The Asia-Pacific Rights and Justice Initiative

Regional Assessment

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The DGTTF Lessons Learned Series

United Nations Development Programme

The Asia-Pacific Rights and Justice Initiative

Regional Assessment

Contents

Abbreviations[1]

AP-A2J	Asia-Pacific Rights and Justice Initiative
A2J	Access to Justice
ADB	Asia Development Bank
ADR	Alternative Dispute Resolution
AJDL	Access to Justice at the District Level
APJRF	Asia-Pacific Judicial Reform Forum
AUSAID	Australian International Development Aid Bureau
BCPR	Bureau for Crisis Prevention and Recovery
BDP/DGG	Bureau for Development Policy/ Democratic Governance Group
BDP/IDG	Bureau for Development Policy/ Institutional Development Group
CAPPLER	Capacity for Legal Reform
CBA	Canadian Bar Association
CLEP	Commission for Legal Empowerment for the Poor
CO	Country Office
CPAP	Country Programme Action Plan
DER	Development Effectiveness Report
DFID	Department for International Development (United Kingdom)
DGP	Democratic Governance Practice
DGPN	Democratic Governance Practice Network
DGTTF	Democratic Governance Thematic Trust Fund
GHRSP	Global Human Rights Strengthening Programme
GOLD	Governance for Livelihoods and Development
HQ	Headquarters
HRBA	Human Rights-Based Approach
HURIST	Human Rights Strengthening Programme
HURITalk	Human Rights Policy Network
ICJ	International Commission of Jurists
LEAD	Legal Empowerment and Assistance for the Disadvantaged
M&E	Monitoring and Evaluation

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[1] The abbreviations and acronyms relate to those used in the main text, not those that are found only in the Annexes.

MDG	Millennium Development Goal
NGO	non-governmental organization
OECD/DAC	Organisation for Economic Co-operation and Development/Development Assistance Committee
OGC	Oslo Governance Centre
OHCHR	Office of the High Commissioner for Human Rights
PAJHRB	Access to Justice and Human Rights in Bangladesh
PARAGON	Participatory Action Research to Advance Governance Options and Networks
PRAJA	Poverty Reduction through Access to Justice for All
RB	Regional Bureau
RBAP	Regional Bureau for Asia and the Pacific
RBAS	Regional Bureau for Arab States
RBEC	Regional Bureau for Europe and the CIS
RBLAC	Regional Bureau for Latin America and the Caribbean
RCB	Regional Centre in Bangkok
RSJA	Rebuilding the Justice Sector in Afghanistan
SAJI	Strategic Access to Justice Initiative
SIDA	Swedish International Development Cooperation Agency
SJSA	Strengthening the Justice System of Afghanistan
SURF	Sub-Regional Resource Facility
TRAC	Target Resource Allocation from Core
UN	United Nations
UNCT	United Nations Country Team
UNCU	United Nations Common Understanding
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
WB	World Bank

Acknowledgements

Preface

The Millennium Declaration from the Millennium Summit in 2000 emphasizes the centrality of democratic governance for the achievement of the Millennium Development Goals (MDGs). World leaders agreed that improving the quality of democratic institutions and processes, and managing the changing roles of the state and civil society in an increasingly globalized world, should underpin national efforts to reduce poverty, sustain the environment, and promote human development.

The Democratic Governance Thematic Trust Fund (DGTTF) was created in 2001 to enable UNDP country offices to explore innovative and catalytic approaches to supporting democratic governance on the ground. The DGTTF Lessons Learned Series represents a collective effort to capture lessons learned and best practices in a systematic manner, to be shared with all stakeholders, to serve as an input to organizational learning, and to inform future UNDP policy and programming processes.

Executive summary

This report presents the assessment findings of the Asia-Pacific Rights and Justice Initiative (AP-A2J), funded by UNDP Democratic Governance Thematic Trust Fund (DGTTF) and launched in August 2002 to codify the links between access to justice (A2J) and human rights, and to help define the UNDP niche in this field.

DGTTF was created in 2001 to promote a thematic focus around UNDP's Democratic Governance Practice (DGP). Its main function is to provide country offices with discretionary funds to explore innovative approaches and address issues in politically sensitive areas where the use of core funds may prove more problematic and slow. DGTTF was designed to allow rapid disbursement and to attract funding from donors interested in democratic governance. This assessment seeks to identify the impact of the DGTTF funding at the regional level through the AP-A2J initiative.

AP-A2J was one of the first regional communities of practice founded by the UNDP. The initiative falls under the Democratic Governance practice area in UNDP and under the sub-thematic service line of justice and human rights. At its inception in 2002, AP-A2J was supported by the UNDP/OHCHR HURIST programme and the DGTTF. It was initially facilitated by UNDP Sub-Regional Resource Facilities in Bangkok and Kathmandu, but is currently supported largely by the UNDP Regional Centre in Bangkok.

The Initiative started as an attempt to strengthen UNDP's knowledge and capacities on A2J in Asia and the Pacific, and to contribute to global UNDP A2J policy. Its strategy has been to develop a regional 'community of practitioners' on A2J, which has produced a number of programming tools and to stimulate knowledge development in that field. The initiative has consciously applied a human rights-based approach in defining its scope for action and in creating programming tools.

UNDP defines access to justice as 'the ability of people, particularly from poor and disadvantaged groups, to seek and obtain a remedy through formal and informal justice systems, in accordance with human rights principles and standards'. The rationale for using human rights-based programming is to promote empowering development processes and to enhance the accountability and effectiveness of development initiatives. The human rights-based approach focuses not only on the intended goal of a programme or project, but also on the process of its design and implementation.

The assessment of AP-A2J, conducted over April and May 2009, examined the Initiative's results – through the dual lens of process and outputs – in order to harness lessons of the past experience and strengthen the DGTTF role in supporting innovation in democratic governance regionally and globally.

The assessment is part of a larger UNDP effort to respond to one of the recommendations of the global DGTTF 2008 Evaluation that highlighted the need for UNDP HQ, regional and country offices, as well as donors to learn more from successful and unsuccessful projects. As such, it aims to strengthen knowledge management by documenting country office experiences in implementing DGTTF-supported access to justice interventions.

The assessment was largely informed by the OECD/DAC criteria of effectiveness and efficiency, sustainability and political economy. Its main objectives were:

- to identify, analyze and document the results and impact of the project, lessons learned and tools and instruments used;

- to analyze the sustainability of its innovations and the degree of government- or donor-funded upscaling or replication;

- to channel the lessons of this assessment into regional programming and policy options, and foster stronger knowledge management; and

- to conceptualize future A2J programming and policy development.

The primary data collection sources included interviews with over 50 persons from UNDP regional and country offices, donors, counterparts from governance and judiciary institutions, NGOs, civil society organizations, academia and project beneficiaries. A small survey was also conducted in May 2009 with members of the UNDP A2J Community of Practice Network (AP-A2J network), and dozens of reports and documents on the regional initiative and country office projects were analyzed. The assessment team also conducted four country assessments in Cambodia, India, Indonesia and Sri-Lanka.

Summary of findings, lessons learned and recommendations

Political economy

The AP-A2J human rights-based approach regards access to justice as a fundamental right, as well as a key means to defend other rights. The focus on human rights brings two important values to development work: a framework for policies and programmes; and an emphasis on enhancing the capacity of poor people to demand accountability.

There is a general consensus around the main characteristics of the human rights-based approach to development. These include free, active and meaningful participation, equality and non-discrimination, empowerment of the poorest and most disadvantaged groups, clear connection between duties and responsibilities, and a comprehensive and integrated long-term vision of the development process as contributing to the further realization of human rights.

Many years after the publication of the first UNDP Human Development Report and the 2000 Human Development Report on Human Rights and Development, the debate continues over whether and how development and human rights intersect. Many UN bodies, national development cooperation agencies, international and national NGOs are mainstreaming human rights into development practice. Although there was an agreement reached in 2003 with the UN Common Understanding on the human rights-based approach, there is still no comprehensive UNDP global commitment to strategically adopt a human rights based approach to development[2].

Effectiveness

On the whole, the assessment concluded that AP-A2J has successfully achieved all of its expected outputs and the core of its two outcomes. It has clearly increased codification of knowledge and production of tools on the subject, and contributed immensely to the capacity development of both UNDP practitioners and national and external partners. It has promoted policy development at the global level and raised the visibility and credibility of the UNDP's work on applying the human rights-based approach to A2J, thereby establishing the UNDP's niche in the area of access to justice. The initiative successfully launched a regional community of practice which adopted a bottom-up practice approach, focused on drawing on the knowledge of practitioners and strengthening organizational learning.

The AP-A2J initiative was found to be radically innovative in both process and results. The approach emphasizing process and results had far reaching impact extending beyond the region and to other development partners, including civil society organizations. Financially, it boosted interest from donors keen on earmarking funds for access to justice projects in the region which had adopted the human rights-based approach[3]. It also effectively demonstrated that with very little initial funding[4], low-cost activities and one full time dedicated resource facilitator, it was possible to create an inspiring movement owned by the core practitioners. Lastly, while the ownership, capacity development and partnership strategies were effectively geared to promoting sustainability, there continues to be challenges in ensuring that the human-rights based approach to development is not seen merely as a passing fad and that the momentum built by the initiative is not lost.

Sustainability

The sustainability of the initiative's effects and impact can be difficult to gauge. The main challenge is in maintaining the momentum generated by the scaling up of the community of practice, with its attendant benefits for ownership and capacity development. Many original community members have dispersed to different country offices; some in senior management have sought to incorporate a human rights-based approach into their work in other fields and regions. Still, country assessments have identified sustainability as the biggest concern for all country offices and national counterparts regarding ongoing A2J interventions.

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[2] Indeed, the Commission on Legal Empowerment of the Poor (CLEP) missed the opportunity to further endorse the human rights-based approach to access to justice.

[3] The CLEP, while seeking to empower the poor through focusing on property rights, business rights, land rights and access to justice, missed an opportunity to integrate human rights into their framework by not adopting the human rights-based approach.

[4] From interviews and documentation available, it was possible to conclude that the initiative mobilized approximately USD 185,000 from DGTTF and the Global HURIST Programme. UNDP SURF offices in Bangkok and Kathmandu further contributed an estimated USD 20,000.

On its face, AP-A2J has all the elements necessary to sustainability. However, much will depend on the integrity of its bottom-up approach, since there is as yet no indication that a human rights-based approach to A2J is gaining ground at the corporate level. Some good opportunities to demonstrate UNDP commitment to this approach have been missed – notably the 2008-2011 Strategic Plan, the Global Justice Programme and more recently the Commission on Legal Empowerment of the Poor (CLEP) initiative. If this pattern persists, the positive impact of the initiative may well fade with time – and with it, the opportunity for serious engagement on a human rights-based approach to development.

Access to Justice Practitioner's Guide

The Programming for Justice: Access for All programming guide on applying the human rights-based approach to access to justice programming is targeted at development practitioners working on access to justice. It has influenced and has been influenced by a vast range of experiences from countries in the Asia-Pacific region. The tool itself and the process of developing the tool can be considered a good practice which has generated substantive results. The Practitioner's Guide is particularly impressive in conceptualizing the issues and in making the case for a step-by-step approach to practically developing and implementing justice programmes from a human rights-based perspective. However, it has been recommended that the Guide (published in 2005) should be updated and made more user-friendly.

Lessons learned

The core lesson from the AP-A2J experience is that while community of practice development may be a complex and time-consuming process, it produces tailored and relevant tools, and enhances the capacity of those who are part of the process to draw on their experiences, build on their awareness of the issues and apply their knowledge in practice. Technically, policy advisors or external experts in isolation can also develop tools and knowledge products, but in these cases the result is often a document, which is informative, but does not fully capture practical experiences and know-how. A practice approach is critical to ensure that knowledge produced is 'shared' rather than 'shelved'.

Lessons from tool development

The following principles guided the challenging and time-consuming process of tool development:

- ✔ Thorough assessment of UNDP knowledge needs at the start;

- ✔ Reducing knowledge uptake time among practitioners;

- ✔ Rigorous prioritization and screening of resources;

- ✔ High-quality analysis;

- ✔ Optimization of already existing resources, avoiding reinventing the wheel.

In the end several lessons were extracted through this lengthy process. When the community of practice was launched, few other communities of practice existed and practitioners had more time to participate in it. As the number of communities of practice has grown, commitment among practitioners has been diluted. Still, the A2J initiative has produced several tools that have become familiar to many country offices in the region. In a May 2009 survey[5] on the AP-Rights and Justice Initiative (annexed to this report), 75% of respondents claimed to have used the most relevant tools that came out as one of the results of the initiative; 8.3% were familiar with the tools but had never used them; and 16.7% were not familiar. The Practitioner's Guide was considered the best tool by the majority of stakeholders interviewed by the assessment at both the regional and country office levels. The interviews and survey results both point out that while the

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[5] The survey neglected to request that respondents identify their country offices, and some non-Asian country offices responded. UNDP Kosovo, for example, is in the process of launching an A2J programme.

Practitioner's Guide was launched at the regional level in 2005, it would have benefitted from an immediate roll-out programme at the country-level so that UNDP country offices and their partners would know how to use the tool.

Lessons on applying the human rights-based approach to A2J programming

Applying a human rights-based approach makes good programming practice obligatory rather than optional. Human rights-based programmes are therefore effective even when measured by traditional development criteria. In the AP-A2J experience, applying the human rights-based approach helped in moving away from justice sector reform projects focused on highlighting the connection from the rule of law and economic growth, to one where the framework for UNDP's interventions on access to justice focused on empowering disadvantaged people to realize their rights and obtain remedies for their grievances.

The human rights-based approach puts people at the centre of the development process and seeks to analyze underlying problems that prevent people from exercising their rights. It examines the roles of both duty-bearers in fulfilling their obligations and rights-holders in claiming their rights. A focus on disadvantaged groups seeks a more direct impact on poverty eradication and other Millennium Development Goals. Though the causality link between the human rights-based approach to access to justice and its impact on poverty reduction is sometimes questioned, the explicit focus of A2J programmes on empowering the poor and disadvantaged in realizing their rights (including economic, social and cultural rights) cannot be ignored. This report concludes that adopting of a human rights-based approach in analyzing access to justice for poverty reduction improved problem identification, identification of target groups, scope of assessment and identification of entry points for capacity development. The country assessments held in Cambodia, India, Indonesia, and Sri Lanka also contribute to this conclusion.

