. In particular, more attention needs to be paid to ensuring that the political dimensions of rule of law assistance are addressed. We should work harder to ensure our support does not remain at the purely technical level but focuses on transformation with a view to ensuring conflict prevention. We will continue to play a leadership role in improving the UN's ability to work better together and to support justice and security

programmes which contribute to the collective goal of peacebuilding. We will work with national governments to support their ability to evaluate, monitor and plan for measurable improvements in the rule of law, justice and security in their countries.

Moving forward, UNDP will demonstrate the conceptual and programmatic linkages needed to improve security. A community-oriented response will remain a priority for UNDP, but needs to be combined with institutional support. UNDP will focus more deeply on strengthening the relationship between rule of law engagement and livelihood opportunities. This will involve a deeper focus on civil and administrative rights such as land, property, inheritance and resource management.

In phase two, the Global Programme will benefit from stronger working arrangements between UNDP's Bureau for Crisis Prevention and Recovery and the Bureau for Development Policy. UNDP will also take on its responsibilities and functions identified in the context of the Civilian Capacities Review.

We will continue to work together to develop even better approaches to building the rule of law, justice and security in those countries most affected by conflict, crisis and fragility.

Cover Photo Credit: South Sudan Police Training Recruits UN Photo/Paul Banks

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UNDP's Global Programme for Strengthening the Rule of Law in Crisis-affected and Fragile Situations provides rule of law support to approximately 37 crisis-affected countries, including 21 priority countries. The programme has been a driving force in improving the delivery of UNDP's assistance and in pioneering joint UN approaches to supporting the rule of law.

This report highlights important results achieved in assisting countries to deal with the legacy of conflict, improve human security, provide access to justice for all, and in particular strengthen women's security and access to justice. It also details the wide range of partnerships that UNDP has developed and looks at lessons learned, as we look forward to the implementation of Phase 2 of the Global Programme from 2012 to 2015.

We are grateful to the governments of Australia, Canada, France, Germany, Japan, The Netherlands, Norway, Sweden, the United Kingdom, and the United States for supporting UNDP's work on rule of law, justice and security in crisis-affected and fragile situations, through the Thematic Trust Fund for Crisis Prevention and Recovery.

