Recommendations

The eight main recommendations are drawn from the experiences of the Asia-Pacific Rights and Justice Initiative. These recommendations are for the future of the initiative as well as recommendations on coordinating with other global initiatives on justice and human rights:

1. Conduct independent evaluations of the impact of access to justice programmes in the region on how using the human rights-based approach affects the ability of people to seek and obtain a remedy. For example, client surveys can be used to ensure that the programmes are reaching their target groups and enhancing their ability to access justice.

2. Re-energize the community of practice in order to build on past momentum and ensure continued engagement of practitioners on the human rights-based approach to access to justice. For example, practitioners can be brought together to update and simplify the Practitioners' Guide.

3. Provide further guidance and develop tools on how to adopt the human rights-based approach to programming on law reform projects at the country level.

4. Conduct additional research in strengthening linkages between traditional justice systems and formal justice system in adopting the human rights-based approach. Additional focus on public interest litigation is also necessary.

5. Pool regional resources and expertise to foster capacity development and training. For example, supporting a consortium of organizations to work on applying the human rights-based approach to access to justice.

6. Capitalize on other ongoing programmes on justice and human rights. For example, build and strengthen partnerships applying the human rights-based approach with the Global Human Strengthening Programme, the Global Thematic Programme on Access to Justice, and the Commission on the Legal Empowerment of the Poor.

7. Support the UNDP Legal Empowerment for the Poor initiative in adopting a human rights-based approach.

8. Continue using the same bottom-up approach to practice development that was able to achieve results for AP-A2J in the past.

Introduction

Assessment purpose, objective and scope

UNDP Regional Centre in Bangkok has received support from the Democratic Governance Thematic Trust Fund (DGTTF) since 2002 for innovative, catalytic initiatives to strengthen democratic governance and promote good governance in the region.

With the DGTTF support the Asia-Pacific Rights and Justice initiative was launched in August 2002 to codify the links between access to justice and human rights, and to help define the UNDP niche in this field.

The assessment of AP-A2J, conducted over April and May 2009, examined the Initiative's results in order to harness lessons of the past experience and strengthen the DGTTF role in supporting innovation in democratic governance regionally and globally.

The assessment is part of a larger UNDP effort to respond to one of the recommendations of the global DGTTF 2008 Evaluation that highlighted the need for UNDP HQ, regional and country offices, as well as donors to learn more from successful and unsuccessful projects. As such, it aims to strengthen knowledge management by documenting country office experiences in implementing DGTTF-supported access to justice interventions.

The main objectives in assessing the results of the A2J regional initiative were:

✔ to identify, analyze and document the results and impact of the project, lessons learned and tools and instruments used;

✔ to analyze the sustainability of its innovations and the degree of government- or donor-funded upscaling or replication;

✔ to channel the lessons of this assessment into regional programming and policy options, and foster stronger knowledge management; and

✔ to conceptualize future A2J programming and policy development.

The terms of reference for the assessment stress the importance of documenting both 'direct' and 'indirect' levels of influence of AP-A2J by focusing on the process that led to its formulation as well as follow-up efforts on the part of the Regional Centre in Bangkok to monitor progress at the country level.

It is important to note that the current assessment is an overall analytic overview of results of AP-A2J to improve programming and sustainability, rather than an outcome evaluation[6] of the initiative or its main products. No attempt is made to systematically and objectively assess outcomes through the traditional analysis of the results chain and performance measurement tools.

This does not mean that progress against results will not be considered. The objective is simply to put emphasis on capturing valuable lessons that may have broader applications, rather than on accountability[7] and performance management. It is, above all, an exercise in documenting valuable information to provide forward-looking recommendations for the RCB role in advancing the A2J initiative.

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[6] The current assessment is not an outcome evaluation as described in the UNDP M&E Handbook: "…an evaluation that covers a set of related projects, programmes and strategies intended to bring about a certain outcome. Such evaluations assess how and why outcomes are or are not being achieved in a given country context…underlying factors affecting the situation, highlight unintended consequences (positive and negative), recommend actions to improve performance in future programming, and generate lessons learned."

[7] For example, priority of analysis is not placed in analyzing and justifying responsibilities over expenditures or effectiveness against financial and legal requirements

Methodology

The main function of DGTTF is to provide UNDP country offices with discretionary funds to explore innovative approaches and address issues in politically sensitive areas where the use of core funds may prove more problematic and slow. The DGTTF Allocation Committee in 2008 emphasized the need for innovative and catalytic proposals.[8] The methodology of this assessment tried to reflect that focus.

The Asia-Pacific Rights and Justice Initiative states as its intended outcome to 'strengthen UNDP capacities for informed policy advice and targeted programming on access to justice by the poor and most disadvantaged groups in Asia and the Pacific'. The human rights-based approach focuses not only on the intended goal of a programme or project, but also on the process of its design and implementation. This assessment and its report will accordingly analyze AP-A2J through the dual lens of process and results.

In analyzing the process and results of the Initiative, the methodology prioritized **political economy, effectiveness** and **sustainability,** as prescribed by the terms of reference. Where possible, the assessment also applied other OECD/DAC criteria, in particular strategic positioning and efficiency.

Due to the nature of the assignment, the approach was more qualitative than quantitative. Relevant regional initiative documentation, external reports and articles on A2J and the human rights-based approach, and country case studies were analyzed, and interviews conducted with a wide range of stakeholders from UNDP, donors, government institutions, academics and civil society. The assessment also launched a survey through the A2J practice network to collect first-hand perceptions of practitioners on the results, sustainability, lessons and way forward for the initiative. However, results were limited as only 12 people responded.

In accordance with the terms of reference, the methodology focused on the following instruments:

✔ **Desk study:** Collection and review of DGTTF Guidelines, DGTTF annual reports, the DGTTF 2008 Evaluation Report, project documents, country and outcome evaluations and materials produced as outputs of DGTTF-funded projects such as the programming guide and its impact for country offices, the A2J practice note, case studies, lessons learned, reports and other tools developed during the formulation of AP-A2J.

✔ **Interviews:** Interviews were held either in person or by telephone, and included a broad spectrum of key respondents. Primary beneficiaries, civil society representatives, government officials, UNDP country office and Regional Centre staff, senior management, and other relevant stakeholders were consulted.

✔ **Site visits:** Site visits were conducted to assess the impact of the regional initiative in Indonesia, Cambodia and Sri Lanka. The assessment also integrated lessons from other countries in the region, notably Timor-Leste, and India. The main purpose of the site visits was to determine the extent to which country projects have been innovative and catalytic in supporting progress in sensitive democratic governance issues and in generating broader activities, as well as the degree of influence (positive or negative) of the regional initiative on programming at the country level.

✔ **Codification of tools and instruments:** In order to gauge the potential for further use/adaptation throughout UNDP of the training manuals, laws, regulations, knowledge products, methodologies used to achieve project results, the assessment systematically analyzed and documented lessons learned during the project. Particular emphasis was placed on effectiveness of innovation and catalytic ability, sustainability, relevance, strategic positioning, and efficiency.

The assessment team was comprised mainly of five members: an international consultant that served as the team leader responsible for the country assessment of Sri Lanka and Indonesia as well as for the regional initiative report and for the overall editing of the final consolidated reports (country assessments); a policy analyst from the RCB that supported the Indonesia assessment and the overall editing of the final reports; a national consultant and a team member form the OGC, together with a programme officer from the Serbia country office seconded through the fellowship programme to conduct the country assessment in Cambodia. The team also benefited from the support of a national consultant for the India assessment.

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[8] DGTTF proposals/projects should be creative and innovative in design, for example, initiatives that allow governance themes to interface with other UNDP practices, serve as a staging point for bigger programmes or probe into un/underexplored territories/topics of democratic governance, as per DGTTF 2008 Guidelines.

The main challenge faced by the assessment team was logistical: assembling a team from various locations to cover different countries at different times – all within a limited time frame. The assessment was conducted between 14 April and 14 May 2009. In the first week the Indonesia country assessment was fielded (team leader and policy analyst from the RCB). The national counterpart continued the Indonesia assessment after the departure of the RCB counterpart; in the second week the two team members returned to Bangkok to draft the country report and were joined by the Cambodia assessment team. The third week was dedicated to the Sri Lanka and Cambodia assessment and the final week to the overall drafting and consolidation of reports.

This complex methodology required constant exchange of information, and the team took every opportunity to confer on strategy and preliminary findings. The multiple purposes for which the assessment was intended made consistency and coherence of approach all the more challenging and essential. Moreover, the very nature of the initiative being assessed produced a rich and varied set of knowledge products that had to be carefully identified and analyzed. Each country assessment covered over a dozen documents while the overall regional assessment examined at least 30 reports, manuals, guides and other documents.

Since the primary goal was to assess AP-A2J results through various instruments but notably through country studies, with various observers responsible for data collection and analysis, it was critical to ensure that all involved followed a common set of guiding parameters to ensure consistency of results.

The original terms of reference provided a set of key questions to be used in the approach. These questions are important not only to ensure that the objectives of this assessment are on the right track for RCB purposes, but also to ensure consistency among the conclusions of country studies. The team leader provided additional questions to guide the country assessments.

This exercise was guided by the following key questions:

Effectiveness and efficiency:

- How and to what extent has the project achieved its objectives? Has the project generated quality outputs? What were the relevant constraints and enabling factors (internal and/or external)?

- Has the project supported innovation in a way that helped to mobilize funds? Has the project been a catalyst,

substantively, financially (TRAC and non-core) and in terms of developing and/or strengthening partnerships? Is there evidence that the results extend beyond the individual project?

- What difference/impact has the project made in terms of democratic governance in the country concerned?

- Were the resources (all types) adequate to manage the process? How instrumental was partner support in achieving the reported results?

Sustainability:

- What measures have been taken to ensure the sustainability of project achievements?

- How have issues of ownership and participation of target groups/clients been addressed both in formulating and implementing the project? Did the project continue without further DGTTF funding?

- Has the project contributed significantly to capacity development? Is there any evidence that the capacities at the individual, organizational and/or systems level have been strengthened through the project?

- Did the project seek synergies with other democratic governance strategic areas?

- What impact/influence did the regional initiative have on the country level A2J projects?

- How did the DGTTF A2J projects contribute to knowledge management? Which tools produced by the project could be used to ensure better dissemination of knowledge emanated from the DGTTF?

Political economy:

- What was the political context (e.g., institutional set-up, change in government, degree of autonomy/dependence of the partner institution in relation to others)? Who were the key national/international stakeholders? What were their interests?

- Were partners able to promote these interests through formal or informal channels? How did this affect the performance of the project?

- How does the political context enable forward thinking on a human rights-based approach to A2J?

Relevance and strategic positioning:

- Does the project have a clear, coherent and consistent set of objectives?

- Does the project respond to a governmental request or documented need?

- Would implementation have been possible without the DGTTF?

- Has the project enabled the country office to position itself strategically within the concerned democratic governance service area?

In line with this methodology, the assessment should provide data allowing one to, at a minimum:

- Ascertain whether the result has been achieved and, if not, whether progress has been made towards its achievement;

- Identify some of the external factors that influence the result;

- Assess the contribution of DGTTF-supported projects and whether UNDP interventions can be linked to achievement of the results;

- Assess whether the partnership strategy has been appropriate and effective.

The team posed additional questions to:

- Identify innovative methodologies to approach key development issues;

- Examine national capacities developed through DGTTF assistance;

- Gauge the level of stakeholder contribution to the outcome, i.e., to ascertain whether the assistance provided by the project was of a participatory nature;

- Identify indirect beneficiaries and record their own perceptions of how they have benefited from the DGTTF assistance.

Political economy

UNDP and the human rights-based approach to A2J

Until the early 1990s there was very little contact and exchange between people working on human development and those working with human rights. In part because of the work of UNDP, over the last decade debate has grown around the integration of human rights into the practice of development cooperation.[9] Today the concept of development has abandoned the economic growth-centred approach to integrate new dimensions that reflect people's real needs, evolving into the widely accepted concept of human development.

Two trends in the 1990s contributed to the gradual convergence of the two approaches (Sano 2000): developing countries increasingly demanded international assistance as an entitlement, as a right; and developed countries increasingly demanded good governance and the democratization of developing countries as a condition for assistance. The Vienna Declaration and Programme of Action emerging from the World Conference on Human Rights (1993) states that "The World Conference on Human Rights reaffirms the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights" (Article 10). In other words, human development is a necessary but not sufficient condition for human rights realization. The Programme for Action of the World Summit for Social Development (Copenhagen, 1995) states that " ...[i]t is essential for social development that all human rights and fundamental freedoms, including the right to development as an integral part of fundamental human rights, be promoted and protected..." (Article 15) and elaborates on the process of how to promote and protect these rights. The rule of law and access to justice are necessary conditions for human development. In other words, the realization of human rights is a necessary but not sufficient condition for human development.[10] A similar convergence took place between human rights groups and human development groups.

Although human rights are the very foundation of the UN through the UN Charter and the Universal Declaration on Human Rights, the organization did not take the lead in promoting human rights during the first forty years of its existence, mostly because of the varying positions held by member states during the Cold War. After the end of the Cold War and under the leadership of the Secretary General Kofi Annan, a radical change took place and a UN reform programme was launched in 1997 with a clear emphasis on human rights. The respect of all internationally recognized human rights and fundamental freedoms, including the right to development, form the normative basis for the Millennium Declaration that sets forth the crucial elements of a desirable future world.

There exists global consensus around the international development goals, the Millennium Development Goals, as evidenced by the over 160 world leaders who endorsed the United Nations Millennium Declaration in 2000. UNDP has placed these targets at the centre of its development strategy. These elaborate development goals cannot be achieved without poor people's participation in the decisions and processes that affect their lives. It is therefore natural that respect for human rights and fundamental freedoms features prominently in the Millennium Declaration. Human rights provide a means of empowering all people to make decisions about their own lives rather than being the passive objects of choices made on their behalf.

At the policy level, the trigger for UNDP's work on the human rights-based approach was the 2000 Human Development Report that stressed that human rights and human development share a common vision and purpose: to secure the freedom, well-being and dignity of all people. The 2003 UN Common Understanding (UNCU) deepened this approach

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[9] Amartya Sen's seminal work freed the development and poverty practice from the narrow schemes of economic growth and macroeconomic performances, shifting the attention from income poverty to a more complex and dynamic analysis. The work of Mahbub ul Haq as Director of the UNDP Human Development Report Office further applied and developed Sen's ideas with the help of experience acquired in the field, emerging as one of the most effective tools for mainstreaming the human rights paradigm into development practices.

[10] In Reinventing Development by Paul Gready and Jonathan Eanser

by bringing a shared understanding of the human rights-based approach to the UN system and providing a framework to guide implementation of the human rights-based approach to development programming by all UN entities.

As stressed in the UNDP Administator's Note,[11] applying the human rights-based approach will require that the UNDP adopt innovative and strategic thinking and leadership to mobilize support of decision- and policy-makers. It will also be important to cultivate new civil society partnerships and alliances. Human rights values, standards and principles should be underscored during all phases of programme development and in all UNDP activities.

Access to justice and a human rights-based approach to development

The focus on access to justice by all is a recent approach in development cooperation. UNDP views justice as closely related to poverty eradication. Rather than simply a mechanism to foster economic growth, access to justice is a means to prevent and overcome human poverty by strengthening disadvantaged people's choices to seek and obtain a remedy for grievances, and thus effectively levelling the playing field in the pursuit of human development.

In 2009 at the global level, justice and human rights represented around 18% of the overall DGTTF allocation. At the regional level, 21 out of 25 country offices in Asia and the Pacific are currently involved in justice and human rights-related initiatives.

The human rights-based approach to development on which AP-A2J is based regards access to justice as a fundamental right, as well as a key means to defend other rights. The focus on human rights brings two important values to development work: a framework for policies and programmes; and an emphasis on enhancing the capacity of poor people to demand accountability.

UNDP defines access to justice as 'the ability of people, particularly from poor and disadvantaged groups, to seek and obtain a remedy through formal and informal justice systems, in accordance with human rights principles and standards.' UNDP´s framework for A2J is based on two goals: human rights and capacity development.[12]

Access to justice is a human rights-based objective. However, not every access to justice strategy has a human rights-based outcome as its objective. A human rights approach focuses not only on the intended goal of a programme or project, but also on the process of its design and implementation.

Therefore, when adopting a human rights-based approach, one also needs to make sure that initiatives to ensure access to justice are present.[13]

Human rights-based programming or rights-based programming is a methodology to develop programmes and projects that include the key elements of so-called 'good' programming. It is based on a human rights framework. Human rights-based programming promotes empowering development processes while enhancing accountability and effectiveness of development initiatives.

Key features of rights-based programming for access to justice

Human rights-based programming is different from conventional tools and methods in that it:

- Situates access to justice in the context of a human rights/legal framework;

- Analyzes degrees of vulnerability with regard to a particular problem, and selects those groups who may be more seriously impacted as priority beneficiaries of the project;

- Divides relevant stakeholders into claim holders and duty bearers;

- Focuses on empowering people with legitimate claims, and on holding accountable those who are mandated or able to respond;

- Assesses the capacity of both claim holders and duty bearers to address the problem, and aims to ensure that capacity development strategies exist on both sides;

- Attempts to establish participatory processes where those affected are freely and meaningfully involved.

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[11] In Programming for Justice: Access for All, Chapter 1.

[12] In A2J Programming Guide: Justice for all, Chapter 1.

[13] Idem

Within this framework grew the idea of a human rights-based approach to development as a new way to foster development with particular attention to protecting, fulfilling and promoting all human rights. There is a general consensus around the main characteristics of a human rights-based approach to development. These include free, active and meaningful participation, equality and non-discrimination, empowerment of the poorest and most disadvantaged groups, clear connection between duties and responsibilities, and a comprehensive and integrated long-term vision of the development process as contributing to the further realization of human rights.

Many years after the publication of the first UNDP Human Development Report and the 2000 Human Development Report on Human Rights and Development, the debate continues over whether and how development and human rights intersect. Many UN bodies, national development cooperation agencies, international and national NGOs are mainstreaming human rights into development practice. There is still no comprehensive UNDP global commitment to strategically adopt a human rights-based approach to development.[14]

The human rights-based approach to development, broadly understood, is a perspective that considers traditional goals of development activity, such as the provision of health or educational services, food or shelter, as human rights. At the theoretical level, it represents an attempt to harmonize the main elements of human development theory with the normative framework of internationally recognized human rights.

These two visions share a common set of principles and values that encompass all relevant aspects of development activity and provide a blueprint for an appropriate development process. The main points of convergence are:

- Attention to process;

- Direct linkage to human rights;

- Participation and empowerment;

- Non-discrimination;

- Attention to the most vulnerable groups;

- Accountability.

Little here is new in terms of development theory and practice. But seen in the light of human rights standards, these attributes gain additional relevance.

The first element of the human rights-based approach is to be aware of the process of development. This calls for a rethinking of the means-goals relation. In the traditional theory, means are appraised for their effectiveness in reaching goals. A human rights perspective examines the actual nature of the means: their adherence to human rights standards, their capacity to empower poor people and disadvantaged groups, their cultural, economic, political and social sustainability. In this way, a human rights approach to development shifts attention from the outputs of the development process to its dynamics, from the feasibility of means to their intrinsic value, and from the results to the process in itself.

If this aspect seems common to other perspectives, the real innovation for the traditional approach is the link to the international human rights normative framework. Integrating human rights into development activities means not only avoiding activities and programmes that are expressly against the spirit of human rights (such as projects that reinforce discrimination against individuals or groups, involve large-scale evictions or displacement of persons, or are implemented from the top down), but also expressing civil, economic, political and social targets in terms of human rights, taking into account human rights norms at every stage of project development, from needs assessment to evaluation.

This is perhaps the most relevant value-added of the human rights approach: the core of human rights treaties, covenants and international instruments, as well as the interpretations, recommendations and guidelines provided by treaty bodies, UN agencies and other international mechanisms, can greatly enhance the accountability, transparency, and clarity of development programmes and activities and build consensus around them.[15]

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[14] The Commission on Legal Empowerment of the Poor (CLEP), while seeking to empower the poor through focusing on property rights, business rights, land rights and access to justice, missed an opportunity to integrate human rights into their framework by not adopting the human rights-based approach.

[15] In The Role of the Right to Development in the Human Rights Framework for Development, Alessando Sitta and Implementing Human Rights Based Development, Dan Banik

Accountability is particularly important in development processes. Clearly identifying duty bearers and rights holders in a specific context and situation can enhance transparency and effectiveness. The human rights approach to development, for its normative nature, can help this identification.

Participation is a common pillar of human rights and human development concepts. That people should have control over the fundamental choices of their lives, taking part in all processes that affect them, is usually a common principle in most development interventions. The human rights-based approach emphasizes this aspect with a normative framework for monitoring and advocacy. Again, the goal itself may not be new; but conceiving economic and social goals in terms of human rights makes persons, communities and groups active agents of their own development process – changing the paradigm from aid provision to claiming rights and entitlements where beneficiaries become the real directors of the project.

The universality of human rights implies that all human rights are applicable to all human beings without exception. It implies equity and non-discrimination. As a result, vulnerable groups and minorities need to be particularly targeted by development interventions so that they are able to access and enjoy equal rights. This needs to be kept in mind at all stages of the development process: identifying disadvantaged groups at the outset in each context; focusing needs assessment on the rights and capacity gaps of these groups; using disaggregated data including sex, ethnicity, religion and other factors which affect the enjoyment of their rights; avoiding the reinforcement of pre-existing inequalities during implementation; and referring to national and international human rights standards.

The diffusion of human development theory has deepened the integration of human rights concerns into development theory and practice. The human rights-based approach to development merges human development and human rights paradigms. At the theoretical level, however, there is still some lack of consensus on how to articulate development and human rights.[16] This articulation will be critical for a human rights-based approach to A2J and to poverty reduction in general. The last section of the report addresses this issue.

Asia-Pacific A2J strategy: objectives, outputs and process

Access to justice is critical for poverty reduction, and a major area of the UNDP democratic governance practice. AP-A2J was a substantive, results-based and tightly facilitated regional practice initiative, responding to the call for greater knowledge

exchange among the various governance initiatives supported by UNDP in many countries.

The Asia-Pacific Rights and Justice Initiative was an attempt to develop organizational capacities in this field by providing a regional community of practitioners on access to justice with adequate knowledge, tools and networks. As such, it was meant to complement the work of the large, mainly demand-driven global networks.

Objectives and outputs[17]
The objectives of this initiative were the following:

- To develop the capacities of UNDP country offices in the region to use the human rights-based approach in designing and implementing A2J programmes.

- To strengthen knowledge sharing among UNDP practitioners through a community of practice that enhances overall capacities and knowledge.

- To refine UNDP's work in the sub-practice area by raising awareness on international comparative experiences in adopting the human rights-based approach to A2J (e.g. ongoing efforts in Latin America) and defining the UNDP niche in the area while raising the prominence of access to justice within overall UNDP policy.

- To expand UNDP networks in the justice sector at the national and regional levels, and promote UNDP as a key partner in Asia and the Pacific.

- To strengthen individual capacities of UNDP programme staff in the justice field.

- To develop rights-based tools and methodologies for A2J practitioners.

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[16] In The Role of the Right to Development in the Human Rights Framework for Development, Alessando Sitta.

[17] For a detailed breakdown of the identified six objectives see Section 2 on Methodology in this report.

Table 1: Comparison between 'Rule of Law' and 'Access to Justice' models[18]

Traditional Rule of Law Approach MARKET-CENTRED	Access to Justice PEOPLE-CENTRED
• Assumption: For the effective functioning of markets that leads to economic growth, the rule of law is necessary – it reduces political risks to investors and cuts down transaction costs, promoting businesses and investments and therefore alleviating poverty.	• Assumption: In a context of growing inequalities and power imbalances, access to justice is necessary for people to protect themselves against abuses of power, hold political leaders accountable, and resolve conflicts without restoring to violence.
• Focus on markets: Impact on poverty indirect (through economic efficiency).	• Focus on people: Impact on poverty and other MDGs direct – increases cost effectiveness in development activities.
• Supports predominantly state institutions, particularly judiciary. Civil society support a means towards institutional development (consultation, advocacy, etc.)	• Capacity development perspective – institutions are insufficient if people are not empowered to use them. Direct support to the disadvantaged and civil society necessary to develop people's capacities.
• Overemphasis on formal systems.	• Formal and informal systems are both important. In many societies traditional and customary systems account for 98% of total cases, whereas 80% of development funding in the justice sector goes to formal systems.[19] Greater access to justice sometimes requires 'informalizing' formal systems, but also strengthening informal ones.
• Poor people's obstacles to access justice defined in terms of transaction costs, esp. affordability.	• Obstacles include structural and institutional obstacles, and others internal to disadvantaged groups. The most important obstacle to accessing justice is the insecurity in which many disadvantaged people live – they may not be able to afford risks involved in seeking justice (of abuse, of loss of income, etc.)
• Laws are neutral. If the poor feel alienated by them, it is because of the predominance of top-down approaches in law-making.	• Laws are a reflection of political and social processes, and can be biased against the poor and disadvantaged. This causes their reluctance to use the system. Legal reform encounters resistance by those whose power and privileges are protected by the legal system.
• Tendency to export models (particularly from 'free market' societies), and over-reliance on foreign experts, who often draft developing countries' legislation themselves.	• 'Imported' models are unlikely to work because institutions always operate in unique contexts (political, social, cultural, etc.) – the same laws/institutions may produce different results in different contexts.
• Predominance of lawyers, and tendency to define the problems narrowly (in terms of courts, prosecutors, and other institutions in which lawyers play central roles).	• Recognizes lawyers are sometimes part of the problem and not always part of the solution. Promotes the use of non-lawyers (e.g. paralegals) in access to justice efforts. Explores the use of non-formal mechanisms in obtaining justice.

[18] From the AP-A2J Practice in Action workshop report, Sri Lanka 2003.

[19] See the background paper prepared by Sinclair Dinnen, professor at the Australian National University, on "Interfaces between formal and informal systems to strengthen access to justice by disadvantaged people". Further, some research shows that formal systems may become a regressive tax on the poorest of the poor – who may be economically worse off after using them (see E. Buscaglia, "Justice and the Poor: Formal vs. Informal mechanism for dispute resolution: a Governance-based approach", prepared for a World Bank's conference on "Empowerment, Security and Opportunity through Law and Justice", July 2001).

The outputs of this initiative were the following:

- A **regional community of A2J practitioners.**

- A **toolkit** for practitioners consisting of (i) credentials (a summary of UNDP's work and comparative advantage in A2J), (ii) a primer (concise introductory document for new practitioners), and (iii) a guide to A2J entry points.

- A **knowledge map** on A2J and a rights-based approach to development.

- A **web page** on A2J and human rights-based approach to development.

Process premises and outline[20]

AP-A2J process premises

The idea of addressing the human rights-based approach to A2J as a knowledge management issue was based on the following premises:

- **Active involvement and participation of country offices and field staff,** aiming to:

  a) Strengthen knowledge on A2J and capacities in assessment, analysis and programme design from a rights perspective;

  b) Expand justice networks at country, regional and global levels; and

  c) Strengthen institutional learning through knowledge sharing and codification.

- **Respecting basic requirements of a human rights-based approach,** particularly including participatory dimensions and focusing on the concerns of disadvantaged groups as well as on the capacities of institutional duty-holders to respond to such concerns. The initiative took into account country office needs for further familiarization with a rights-based approach to development in pursuing this objective.

- **Practice orientation:** In line with UNDP efforts to build vibrant communities around thematic sub–practices, the initiative was active in identifying links and seeking partnerships with RBAP, BDP/IDG (nowadays BDP/DGG), the Oslo Governance Centre, and programmes such as PRAJA, GOLD, PARAGON and HURIST under which complementary activities can be pursued once entry

points are identified – e.g. scanning national legislation in the region. Results and lessons are shared with the larger UNDP networks such as DGP-Network and HURITalk.

- **External partners** – governmental, non-governmental and inter-governmental partners active in the justice sector (such as DFID, ADB, the World Bank, Asia Foundation, the Ford Foundation, etc.) participated in the initiative, sharing their knowledge and experiences on the justice sector in Asia and the Pacific. A special partnership with OHCHR provided professional expertise on human rights as required and helped identify relevant national partners, particularly among NGOs.

AP-A2J process outline

AP-A2J can be divided into five distinct stages since its launch in August 2002: the preparatory stage, the visioning workshop, the research and compilation phase, a second 'validation' workshop, the codification and tool development phase, and the sharing and partnering phase.

During the **preparatory phase** (August 2002), a small group of committed practitioners devised a methodology for a time-bound, results-based network, set up a network and web page, engaged network members in relatively 'time-light' activities (such as sharing existing documents) and established a management structure. However, meaningful knowledge codification proved much more time-consuming than originally anticipated, and a full-time facilitator was engaged.

After a process of internal consultations in April 2003, a **'visioning workshop'** was held in Kathmandu, Nepal, that set the substantive scope of the A2J practice and established a workplan for practice development. With the support of the Kathmandu and Bangkok SURFs, practitioners from a core group of 11 country offices defined knowledge needs to promote people-centred justice programmes, mapped relevant UNDP activities, and committed to provide specific lessons according to country experience.

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[20] Based on Lessons on applying a human rights-based approach to development programming: Case study from the UNDP Asia Pacific Rights and Justice, UNDP, 2004.

The **research and compilation phase,** comprising several simultaneous activities to screen regional knowledge on A2J (see below Figure 1), lasted from April to October 2003. Field practitioners collected and codified internal UNDP knowledge with SURF support. Twelve country offices[21] contributed 17 case studies with specific lessons and recommendations for A2J programming. The network also sought lessons from internal partners in areas where UNDP experience was considered insufficient. At the same time, internal research was being conducted at the regional SURFs to screen additional lessons. The distillation of various inputs for the final tools also started in this phase.

In November 2003 these processes converged at a second **regional workshop** in Sri Lanka, attended by 15 country offices and 17 external partners. This workshop had a very different focus from the first: while the visioning workshop had screened the general A2J field for valuable lessons, the second workshop focused on discussing and validating those lessons (through country office case studies, outsourced studies and in-house research) that had been compiled in the meantime.

Finally, the fifth phase of the initiative concentrated on the **distillation and packaging of the compiled lessons into a number of tools,**[22] to make the various experiences amenable to better and more targeted programming.

The guide and website were launched in September 2005. Throughout its life cycle the Asia-Pacific Rights and Justice Initiative evolved around the concept of a community of practitioners, involving approximately 40 UNDP staff from over 17 country offices in the region, and supported by an electronic network of more than 80 members globally. A 2005 workshop brought together UNDP and external partners to promote the UNDP A2J initiative and foster partnerships. At that time, more than 10 country offices in the region were implementing or had implemented A2J pilot projects and studies, and the initiative strived to link regional and national institutions around its tools, concept and methodology.

This approach significantly influenced the quality and type of results of the initiative.

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[21] Including Bangladesh, Cambodia, China, Fiji, East Timor, India, Indonesia, Iran, Mongolia, Nepal, the Philippines, and Vietnam.

[22] Tool development occurred throughout the initiative. While some tools are necessary to gather lessons and collect information, phase 5 concentrated on knowledge codification tools.

Effectiveness

On the whole, the assessment concluded that AP-A2J has successfully achieved all of its expected outputs and the core of its two outcomes. It has clearly increased codification of knowledge and production of tools on the subject, and contributed immensely to the capacity development of both UNDP practitioners and national and external partners. It has promoted policy development at the global level and raised the visibility and credibility of UNDP's work on applying the human rights-based approach to A2J, thereby establishing UNDP's niche in the area of access to justice. The initiative successfully launched a regional community of practice which adopted a bottom-up practice approach drawing on the knowledge of practitioners and strengthening organizational learning.

The AP-A2J initiative was found to be radically innovative in both process and results. The approach, emphasizing process and results, had far-reaching impacts which extended beyond the region and to other development partners, including civil society organizations. Financially, it boosted interest from donors keen on earmarking funds for access to justice projects in the region which had adopted the human rights-based approach.[23] It also effectively demonstrated that with very little initial funding,[24] low-cost activities and one full-time dedicated resource facilitator, it was possible to create an inspiring movement owned by the core practitioners. Lastly, while the ownership, capacity development and partnership strategy was effectively geared to promoting sustainability, there are challenges in ensuring that the human rights-based approach to development is not seen merely as a passing fad and that the momentum built by the initiative continues on.

On the other hand, it is still early to adequately assess impact of the initiative in promoting sustainable country programming on a human rights-based approach to A2J as no proper independent client survey has been conducted in most of the AP countries. This is a crucial element for accountability – an aspect inherent to the human rights-based approach strategy. It is clear that the initiative has triggered such programming in at least 10 countries of the region,[25] some clearly adopting a human rights-based framework,[26] but in others the approach is less evident. So while the initiative did appear to strengthen the UNDP niche on A2J from a rights-based perspective, its progress towards becoming an essential strategy for human development and poverty reduction remains difficult to measure.

The assessment tried to answer a set of questions on effectiveness that can be grouped in the following categories: overall results in terms of outputs and objectives; innovative ability; and catalytic capacity.

Results on outputs and objectives

For the sake of coherence, the process results (related with using a practice approach) will be discussed first, followed by the substantive results on the effectiveness of applying a human rights-based approach.

As mentioned previously, the assessment concluded that the initiative did successfully achieve all expected outputs in light of its practice approach. Making good use of one of its products – a 2006 presentation on lessons learned from the community of practice – below is a summary diagram of the initiative's outputs, outcomes and impact.

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[23] SIDA in particular is one of the partners that supported many projects on the human rights-based approach at several country offices in the region, including Indonesia, Sri Lanka, and Timor-Leste.

[24] From documentation and interviews available, it was possible to conclude that the initiative mobilized approximately USD 185,000 from DGTTF and the Global Hurist Programme. UNDP SURFs offices in Bangkok and Kathmandu further contributed an estimated USD 20,000.

[25] Afghanistan, Bangladesh, Cambodia, China, India, Indonesia, Laos, Maldives, Mongolia, Nepal, Sri Lanka, Timor-Leste, Vietnam.

[26] At a minimum Indonesia, Sri Lanka, India, and Nepal.

OUTPUTS	OUTCOMES	IMPACT
Community of 25 practitioners from 18 COs participating in: • Workshops • Extraction of lessons learned • Tool development • MSIs	POLICY ALIGNMENT: • Increased number of UNDP COs applying an "HRBA/A2J" framework (e.g. Sri Lanka, Indonesia, Bangladesh) • Increased number of UNDP justice programmes including civil society and targetting disadvantaged groups	Helped UNDP to move consistently into new areas that were also pioneer reforms at the national level (e.g. police reform, traditional justice systems)
Tools (developed so far): • Case study guidelines • Guidelines for participatory consultations • Primer on a HRBA • Practitioners' Guide + website	CAPACITY DEVELOPMENT • Increased capacity of COs to understand the practical implications of a HRBA and to programme on A2J • Strengthened networking and knowledge exchange among COs and COs and partner; • Increase satisfaction and motivation	Helped UNDP gain credibility and visibility at national, regional and global level in HRBA, Access to Justice and Justice Reform
Codification of lessons learned		
Reports and presentations for disemination of knowledge	GLOBAL POLICY DEVELOPMENT • Strengthened UNDP knowledge and tools on HRBA and definition of an "A2J" model for UNDP • Organizational learning in terms of operationalizing a regional bottom-up approach	
Contributions to global discussions: A2J, A2J development effectiveness		

As highlighted by several interviewees that were part of the core team of the initiative *"…even more important than the products of the initiative was the process as a key focus…"* The major results from using a practice approach included the following:

✔ **Knowledge codification and production of tools tailored to UNDP's needs:** The tools that have been produced as a result of AP-A2J are tailored for UNDP needs, largely due to an innovative process that systematically linked knowledge production to capacity development. The Practitioner's Guide **'Programming for Justice: Access for All'** has been considered a major breakthrough (despite implementation difficulties highlighted during the country assessments by UNDP staff) for conceptualizing and operationalizing the human rights-based approach. It is considered a fundamental tool by UNDP practitioners, despite its heavy technical structure, as well as by external human rights experts and other development partners. Testimonials collected from the Canadian Bar Association as well as from academia experts researching and working in development indicated the value of this tool for both programming and advocacy. In Papua New Guinea, for instance, development partners use the guide as a resource in policy-making. In Sri Lanka, the assessment mission observed that legal departments of the police and law faculty frequently referred to the UNDP guide for training and research.

✔ **Capacity development of UNDP practitioners:** The process of AP-A2J developed the capacity of some 30 country office practitioners in the region. They have developed substantial knowledge on A2J and instruments to apply it in policy and programme development. Learning channels have included the two workshops (which were designed in a participatory format, as learning rather than training events) and tasks through which practitioners were engaged in rethinking their own work (e.g., extraction of lessons). The network also reached some 80 members through electronic network activities, which resulted in additional learning and knowledge-sharing. However, the ability to expand and retain this capacity in a sustainable way is now being questioned as the first generation of dedicated practitioners has been dispersed to other country offices and the current practitioners do not have the same ownership of the material. Capacity development must continue to ensure sustainability. The community of practice needs to be regenerated every few years to keep its momentum and to ensure that staff are trained and mentored on applying a human rights-based approach to A2J. Capacity development beyond UNDP seems to be limited: although the guide has been well received and there has been some training on the human rights-based approach to A2J, so far only Nepal and Sri Lanka have taken broader initiatives at the country level.

- **Global policy development:** The initiative has had a significant influence on UNDP policy development. Guided by the UNDP human development framework and MDG paradigms, a clear substantive niche for UNDP A2J was developed, profoundly influencing the global practice note for UNDP. AP-A2J had a notable impact on practice initiatives in A2J in RBEC, RBAS and RBLAC.

- **Organizational learning beyond the regional community of practice:** In addition to carving out a substantive niche, AP-A2J has produced a wealth of lessons on process and knowledge management. Here again the initiative has influenced regional A2J initiatives in RBEC, RBAS and RBLAC as well as overall human rights-based programming in practice areas beyond democratic governance. In India, a similar knowledge management initiative has been adopted by the UNCT (Solution Exchange). Influenced by the initiative in India, the MDG community of practice generated eight similar networks that now have more than 10,000 members.

At the **outcome and overall framework level** the assessment examined the results of applying a human rights-based approach to development programming. While it is clear that the initiative contributed to policy alignment, with more UNDP country offices applying a human rights-based approach to A2J and more civil society partners targeting disadvantaged groups, it is important also to determine to what extent the UNDP programming framework has changed meaningfully and sustainably as a consequence of applying a human rights perspective.

It is important to recall that the 'human rights approach' is not an end in itself, but rather a framework for human development. It complements existing approaches and is in line with the UNDP policy on integrating human rights with sustainable human development. The AP-A2J initiative opted for a human rights-based approach to strengthen development effectiveness, that is, to support 'processes that are pro-poor and promote equity'.[27] A human rights approach uses human rights as universal and normative guidance for human development processes and results. The approach clarifies accountabilities, and explicitly guarantees against discrimination in development policies and programmes, to protect the most vulnerable groups.

The added value of the approach is in guiding what programmes do (**substantive** value) and how (**process** value). Below some illustrations of each, from country experiences:

- *A human rights-based approach focuses on the **most disadvantaged people** and their entitlements as human beings.*

In the AP-A2J experience, applying a human rights approach helped to define a framework for UNDP's action on access to justice that was centred on disadvantaged people and their rights. Whereas previous approaches to justice programmes had largely put markets at the centre of the analysis, highlighting the strong links between rule of law and economic growth, the starting point for AP-A2J became disadvantaged people, rather than markets, viewing rule of law in wider terms as a means for people to protect themselves from abuses of power. A focus on disadvantaged people seeks a more direct impact on poverty eradication and other Millennium Development Goals. In Indonesia, for instance, an A2J assessment piloted in five provinces was critical to identify the most disadvantaged groups as well as their perceptions of their justice needs. This gave way to very different justice perceptions and needs – from gender-related issues to poor local governance administration - that are now being addressed at the national level by the National Strategy for Access to Justice. Similarly, in Sri Lanka, a nationwide survey on A2J and an assessment of the legal aid sector led the project to better target the most disadvantaged groups identified by these assessments, in particular internally displaced persons from the north and the most impoverished population from the estate sector.

- *The human rights-based approach contributed to **strengthening human development and capacity development** perspectives.*

Applying a human rights approach in the AP-A2J context provided a clear framework for UNDP action on capacity development. Human rights imply human obligations; claiming rights and fulfilling obligations require different capacities. Strategies to develop capacities on A2J need to improve the supply and the demand sides of justice (claiming rights and fulfilling obligations), as well as the legal framework governing them.

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[27] UNDP Development Effectiveness Report (DER) 2003: Partnerships for Results, UNDP Evaluation Office, 2003, page 6

In the AP-A2J context, using a human rights approach helped to refine the operational definition of A2J: [28]

Prior to applying a human rights-based approach	When applying a human rights-based approach
Access to justice is people's ability to use public and private justice services	Access to justice is people's ability to **seek** and **obtain** justice **remedies** respectful of basic **human rights**, using **formal or traditional** justice systems.

Under this framework for action, effective access to justice implies that people's rights and entitlements are recognized within the scope of formal or traditional justice systems (legal protection); that people are capable of demanding justice; and that institutions are able to provide fair remedies. Human rights standards help to assess how such capacities are deployed with respect to access to justice (for instance, the availability of quality legal counsel to detainees, even those who cannot pay for it, or the impartiality of dispute resolution mechanisms).

Some of the countries assessed have made strides to balance capacity development and legal awareness among duty bearers and claim holders. Traditionally, rule of law programmes focused mainly on the institutional development of duty bearers, in particular on state institutions such as ministries of justice, courts, prosecution services and public defence mechanisms. This is the case in Timor-Leste, which only in 2008 began to strengthen A2J elements in informal justice mechanisms. In Indonesia, the LEAD project seeks to develop capacities of duty bearers in civil society while reinforcing links with state actors such as the formal sector or local public administration. The programme also has a large component dedicated to legal empowerment and legal awareness of claim holders. In Sri Lanka, another project focuses on capacity development of duty bearers through training on the human rights-based approach while institutionalizing capacity development strategies in key institutions at the local level, such as the Grama Niladaris. At the same time the project is working with community-based organizations to promote legal empowerment at the community level. Meanwhile, in Cambodia, the A2J project has supported alternate dispute resolution at the community level through the Maison de Justice.

✔ *The human rights-based approach has helped bring the* **process of development** *to the forefront.*

A human rights-based approach helps to bring the process of development to the forefront, thereby clarifying the relationship between outcomes and the processes by which

outcomes come about. It stresses the importance of the development process and recognizes development as a process in itself. An 'empowering process' is one that develops disadvantaged people's capacities for meaningful participation. Indonesia provides a good example of this in its strategies focusing on A2J assessments and legal empowerment. An emphasis on process has now been adopted by the national planning agency, with potential replication for the judiciary sector in its new blueprint for reform.

Key conclusions

The human rights-based approach to A2J was effective as an approach to development programming, although the actual level of impact on people's lives and the sustainability of such an approach remain still to be seen. Concretely, the countries assessed offered good grounds for the assertion that the human rights-based approach has strengthened development effectiveness for the following reasons:

1. **Country programmes** are moving away from more traditional outcome formulations, such as *'strengthened administration of justice'*, towards those that explicitly include disadvantaged people – e.g., *'Legal empowerment of, and increased access to justice for the disadvantaged'.*[29]

The more holistic perspective of the human rights-based approach expanded assessment to new areas in which UNDP justice programming had previously been scarce, such as perceived obstacles of disadvantaged people to seeking justice, legal-empowerment strategies, traditional justice mechanisms, police and prisons and civil society oversight.

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[28] UNDP, Programming for Justice: Access for All, 2005.

[29] As illustrated by UNDP programming in Bangladesh, Cambodia, India, Indonesia, the Philippines and Sri Lanka.

An indicative overview of UNDP support to A2J for poverty eradication in Asia and the Pacific (2004)

NORMATIVE PROTECTION OF RIGHTS

By international and constitutional law

FIJI	SRI LANKA
INDONESIA	CHINA
NEPAL	MONGOLIA
IRAN	RRRT

By legal and regulatory frameworks

INDONESIA	BANGKADESH
CHINA	VIETNAM
NEPAL	RRRT
CAMBODIA	

By customary law

INDIA

PHILIPPINES

LEGAL EMPOWERMENT

Legal awareness

BANGKADESH	FIJI
NEPAL	IRAN
PHILIPPINES	INDIA
MONGOLIA	RRRT
INDONESIA	

Legal counsel

BANGKADESH
CHINA
IRAN

Other empowerment-related capacities

INDIA
INDONESIA
SRI LANKA

CAPACITY TO PROVIDE EFFECTIVE REMEDIES

Accessible adjudication

Judicial system

CAMBODIA	NEPAL	FIJI
IRAN	INDONESIA	RRRT
PHILIPPINES		

Quasi-judicial bodies

NEPAL	INDONESIA	BANGKADESH
MONGOLIA	SRI LANKA	PHILIPPINES

Indigenous/ traditional system

INDIA

NEPAL
EAST TIMOR
PHILIPPINES

Enforcement

Police	*Prison system*
INDIA	**BANGKADESH**
RRRT	**PHILIPPINES**

Civil society oversight

SRI LANKA	**INDIA**
PHILIPPINES	**INDONESIA**

Country	UNDP Projects
Afghanistan	• Rebuilding the Justice Sector in Afghanistan (RSJA) – 2002-2004 - Completed • Support for the Afghan Independent Human Rights Commission (2002-2005) - Completed • Strengthening the Justice System of Afghanistan (SJSA) – 2006-2008 • Access to Justice at the District Level (AJDL) – 2005-2008
Bangladesh	• Police Reform Programme (BGD/04/001) (Phase 1) • Promoting Access to Justice and Human Rights in Bangladesh (PAJHRB) Project
Cambodia	• Moving Towards Equal Access to Justice in Cambodia
China	• Support for the Empirical Study of Death Penalty Cases • To Explore the Possibility of the Establishment of the Duty Counsel • Establishment and Enhancement of the System and Capacity Building of the 'Central Authority' of China's Criminal Justice Assistance • Enhancing Legal Aid for Migrant Workers in China • Further Enhancing the Protection of the Parties Rights in Criminal Justice
India	• Studies on Access to Justice by Poor and Disadvantaged People (National Judicial Academy) • Community Radio for Legal Empowerment • Strategic Access to Justice Initiative (SAJI)
Indonesia	• Legal Empowerment and Assistance for the Disadvantaged (LEAD) Project • Aceh Justice Project • Enhancing Communication, Advocacy and Public Participation Capacity for Legal Reform (CAPPLER)
Iran	• National Capacity Building for the Promotion and Protection of Human Rights for Greater Access to Justice in Iran
Lao PDR	• International Law project • Enhancing Access to Justice through the Lao Bar Association Project
Nepal	• Enhancing Access to Justice Through Legal and Judicial Reforms Programme • Capacity Development of the National Human Rights Commission
Philippines	• Jail Decongestion Project • National Survey of Private Legal Practitioners • Freedom and Death Inside the Jail: A Participatory Research on Members of the Quezon City Jail Community
Sri Lanka	• Equal Access to Justice Project • Human Rights – Action 2 Project
Vietnam	• Capacity Building for the Implementation of International Human Rights Treaties in Vietnam

Applying a human rights-based approach to the 'how' of development has improved the effectiveness of policies and programmes. For UNDP, development effectiveness 'is about processes that produce results, especially results that are pro-poor and promote equity'.[30] The Indonesia A2J programme is an example of a best practice of a human rights-based approach to A2J that has led to significant results at the national policy level balanced with appropriate response to grievances at the grassroots level and legal empowerment.

2. The human rights approach improved the **holistic assessment** and analysis of **capacity development** at all levels, allowing for a **more strategic identification of entry points** (claim holders and duty bearers) while identifying the most critical capacities of disadvantaged people to claim their rights, together with those of institutions to fulfil their essential duties. All projects assessed struggled to maintain the right balance between capacity of duty bearers and claim holders. Additionally, the human rights-based approach places stronger emphasis on **'meaningful' participation,** stressing that disadvantaged people's perspectives are fundamental for identifying problems and possible solutions. In some of the projects assessed people were not merely 'consulted' on their views, but actively participated in decision-making (as in the case of Indonesia). In other contexts (e.g., the conflict-sensitive situation in Sri Lanka) such consultations with disadvantaged were politically difficult (leading to the national A2J survey being put on hold by the Ministry of Defense in December 2008). Similarly, in Nepal, a study on A2J in conflict situations was not published for concerns about being too controversial.

3. The human rights-based approach has strengthened **partnerships,** as well as **civil society oversight** and communication. All are critical for improving accountability and risk management, and orienting results around strong A2J indicators for monitoring and evaluation. In Sri Lanka, the programme established a solid working group at the national and local levels, composed of both civil society and government representatives. Unfortunately, despite preliminary conclusions that this approach does initially foster more accountability than the traditional rule of law because of the greater potential for partnerships and exposure, this is probably the weakest link of the approach in terms of practical programming and results. In Sri Lanka, lack of baselines and indicators have hampered UNDP accountability to the beneficiaries; in Indonesia civil society is clearly engaged in all processes but no impact evaluation has been made as yet.

Innovative character

The AP-Rights and Justice Initiative can be considered one of the most innovative approaches in terms of UNDP practice. This can be seen in the practice approach of building a bottom-up community of practitioners to foster knowledge management and in the strategies that it influenced at the country level, and in its contribution to advancing one of the most sensitive issues in development.

Key innovative aspects:

1. The use of knowledge management through a community of practice to turn individual knowledge into collective knowledge, providing platforms to facilitate knowledge-sharing though a bottom-up or non-hierarchical approach centred around connecting people through the community of practice, with the community as the driving force (external help being only a last resort).

2. The linking of tool production with in-house capacity development. For instance, the visioning workshop relied fully on in-house resources in a participatory process that brought practitioners together, identifying gaps and building cohesion among a core group that became the driving force of the initiative.

3. The wealth of research, case studies and assessments that have directly or indirectly resulted from the initiative are a major breakthrough allowing policy and programming to better target the real needs of beneficiaries. The Practitioner's Guide to Applying a Human Rights-based Approach to Access to Justice is the most comprehensive tool, developed with external partners from academia and civil society whose experiences enriched the process. It is conceptualized as a programming handbook, outlining typical obstacles and interventions to enhance A2J for disadvantaged people. Some external partners interviewed felt that the consultative and incremental process contributed to a coherent approach to justice. Additionally, several guidelines on how to conduct participatory consultations in the justice sector have been produced and are considered instrumental by internal and external partners.

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[30] UNDP Evaluation Office, UNDP Development Effectiveness Report 2003: Partnerships for Results, 2003, p. 6.

4. Substantively the overall human rights-based approach to A2J represented a clear shift in UNDP policy for justice reform, simply by stating the holistic problem in human rights terms with all the implications analyzed in the previous section.

5. The initiative influenced notable breakthroughs at the country level. In India, the project Assessment of Justice by Poor and Disadvantaged People developed in partnership with the National Judicial Academy was considered by the assessment team as an innovative project that addressed a critical democratic issue. Groups seldom targeted for research of this kind participated in the process. Despite the shortcomings assessed from the project it was considered a step forward, with potential to change some judicial approaches. A similar conclusion was drawn in Sri Lanka, where the project addressed a critical governance issue and targeted the most disadvantaged in conflict areas. The project was found to have contributed to the enhancement of the human rights-based approach, gender and A2J at the community and national levels. It allowed for networking and exchange among different actors and partners in the formal and informal sectors – an innovative approach, as the government had been very concentrated on organizational structures but was seeking other approaches. The Indonesia project was considered the most innovative of the four assessments: its project design was based on comprehensive prior research on A2J that brought together state institutions, civil society researchers and academia.

6. The human rights-based approach to A2J was less successful in prompting innovative thinking and new strategies on the interface between formal and informal justice systems and ADR. Some positive approaches have taken place: in Cambodia, the A2J project places particular emphasis on indigenous peoples and customary justice systems. But the country assessments suggest that this area would benefit from additional research and strategic advocacy.

Catalytic capacity

Positive conclusions can be drawn on the catalytic potential of the initiative, in terms of substantive results extending beyond the initiative itself and the fostering of extensive partnerships. Financially, although the initiative did not mobilize additional resources apart from the HURIST Global Programme and the DGTTF, its influence at the country level was crucial in attracting additional programming resources.

Key findings demonstrating catalytic capacity

1. The DGTTF funds along with the HURIST contribution had the catalytic effect of creating a movement at the regional level, bringing together over 30 UNDP staff from more than 18 country offices in the region supported by an electronic network of over 100 members, in a joint effort that led to a human rights-based approach to A2J programming in a dozen country offices. It also had the effect of attracting additional funding from UNDP SURFs and later from the UNDP Regional Centre in Bangkok where, in addition to programme funds, staff time was also dedicated to the initiative. While resources (human and financial) were very necessary to initiate and sustain the initiative, some participants surmised that, in retrospect, the initiative may have benefited from starting out small and building on demand rather than being overwhelmed with funding and obliged to cater to a donor-driven agenda.

2. Financially the initiative was also catalytic, as it triggered additional resources from specific partners, in particular the Nordic countries that earmarked their contributions to different country offices for implementation of a human rights-based approach to A2J. In Indonesia, the A2J assessment was critical in attracting over USD 1.5 million from SIDA to the LEAD project; in Sri Lanka, SIDA was the main donor of the Equal Access to Justice Project together with the Netherlands (over USD 2 million). In Cambodia, the project managed to secure over USD 2 million of non-core funds from the Spanish Agency for International Co-operation and Development, in addition to DGTTF funding.

3. The initiative brought together external partners with UNDP practitioners to discuss a critical development and governance issue. Partners from civil society, donors and academia were present in workshops and during the preparation of the Practitioner's Guide. This was highly appreciated by some of those interviewed and formed the basis for strong advocacy. At the global level, however, the initiative failed to attract more corporate policy cross-practice support. However, several UNDP country offices including in other regions are increasingly adopting the human rights-based approach to development. In some cases, this can be partly attributed to members of the initiative applying their experience and knowledge on the human rights-based approach to development in their new positions in different countries. Examples of the influence of the initiative include the Transition and

Recovery programme in Sri Lanka, the Local Governance programme in Bosnia and the Solutions Exchange programme in India.

4. Most of all, the initiative was substantially catalytic in fostering strategic national policy planning for A2J and bringing different partners, often with opposing interests, to the table to discuss a critical issue of common importance. Bringing into closer contact development partners and multilateral agencies working for the same purpose at field level, regardless of the different titles given to the approaches, helped to harmonize the global development agenda.

Efficiency

From the data available, the assessment concluded that the Asia-Pacific Rights and Justice Initiative was adequately efficient. These results need to be juxtaposed with the financial and human resources as well as opportunity costs of the initiative:

✔ **Financial:** From 2003 until 2005, the initiative spent approximately USD 185,000, funded both from the DGTTF (USD 150,000) and HURIST (USD 35,000). Most of the funds were used for the visioning workshop, the second workshop and the task facilitator. Other short-term contracts and website development costs make up for the rest. From 2005 onwards an investment was made in terms of additional programming and staff cost (including contracting a full-time facilitator) and approximately USD 570,000 was spent.

✔ **Human resources:** Apart from the international task facilitator who worked full time for nine months, short-term national consultants worked on Special Service Contracts for an additional nine months on the initiative. Additional opportunity costs were incurred as SURF international staff worked for about five months on the initiative.

✔ Considering only the achievements in terms of tool development, the **cost-benefit ratio compares very favourably** to similar policy development undertakings at the regional level. If external consultants had been used for the exercise, few if any of the additional results, such as in-house capacity development and real organizational learning, would have occurred. The fundamental value added of the practice approach is that it connects abstract knowledge to action – this task cannot be outsourced.

Sustainability

The sustainability of the AP-A2J initiative as well as the impact and effects of the initiative can be difficult to gauge. The main challenge is in maintaining the momentum of the community of practice, with its attendant benefits for ownership and capacity development. Many original community members have dispersed to different UNDP country offices including outside the region and some members continue to incorporate the human rights-based approach into their work in their new capacities. However, the country assessments have identified that sustainability of A2J interventions continues to be the biggest concern for UNDP offices and the national counterparts.

The AP-A2J initiative, at face value, has all the elements necessary to ensure sustainability of its interventions. However, much will depend on the integrity of its bottom-up approach which values practitioners' hands-on knowledge of access to justice issues. Especially since there is as yet no indication that the human rights-based approach to access to justice has gained ground within UNDP at the corporate level, it is necessary that the initiative continue building the momentum from the bottom up. Some notable opportunities to ensure that human rights are mainstreamed into access to justice work globally include - the 2008-2011 Strategic Plan, the Global Justice Programme and the Commission on Legal Empowerment of the Poor (CLEP) initiative. If opportunities to capitalize on the groundwork established by the AP-A2J initiative continue to be missed, the positive impact of the initiative may well fade and with it, the opportunity for serious engagement on the human rights-based approach to development.

Ownership

Ownership has been highlighted as the strongest aspect of the initiative. The initial stage of the initiative, before the involvement of external partners, provided an opportunity to consolidate internal resources and build capacities. Staff involved in the initiative felt connected with fellow practitioners and empowered to work professionally on access to justice issues. Even staff not part of the core team expressed feeling inspired by the initiative - whether by participating in the visioning or learning workshops or else by using the Practitioner's Guide. Many practitioners within and outside the initiative have noted that AP-A2J can be considered one of the most successful development of a community of practice within UNDP. Several practitioners have praised the initiative for empowering them with knowledge and skills to work in an area where they had little prior knowledge. In some cases, partly due to the personalities involved in coordinating the initiative, it has been described as an absorbing process and the expression of "a family" community of practice was mentioned. Most practitioners listed the following as the ingredients for success: a clear mandate; unity behind human rights principles; and a joyful working environment.

Indeed, most practitioners considered the process as important as the product and the process as contributing to a stronger product. For example, as part of the initiative, a writing retreat was held in Laos in 2004 where ten practitioners spent a week immersed in developing the drafts of the Practitioner's Guide. The intensive inter-personal experiences where people with different experiences and competencies worked together to produce a single product was seen as a valuable exercise in itself in learning from one another and contributing to the development of a practical tool.

One of the most fruitful strategies used in terms of developing ownership over the initiative was to invite practitioners for short fellowships at the regional SURFs to research specific topics under the guidance of a more experienced resource person. This was effective not only as a source of essential research for the initiative, but also helped to foster a sense of ownership and investment in the initiative among practitioners involved in the exchange.

From the country assessments, it is possible to see that there is a high degree of commitment among national partners, state institutions, civil society organizations and project staff. Having learned by doing, many report feeling empowered to advance the human rights-based approach to A2J (though in some cases they raise doubts and perception of the human rights-based approach as a foreign concept, e.g. Sri Lanka). In Indonesia, the government is leading the agenda and has developed a National Strategy for A2J that

has been integrated into its mid-term development plan, and will be taken further in sector plans and local-level planning processes.

The AP-A2J initiative benefited from a core team and members who had a good blend of competencies - managerial rigor, analytical substantive capacity, passion and commitment to work on access to justice and human rights issues, and leadership skills capable of energizing and developing a free spirit within the whole community. Despite a few constructive clashes – the result of strong dedication and commitment – the experience was a fertile one that led to something bigger than expected.

A key resource person who was widely considered the 'soul' of the initiative was Amparo Tomas who worked full time on developing the initiative, providing substantive guidance and steering the community of practice in its initial phases. Her passion and unique and valuable energizing force helped in bringing dozens of persons from different countries together.

In many cases, the original members of the AP-A2J initiative who have, and who helped build, a sense of ownership have moved on to other positions, organizations and regions. While they may carry with them the inspiration from the initiative and apply it in their new functions, there is a serious challenge in instilling the same sense of ownership in new members of AP-A2J. The danger of losing an empowered and capacitated team and the chance to build on its success is a very real concern that warrants careful consideration for the future of the initiative.

Capacity Development

Despite the successful capacity development among practitioners involved in the initiative, staff at the country level still confronted considerable complexity in designing and implementing a human rights-based approach to A2J projects. Most of this staff ended up learning by doing, and learning from mistakes. Although this approach did yield extensive capacity gains in offices that developed and implemented A2J projects, those gains came at the expense of overwhelming and exhausting the project staff.

In most countries it was difficult to assess the capacity development dimension of the projects, which are still ongoing and have had no comprehensive impact evaluation. However, there were positive indications of enhanced project staff capacity on the human rights-based approach. Capacity development initiatives targeted key stakeholders, such as the Grama Niladaris in Sri Lanka or the prison officers and civil

society organizations in Indonesia. In most cases projects targeted capacity development of both duty bearers and claim holders, with the balance tilted somewhat to the demand side (claim holders). For instance, in Cambodia, the project has made significant efforts to develop the capacities of right holders while capacity development for duty bearers has been addressed only to a limited extent and mostly focused at the local level. The same is true in Indonesia, where LEAD is mostly targeting claim holders and there is less focus on duty bearers (although some measures are now being introduced to improve this).

In most cases, the capacity of implementing partners was overestimated. Projects would have benefited from prior capacity assessments as recommended as part of step by step process discussed in the Practitioner's Guide. However, these did not usually take place often due to time constraints. Sri Lanka is now in the process of preparing a capacity assessment for the main (and only) state provider of legal aid, the Legal Aid Commission.

Some key conclusions on capacity development

✔ **Capacity development of UNDP practitioners:** The process of AP-A2J developed the capacity of some 30 country office practitioners in the region. They have developed substantial knowledge on A2J and on instruments to apply it in policy and programme development. Learning channels have included the two workshops (which were designed in a participatory format, as learning rather than training events) and tasks through which practitioners were engaged in rethinking their own work (e.g., extraction of lessons). The network also reached some 80 members through electronic network activities, which resulted in additional learning and knowledge-sharing.

✔ **Capacity development of COs:** With stronger individual capacity comes stronger capacity of country offices in A2J and a substantively stronger position within the donor community. Despite occasional shortcomings in individual staff capacity development, as a whole country offices in the region are much better equipped now (possibly more so than any other region) to formulate and implement a human rights-based approach to A2J projects. They are working on the ground to build capacities of right holders to seek and access remedies for their grievances, and of duty bearers to fulfil their obligations and be able to provide remedies.

✔ Capacity development efforts and effects **functioned reciprocally, bottom up and top down.** The process of developing the Practitioner's Guide itself had significant impact on how UNDP approached A2J within the region. Through the AP-A2J, many programme officers were provided support and training and became involved in developing the guide based on field experience. In many cases, it was not just the development and application of the guide, but the development process itself, that generated momentum and resources for country offices to take on the agenda and develop projects based on principles that were then crystallized in the guide. As a result, some programmes that were developed during this time played a critical role in contributing to the guide and vice versa.

✔ In at least three of the country assessments, UNDP programme and project staff felt they **had limited exposure and training** on a complex issue on which the programme guide proved too technical. They would have benefited from more regional exposure and more training. The assessment took note of several requests made to simplify the programme guide. The human rights-based approach is very specific and practical, and requires longer horizons to achieve lasting results at the country level. This would imply a need for more training (including training of trainers) and pooling of capacity development resources.

✔ Capacity development efforts have been instrumental in **changing attitudes and behaviours in the broader development agenda** on human rights and informal justice mechanisms. Gradually more donors and developing partners are coming to recognize the shortcomings of the traditional rule of law approach. AUSAID, for example, is a partner that traditionally focused on institutional reform but is now, particularly in the Asia-Pacific region, working more on A2J targeting the poor and more vulnerable.

✔ Building on the experience of the UNDP Regional Centre and the **Global Human Rights Strengthening Programme** on developing and conducting capacity development workshops at the country level on applying the human rights-based approach to A2J, UNDP is developing a sustainable alternative grounded in institutions in the region to spearhead a regional capacity development initiative on the human rights-based approach and A2J. This initiative would focus on capacity building for ministries of justice, judiciaries, bar associations, legal aid bodies, civil society organizations

etc. and could include activities such as training programmes and courses, development of communities of practice and networks and a roster of resource persons from the region. An idea in discussion at the RCB is the development of a regional consortium that would provide training on a human rights-based approach to A2J based on the programming guide.

Partnerships

Many external partners observed that global progress on advancing a human rights-based approach to A2J is very much a matter of policy dialogue and partnership-building among stakeholders. The AP-A2J has planted good seeds in this process, but a lot of work remains in external networking and advocacy.

At the national level, policy dialogue for A2J involves political judgment. UNDP should clearly determine at the outset whether there is adequate political will to address justice for the poor and other disadvantaged groups before it supports such a programme. In Sri Lanka and Nepal, two conflict-affected environments, projects and assessments have been undermined by the lack of meaningful political will to address human rights and adapt rights-centred approaches to planning.

Effective partnership-building for A2J is guided by three main considerations: (a) to ensure reforms are sustained in the long run, (b) to ensure the optimum use of resources through coordination and collaboration, and (c) to reach the most disadvantaged people. How this is done and the type of partners involved would vary according to country context. Most effective strategies link a range of different actors to address the problem, from government institutions to NGOs, universities and the communities themselves. Broad-based social and institutional support has often proven to have a significant impact.

Senior officials in judicial institutions and other oversight bodies, such as national human rights institutions and Ombudsman offices, can function as champions of sensitive reform processes as they tend to enjoy greater independence and security of tenure. However, these same characteristics may also compromise transparency and accountability. Reform processes, therefore, also need to involve other government stakeholders and civil society organizations.

A good example of this combination occurred in Indonesia, where there was adequate involvement of different stakeholders in the projects and at the national policy level. Note the contrast in Sri Lanka, however, where despite the

broad coalition of national partners involved in all stages of the project, its results have failed to yield significant impact on state policy, most likely due to the lack of political will in regard to human rights.

While the initiative did succeed in involving partners at different stages with good indicative results, concrete impact results are still not sufficiently in evidence (e.g., evidence of meaningful partnerships at the national level).

From the beginning, the initiative aimed to complement in-house lessons with external ones. This approach made sense, as UNDP lessons were available only in a few areas in of the sub-practice (perhaps 10% of overall lessons).

External partners were an effective resource for the initiative in areas where UNDP lacked sufficient expertise (e.g., police and prison reform, links between formal and traditional justice systems). AP-A2J, in cooperation with the relevant country offices, contracted external partners – academic institutions and NGOs – to conduct action research studies. Outsourcing proved to be very effective. The research was of a higher quality, particularly where the contracted institution and researchers had analytical as well as practical experience (this may have been the reason that some NGO papers were of better quality than academic ones). Outsourcing research to regional institutions well experienced in certain areas was a cost-effective way to capture additional lessons. Partnerships were sometimes more important than the quality of the papers: in two cases, AP-A2J had to accept papers of limited quality for the sake of preserving the country office partnership with the external partners in question.

Effective partnerships with donors require their engagement in frank discussions regarding programme design and implementation, and in identifying solutions. To a great extent the initiative did foster increased donor involvement in projects at national levels, broadening funding opportunities. However, more coherent strategies and better resource management are needed to sustain long-term support to A2J strategies. One strategy may be to involve donors early in conceptualizing programmes and inviting their full participation in formulation exercises.

However, if the initiative did manage to achieve good results as to donors' involvement, the same conclusion cannot be reached regarding meaningful UNDP involvement at the corporate level.

Moreover, despite the success of the initiative in bringing different partners to the table (especially civil society organizations at the national level[31]), UNDP is still perceived by many civil society partners to function in isolation and with traditional core partners (normally government partners). This is seen to limit UNDP involvement in certain sensitive issues that are often brought to light by non-state partners, especially in conflict or post-conflict contexts (such as Nepal and Sri Lanka).

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[31] For instance, it was often mentioned that UNDP works only with the more state-accepted, less controversial civil society organizations.

Access to Justice Practitioner's Guide

Due to its importance as a critical result for advancing a human rights-based approach and generating wider consensus around the human rights-based approach to A2J, special attention should be given to the capacity development and substantive programming results achieved using the Practitioner's Guide 'Programming for Justice: Access for All'. Below are some examples from within and outside UNDP on how the guide has influenced A2J programming in the region.

Practitioner's Guide: development phase

As noted previously, the process of developing the Practitioner's Guide itself had significant impact on how UNDP approached A2J within the region. Through the AP-A2J, many programme officers received support and training and lent their field experience to developing the guide. In many cases, it was not just the development and application of the guide, but the development process itself, that generated momentum and resources for country offices to take on the agenda and develop projects based on principles that were then crystallized in the guide. As a result, some programmes that were developed during this time played a critical role in contributing to the guide and vice versa.

Examples of A2J Assessments that took place as the Practitioner's Guide was being developed

These assessments were being developed using a human rights-based approach as articulated by the guide. They sought to focus on disadvantaged groups and establish disaggregated baseline data so that programmes could be developed to better target those least able to access justice. Some details on the assessments are provided below:

- *India (perceptions of disadvantaged groups on access to justice)* - In 2003, the AP-A2J commissioned a study on perceptions of access to justice by the poor and disadvantaged in India. The research was conducted using participatory methods and focused on three questions: How do disadvantaged people define 'access to justice'? Which obstacles prevent them from seeking justice when they are subject to grievances? Which strategies have they developed to overcome them?

- *Cambodia (focus on women and indigenous groups)* - Cambodia adopted a participatory approach to its access to justice assessment and has conducted workshops to inform people of their rights while gathering information on A2J and use of formal and informal justice systems. It also provided participants an opportunity to propose recommendations to the Council on Legal on Judicial Reform to include in the Legal and Judicial Reform Strategy (2004-2005).

- *Nepal (disadvantaged groups in conflict)* - Nepal initiated a qualitative assessment to examine people's access to justice (with a particular focus on disadvantaged groups) during a conflict situation. The study sought to understand how the conflict has affected the justice system and impacted A2J at the community level, examining both formal and informal systems (2004-2005). Unfortunately, for reasons presumably related to the sensitivity of the results within the conflict context, UNDP never published this study.

- *Indonesia A2J assessment* – Indonesia undertook a comprehensive A2J assessment in five conflict-affected provinces as well as Banda Aceh including both desk and field research. The desk research focused on a literature review of the legal sector. Surveys were carried out on public perceptions of the justice system as well as court operations. Interviews and consultations were held with stakeholders, including Acehnese in Jakarta and NGOs. A review of court documents and relevant legislation was also done to get an overall picture of perceptions of justice in conflict situations (2003).

Country programmes and projects developed as part of the AP-A2J, whilst contributing to the development of the Practitioner's Guide.

The programmes below partly draw on the assessments done in-country (see above) and also on the A2J framework of the guide. Many of these projects were developed by practitioners involved in writing sections of the guide.

- *Afghanistan – Access to Justice at the District Level* - Two programmes in Afghanistan focus on the capacity of duty bearers to provide justice remedies and of claim

holders to demand those remedies. The guide advocates supporting justice institutions (judiciary, ministry of justice, attorney general's office and higher legal education institutions) to strengthen institutional capacity and implement reforms to ensure participation of poor and disadvantaged groups. It also calls for heightened awareness of district-level A2J for poor and marginalised groups through focus on traditional justice mechanisms and increased legal awareness and capacity of community and religious leaders.

✔ **Cambodia Access to Justice Project** - Cambodia developed its programme on the basis of a comprehensive needs assessment carried out over one year and involving in its design and research the targeted disadvantaged groups (including indigenous peoples and women). The analysis of the results of this study has informed the design of the Cambodia A2J programme.

✔ **Sri Lanka Equal Access to Justice Project** - This project focused on legal empowerment and increased access to justice for the disadvantaged mainly by providing human rights education and supporting legal aid.

✔ **Indonesia Access to Justice and Legal Empowerment Projects** - Indonesia undertook a comprehensive approach to the A2J assessment in five provinces to understand the impact of conflict on formal and informal justice systems, as well as community perceptions and priorities on how to overcome barriers and increase access to justice and empower themselves to seek remedies. Based on this assessment, the Legal Empowerment and Assistance for the Disadvantaged Project (LEAD) was developed. This project focuses on increasing A2J by supporting legal services, legal capacity development and related development activities for the poor and other disadvantaged groups.

✔ A separate programme drawing on an assessment on the effect of the conflict and tsunami was undertaken in Aceh and another programme was developed specifically for Aceh entitled Access to Justice for Peace and Development in Aceh. This programme was meant to support the peace process by enhancing citizens' access to justice and supporting the development of a more responsive justice system.

Practitioner's Guide: post-development phase
Subsequent to its publication, the following country programmes and projects were developed based on the Practitioner's Guide:

✔ **Maldives** - In the context of the reforms initiated in 2008, the Maldives new country programme and Governance CPAP include a comprehensive project on A2J that was designed by applying principles and strategies in the guide. Among its initial activities the project will develop a comprehensive A2J assessment taking a human rights-based approach and following the A2J guide and experiences of other countries in the region. The assessment is receiving support from the DGTTF.

✔ **Nepal** - As part of their new country programme 2008-2010, UNDP Nepal has developed a new comprehensive A2J project. The strategic entry points for the project are to focus on the full A2J cycle, including normative protection, capacity to provide justice remedies and capacity to demand justice remedies and ensure the link between supply and demand; and to adopt a human rights-based approach by ensuring respect for international human rights standards, participation of claim holders and accountability of project interventions to claim holders in all phases of the project.

✔ **Sri Lanka** - The Equal Access to Justice Project in Sri Lanka was reformulated in 2007 to focus more on conflict-affected and other disadvantaged groups in the country.

✔ **Timor-Leste** – The Justice System Programme in Timor-Leste was fully evaluated and revised in 2008 to include a justice decentralization strategy and a large component dedicated to A2J and the interface between formal and informal justice systems.

Conclusion
The Practitioner's Guide has influenced and been influenced by a vast range of experiences from countries in the Asia-Pacific region. The tool itself and the process of developing the tool can be considered a good practice which has generated substantive results. The Practitioner's Guide is particularly impressive in conceptualizing the issues and in making the case for a step-by-step approach to practically developing and implementing justice programmes from a human rights-based perspective. However, it has been recommended that the guide (published in 2005) should be updated and made more user-friendly.

The Practitioner's Guide has been widely distributed to all UNDP country offices in the Asia Pacific Region. The guide has generated a great deal of interest in the region and has been translated, distributed in regional forums and circulated widely. It was disseminated to the members of the Asia-Pacific

Judicial Forum and presented at the International Conference and Showcase on Judicial Reform in Manila in November 2006. The conference was organized by the Philippines Supreme Court and supported by UNDP, World Bank and Asia Development Bank among other donors. The delegations present consisted of Chief Justices from Asia and the Pacific and other countries (49 countries). The guide was formally presented and introduced as a best practice in terms of both its content and the knowledge management process.

The conference was also a forum to discuss the creation of a high-level judicial reform network in the region. Thanks to the interest raised among participants in the well-documented community of practice approach to developing the guide, UNDP secured partnerships with the Supreme Court of the Philippines and the High Court and Federal Court of Australia, who formed the Secretariat for the Asia-Pacific Judicial Reform Forum, a network of judicial institutions in the region. The APJRF Secretariat and UNDP then partnered with the UN Democracy Fund to implement a two-year project designed using lessons from the AP-A2J initiative. The project is currently supporting the APJRF Secretariat to expand and sustain its network and to develop a volume of case studies of successful approaches to judicial reform based on regional experience.

The guide was translated and/or reprinted in several countries (India, Indonesia, Nepal, Philippines, and Sri Lanka) and distributed to counterparts in government and civil society. The assessment mission noted that in several meetings with national counterparts in Sri Lanka and Indonesia, the guide was either on the table of interviewees or mentioned as a reference document in the national context.

Staff of some of the access to justice projects suggested that the Practitioner's Guide's key messages could be simplified so that they could be more easily adapted to the different country contexts and better understood by national counterparts. They felt that adapting the current document to the local context and simplifying its messages required a lot of work. They highlighted the need for capacity development and training of access to justice project staff on the guide so that its content and spirit could be understood and consciously adapted to local circumstances rather than mechanically reproduced in designing and implementing A2J projects. Capacity development and training focused on 'unpacking' the guide would avoid the risk that its suggestions would be seen as prescriptions and applied without analyzing and tailoring responses to each specific context.

The guide is meant to facilitate taking a human rights-based approach to justice, and its suggestions need to be adapted to each national context. It discusses general steps to be taken to determine country priorities, such as an assessment to target and identify disadvantaged groups in terms of A2J. As those groups vary from country to country, so too should the approaches and interventions to target vary. Experiences from the different projects applying the framework proposed in the guide underlined the importance of assessing the access to justice and human rights situation in a country and contextualizing responses.

Many external partners also point to the influence of the guide as a policy tool. In an interview, the Director of International Development of the Canadian Bar Association described the guide as a critically important tool for advocacy with donors as well as for practical use for training programmes for their lawyers and international development projects in Laos and Vietnam.

Quoting CBA:

'…*Being associated with UNDP and the Practitioner's Guide has given higher credibility to the development work of the CBA.*'

Other partners such as the International Commission of Jurists (ICJ) have used the guide to develop their country programmes in Asia (Nepal and Thailand) and have translated part of the guide into Thai using their own resources. According to ICJ's Asia Pacific Programme:

'The ICJ Asia-Pacific Programme closely referred to the UNDP 'Practitioner's Guide to a Human Rights-Based Approach to Access to Justice' when developing its programme on 'Building local capacity to address impunity and promote access to justice and the rule of law in Thailand'. Chapters 1 and 2, and the tables within those chapters, were particularly useful. All ICJ regional office staff members have a copy on their desks, which they refer to from time to time to inform the on-going development of our work. We have also provided some copies to local lawyers who are playing a leading role in the human rights legal community in Thailand. An extremely useful and, crucially, a practical tool towards implementation on the ground.'

Lessons learned

Much of the rich experience of the Asia-Pacific Rights and Justice Initiative, especially regarding process, has been captured and documented over time, benefiting the current assessment. This in itself remains a rare and commendable achievement for DGTTF-supported projects (and other UNDP interventions).

At the country level, there is often a need to strengthen documentation of the work being done including lessons learned and case studies. UNDP as a whole would benefit from gathering lessons from country-level implementation such as innovative projects and processes using the human rights-based approach to A2J. One exception was Indonesia, where the programme manager did capture several lessons through almost three years of project implementation. Country offices are in the forefront of the approach right now and it is important to try and document positive as well as negative experiences to benefit the wider development community. This is critical to better inform policy development and programming. Indeed, the current assessment was itself a response to the need to document lessons from successful and less successful DGTTF-supported projects.

As highlighted in the 2008 Evaluation of the Democratic Governance Thematic Trust Fund:

'The greatest weakness of DGTTF has been that UNDP HQ (in New York), the Regional and Country Offices, and DGTTF's donors have not learned as much as they might have from both the successful and unsuccessful projects (in a venture capital fund such as DGTTF, investors and the market learn as much from failure as from success).'

The AP-A2J initiative is an exception since it placed a strong emphasis on knowledge management and was successful in documenting and disseminating its lessons throughout the process (this assessment further contributes to this effort).

Generally speaking, DGTTF has been successful in fostering **innovative** projects that have led to larger programmes and projects aimed at making major improvements in democratic governance. This is notably the case in Indonesia, where DGTTF support launched a flagship project and helped make UNDP a lead agency within national and international partners in A2J. It also can be seen in Sri Lanka, where Phase II of the Equal Access to Justice Project is just starting. In India, DGTTF was critical to trigger the Strategic Access to Justice Initiative (SAJI) signed by UNDP with the Department of Justice which produced a set of reports on five themes: the formal court system with focus on lower courts; the informal justice system; the criminal justice system (police, prison and prosecution); legal empowerment; and legal aid. In Cambodia, despite constraints at the national level, the Peace Tables, capacity development of IP elders, new ADR institutions and community awareness programmes around domestic violence and support for legal aid for women and indigenous people all had positive impact on target groups. Finally, the regional initiative that largely influenced the design and implementation of the above country experiences was considered the most innovative example of a regional DGTTF-supported intervention, given its unique practice approach process and the substantive results that have contributed to promoting a human rights-based approach to A2J in the regional and global development agenda.

The regional assessment team also concluded that DGTTF supports innovative projects that are catalytic. Although DGTTF funding to most projects has been small (the largest contribution being USD 221,000 to a project in Cambodia), in most cases this funding has been instrumental in attracting TRAC funds and donor funds. In Indonesia, the DGTTF catalyzed the project and generated trust within the country office to invest almost USD 1 million in TRAC funds. This visioning of the country office has proved beneficial, as LEAD is now a USD 10 million donor-supported programme. And in Cambodia, DGTTF funds were also important in mobilizing USD 2 million from the Spanish Agency. Most projects assessed have since scaled into larger programmes; their innovations have helped position UNDP in the donor community and amongst governance partners.

National and international staff value DGTTF, despite its short time frame and somewhat taxing administrative burden. A more effective thematic sharing of experiences would raise project quality.

One critical lesson learned takes us back to the starting point of this section. A failure to document results (positive and negative lessons) exacerbates knowledge management problems. The AP-A2J is one notable exception, and can provide good examples for more proactive assembly, analysis and dissemination of project experience.

OGC now has principal responsibility for this knowledge management mandate, working closely with New York policy and Regional Bureau staff. Funds have also been set aside for Regional Service Centres to work on codifying DGTTF projects. The current assessment is one of the first attempts at this.

Generally speaking, DGTTF can play an even greater role as a sponsor of innovation by leveraging UNDP's position at the forefront of democratic governance breakthroughs, by safeguarding its reputation for objectivity and good relations with governments and governance institutions, and with increased donor support.

The specific AP-A2J lessons learned highlighted below can also contribute to this strategic positioning of DGTTF.

AP-A2J process and results

Codified process-oriented lessons [32]

The core lesson from the AP-A2J experience is that while practice development may be a complex and time-consuming process, it produces tailored and relevant tools, and enhances the capacity to apply knowledge. Technically, policy advisors or external experts in isolation can also develop tools and knowledge products, but in these cases the result is often a document, which is informative, but not truly capturing practical know-how. A practice approach is critical to ensure that knowledge produced is 'shared' rather than 'shelved'.

Specific Lessons:

1. **Results-oriented communities of practice are a powerful approach to knowledge development:** The AP-A2J experience is an important validation of the practice approach to knowledge development. Involving practitioners from the field enhances the chances of consolidating a policy position and tools in a sub-practice that is relevant to the field while developing the individual and organizational capacity to translate it into action.

2. **Relevant knowledge is difficult to find and develop:** Much of the knowledge that UNDP practitioners need is applied knowledge to be gained when substance meets process. It is difficult to find externally. However, UNDP

has not systematically codified its knowledge in the past: it resides in the people, not in the institution. This is why development of applied knowledge should rely considerably on in-house expertise.

3. **Practice-building was more resource-intensive than anticipated:** Meaningful knowledge sharing, codification and development through a practice approach, is **immensely time-consuming**. Lessons are rarely readily available in documents; more often they are dispersed in many sources, and need to be screened and adapted to be useful for knowledge development. Another lengthy exercise is in implementing an organizational learning and capacity development process, distilling raw inputs and setting a policy position backed by useful tools. AP-A2J itself required a total of 2.5 years to establish the community of practice and launch its knowledge products including developing, publishing and launching the Practitioner's Guide.

4. **Funding is necessary, but not from the beginning:** Communities of practitioners evolve organically and don't necessarily have to follow a grand plan supported by resources right away. When funding was not forthcoming at the start, AP-A2J focused on a number of low-cost activities, such as the set up of a core group, a management structure, a network and a web page. Funding opportunities were pursued throughout the initiative in an effort to respond flexibly to emerging requirements. Practitioners even reported that limited initial funding may have prompted efforts to consolidate knowledge and instead focus primarily on demand-driven interventions.

5. **Sub-practice as unit of analysis is useful:** The analytical unit of sub-practice is a viable entry point for an initiative such as A2J that shared, codified and developed knowledge in a field that was relatively new for UNDP. As a result of the learning process during the initiative, the analysis penetrated increasingly complex dimensions and led to the successive disaggregation of a once 'plain' playing field. A follow-up knowledge-building exercise may focus on a few clearly defined key

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[32] Most of these lessons have been extracted from the AP-Rights and Justice Initiative, Lessons from Operationalizing the Practice Concept, March 2004 and from the AP-A2J presentation at the communities of practice Learning and Training Workshop, Colombo, January 2006. Some of these lessons were built further with testimonials from specific assessment interviews with practitioners; new lessons also came out of these interviews.

problems of A2J knowledge areas rather than the whole sub-practice, an indication of the degree of particularity as achieved. The challenge with a narrowly defined theme, however, is to mobilize the interest of a sufficiently large number of practitioners working in different country situations.

6. **Results-oriented regional networks can be used to complement the global networks:** Regional networks may have several advantages where sustained collaboration among practitioners is needed. First, a network of a limited number of practitioners that know each other increases the likelihood of individual contributions, especially if these contributions are significant in terms of time investment. As the AP-A2J membership expanded after the launch of the guide, activity has actually slowed. This has partly to do with the less results-focused aspect of the network as well as with the broader exposure to outside participation, which has reduced the exchange of information such as project documents and other internal UNDP experiences. In addition, the geographic limitations in terms of accessibility, scope and cost make it more manageable to strengthen regional communities of practice. While the AP-A2J experience shows that regional networks can flourish and produce results, participation could have even been more extensive if knowledge-sharing were considered part of the work routine rather than an 'add-on'. Better incentives are needed here.

7. **Results-oriented networks need a clear conceptual framework:** A clear conceptual framework motivates practitioners to contribute and to achieve specific results. This was evidenced by the experience of extracting case study write-ups. With proper guidelines, a facilitation mechanism and a clear time frame, a number of practitioners participated in the exercise. This becomes even more important when contributions are solicited from a variety of participants that interact with each other (mainly) virtually.

8. **Strong facilitation is needed:** It is unrealistic to expect the facilitation of a complex process such as AP-A2J (especially of the outputs include the production of distilled tools) to be done as a side job. The process should be spearheaded by a UNDP manager or policy advisor, but needs to be backed up by a full-time facilitator with relevant experience within UNDP, particularly in the field, and a thorough understanding of the subject. Because knowledge-development initiatives

are dynamic processes, it is difficult to predict from the outset the actual dimensions of research and the type of tools and products that need to be developed. In the case of AP-A2J, the task facilitator got overburdened with the production of drafts, research, etc., that distracted her from facilitating electronic discussions. This harmed some of the components of the initiative, such as electronic discussions. Given the unpredictable nature of communities of practice, it is important to **respond swiftly and flexibly to emerging resource requirements.**

9. **Bonding is important for thriving communities of practice:** AP-A2J would not have led to the same achievements without face-to-face meetings that, apart from clarifying the conceptual framework and fostering a common objective, were also about building trust through human interaction. This trust can encourage participants to share information on an electronic network.

10. **Ownership is necessary:** Another precondition for working together in the primarily electronic realm is ownership over the exercise. The AP-A2J experience demonstrates that a facilitation approach is more successful than an 'expert' approach to build ownership. Apart from using a facilitation approach, face-to-face meetings and engaging practitioners in the tasks of the initiative served to build ownership. UNDP practitioners were driving the process, while external expertise was tapped only for specific purposes and as a last resort.

11. **Knowledge development must have a delivery mechanism:** If one trusts the premise of knowledge management theory that knowledge is primarily in people's heads and therefore difficult to codify or transfer, it is essential that a process of capacity building includes elements of connection rather than only codification. With AP-A2J, **workshops were by far the most important elements of capacity development** in drawing on field experience and developing practitioner capacity.

12. **Knowledge needs should be assessed before codifying:** Because of the vastness of development knowledge, it is essential to link codification to specific needs. Hence, a results-based initiative ought to define what knowledge is needed, identify whether it is available within the organization, and identify how it can be provided. During the visioning workshop it became clear that the knowledge and capacity side of the practice

approach was more demanding than anticipated; knowledge was fragmented and difficult to scan so practitioners opted to scan experiences from external partners, which led to the following lesson.

13. **Knowledge codification should take into account external lessons:** From the very beginning the initiative aimed to complement in-house lessons with external ones. This approach was justified, as UNDP lessons were available only in a few areas of the sub-practice (perhaps 10% of overall lessons).

14. **Not only experts can contribute:** The AP-A2J experience demonstrates that in applied knowledge development there is often no clear dichotomy between 'novices' and 'experts'. Knowledge that is needed is often 'practical' and 'analytical', where practitioners other than substantive experts can contribute significantly.

15. **Substantive capacity needs to be complemented by other skills:** If UNDP is to become a knowledge organization, there is a critical need to develop in-house capacity not only in substance, but also in consultancy skills. Observations during the implementation of AP-A2J experience indicate presentation and communication skills are especially important. Also, an initiative such as this required a range of different competences, from strict managerial skills to analytical rigor and open thinking.

16. **The bottom-up approach inherent in the human rights-based approach proved successful:** The initiative grew from within with no corporate UNDP support. This is a good example for country-level replication, as the approach tends to generate increased demand for justice with the potential to trigger effects at the national policy level.

Tool development

The following principles guided the challenging and time-consuming process of tool development:

✔ Thorough assessment of UNDP's knowledge needs at the start;

✔ Reducing knowledge uptake time among practitioners;

✔ Rigorous prioritization and screening of resources;

✔ High-quality analysis;

✔ Optimization of already existing resources, avoiding reinventing the wheel.

In the end several lessons were extracted through the difficult process. When the community of practice was launched, few other communities of practice existed and practitioners had more time to participate in it. As the number of communities of practice has grown, commitment among practitioners has been diluted. Still, the A2J initiative has produced several tools that have become familiar to many country offices in the region. In a May 2009 survey[33] on the Asia-Pacific Rights and Justice Initiative (annexed to this report), 75% of respondents claimed to have used the most relevant tools that came out as one of the results of the initiative; 8.3% were familiar with the tools but had never used them; and 16.7% were not familiar. The Practitioner's Guide was considered the best tool by the majority of stakeholders interviewed by the assessment at both the regional and country office levels. The same can be concluded from the survey results. For example, one of the respondents noted that,

"The Practitioner's Guide is an excellent tool to charter the waters and is very innovative in this field."

1. **Electronic network:** One should not overestimate the power of e-networks. They may be efficient for queries and dissemination of information, but may not be adequate for the production of knowledge. Participation in the e-network was not always satisfactory. It regularly picked up after face-to-face workshops, but there were also periods where traffic was low. This may be due to a lack of incentives to contribute (despite efforts to build ownership and trust among community members), the absence of a clear agenda (workshops tended to be used to discuss specific topics), and the competing daily tasks of community members.

2. **Workshop approach for knowledge and product development:** For sharing experiences and overall knowledge development, it appears to be more effective to bring people together in results-oriented workshops. This was the case with both the visioning workshop and the Practitioner's Guide writing workshop, that were considered cornerstones of the process for their

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[33] The assessment didn't request practitioners to identify respective country offices. From some of the responses provided, it appears that not only Asia country offices responded. There is at least one respondent from another region that is in the process of launching an A2J programme.

participatory approach, clear role distribution, non-hierarchical atmosphere and action-oriented agenda. The writing workshop was a rich experience where a handful of practitioners came together for a week to share knowledge and draft chapters of the guide. Contributors discovered that although much of the material had already been shared among the group, the process of writing it up was too time-consuming to be integrated into their daily country office routines.

3. **Case study production requires strict, clear guidance:** Case studies aimed to capture in-house UNDP knowledge (lessons learned from experience) on A2J issues and to develop practitioner capacity. However, the process of extracting lessons itself required some degree of capacity development. Case studies tended to focus on reporting achievements rather than on learning from failures, which had been the core of the exercise. The write-up process entailed virtual groups of four practitioners, each tasked with conducting a peer review of advanced drafts. These peer reviews did not occur as expected, possibly because of capacity gaps or the time involved in the task.

4. **External outsourcing of research and case studies proved an effective strategy for quality control and partnership engagement:** The research was of a higher quality, particularly where the contracted institution and researchers had analytical as well as practical experience. Outsourcing research to regional institutions well experienced in certain areas was a cost-effective way to capture additional lessons. It was also a good way of involving NGOs and academia in the initiative.

5. **Substantive capacity development and training must take place in order to more effectively use the guide:** Although many consider the guide to be a valuable tool, substantive training is needed on the content of the guide in order to enable people to use it more easily and to yield more effective results. It has been recommended that the guide be simplified where possible or divided into separate volumes. In some cases, it may be useful to draw on the guide and develop resources particularly aimed at national partners. With a 'new generation' of UNDP practitioners working on justice and human rights, it may be possible to bring them together in a joint, results-oriented exercise (potentially as part of the rejuvenation of the regional community of practice) to review the Practitioner's Guide and find ways to make it more user-friendly as well as adapt it to different national contexts.

Human rights-based approach to A2J programming

The human rights-based approach puts people at the centre of the development process and seeks to analyze underlying problems that prevent people from exercising their rights. It examines the roles of both duty-bearers in fulfilling their obligations and rights-holders in claiming their rights. A focus on disadvantaged groups seeks a more direct impact on poverty eradication and other Millennium Development Goals. Though the causality link between the human rights-based approach to access to justice and its impact on poverty reduction is sometimes questioned, the explicit focus of A2J programmes on empowering the poor and the disadvantaged in realizing their rights (including economic, social and cultural rights) cannot be ignored. This report concludes that adopting a human rights-based approach in analyzing access to justice for poverty reduction improved problem identification, identification of target groups, scope of assessment and identification of entry points for capacity development. The country assessments held in Cambodia, India, Indonesia, and Sri Lanka also contribute to this conclusion.

Specific Lessons:[34]

A human rights-based approach can help to do 'better development' and is relatively simple to apply in programming, but:

1. **The human rights-based approach is still evolving and it cannot be viewed as a prescriptive methodology.** A 'one size fits all' approach can lead to damaging results. The guide itself, while providing a general framework on how to apply the human rights-based approach in access to justice programming, notes the importance of assessing the access to justice and human rights situation in a country and contextualizing responses. In some cases, however, the guide's suggestions were seen as prescriptions and applied without analyzing and tailoring responses appropriately to the specific context. For example, the UNDP Sri Lanka Equal Access to Justice project expressed concern that the rote application of the capacity development strategies suggested in the guide overstretched the project and diluted its focus.

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[34] Some of these lessons were extracted and/or adapted from Lessons on Applying a Human Rights-Based Approach to Development Programming, a Case Study from the UNDP Asia Pacific Rights and Justice Initiative, April 2004. Many were prompted by evidence from the country assessments.

In Indonesia, the UNDP access to justice project sought to adopt the human rights-based approach from the inception of the project. In Timor-Leste, where institutions are being rebuilt after years of conflict, AP-A2J approach has been introduced during project revisions (i.e., not following the 10-step approach of the guide). Both cases have yielded some success. A2J and the human rights-based approach are not linear mechanical processes; the guidelines merely provide an analytical framework for developing A2J programmes, to be adapted to local context. To this end, much **capacity development is still needed among practitioners, governance institutions and civil society working for A2J.**

2. **The impact of a human rights-based approach on poverty eradication remains to be assessed.** A human rights-based approach demands assessment of the impact of programmes on the most disadvantaged segments of target groups, and on other disadvantaged groups who may be indirectly affected. Projects need to improve monitoring and evaluation frameworks to allow for evaluation by the direct beneficiaries and civil society organizations. In the meantime, the human rights-based approach should not be presented as a development 'panacea'. While its technical value added to development programming may improve potential for effectiveness, the extent to which such potential is materialized remains to be assessed.

3. **A human rights-based approach offers better protection of poor people by ruling out harmful trade-offs:**[35] The most common trade-offs encountered in development work involve compromising needs, equality and liberty for the sake of economic growth (Donelly, 1989). The human rights-based approach pays more attention to exclusion, discrimination, disparities and injustices, and emphasizes basic rights.

4. Contrary to the claims of adherents to the rule of law and institutional justice reform approach,[36] **the human rights-based approach to programming focuses on legal and institutional reform and promotes the rule of law.** A human rights-based approach to A2J prioritizes the ability to seek and obtain remedy for grievances, through formal and informal justice mechanisms, in conformity with basic human rights. Currently, A2J is often limited to people's ability to use public and private sector justice services. In a human rights-based approach, justice is seen as a social process, not just a legal one. A human rights-based approach better protects people from abuses of power and can be used as a tool to challenge those in power. It can stimulate social movements and mobilize civil society as a means to accountability of duty bearers.

5. **The human rights-based approach does not guarantee the realization of human rights, a task that requires both willingness and capacity:** UNDP support needs to take into account the existing political context in a county. In many situations political will is critical to implementing human rights-based programmes. The human rights-based approach is also useful in highlighting risks and conflict, which are often overlooked. The human rights lens sheds light on the potential conflict involved in development and empowering processes more generally, and provides concrete guidance to deal with them. Using this approach, UNDP can carve out a niche where it can support justice systems in **combating the culture of impunity for perpetrators of human rights violations.** The human rights-based approach calls for UNDP to clearly repudiate human rights violations and demand accountability of perpetrators. In times of conflict this position is difficult, and often UNDP, in its attempt to remain neutral, misses opportunities to take a more proactive stance regarding human rights. For instance, UNDP Sri Lanka can seek to enhance the justice system to better protect and promote human rights by explicitly focusing on protecting fundamental rights and providing means of redress for cases concerning disappearances and abduction, illegal detention, torture, extra-judicial executions and gender-based violence. Similarly, UNDP Nepal, can take the lead in ensuring that the report of an assessment on A2J in conflict situations supported by them is published despite the potential sensitivity of the report (despite the fact that the report, also commissioned by UNDP, has not been released for three years). In many cases, this approach causes frustration among partners in what they see as UNDP's reluctance to take a stand on and lack of commitment to addressing core human rights issues.

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[35] Gready, P., Ensor J., Vide, Reinventing Development? Translating Rights-Based Approaches from Theory into Practice.

[36] Normally the judicial operators tend to fall in this category and remain somewhat resistant to A2J applying the human rights-based approach to access to justice initiatives.

6. **A human rights-based approach requires a practitioners' deeper understanding of the impact of inequalities on development, human rights norms and conflict management.** It also calls for developing UNDP practitioners' mediation and communication skills, particularly with disadvantaged groups. Managing risks and overcoming resistance are critical for effective A2J programmes. Programmes should identify not only potential benefits for target groups, but also potential risks as a consequence of the programme (e.g., domestic violence repercussions against women who become more assertive in claiming their rights). Strategies to minimize such risks should be built into the programme.

7. **The human rights-based approach has good potential to improve accountability systems, but realizing such potential requires improving existing programming tools and other capacities at the UNDP country office level:** In particular, the UNDP needs to focus on developing its capacities to reach disadvantaged people and communicating with them effectively. Implementing a human rights-based approach calls for simplifying existing tools (e.g., logical frameworks, programming guidelines, indicator systems) and better capturing the process of development (e.g. through the inclusion of process indicators). Better risk analysis and programme accountability mechanisms are needed, as well as innovative ways to ensure that disadvantaged people's voices are heard and responded to. All this requires substantive changes in UNDP's assessment processes, monitoring and evaluation systems, partnership and networking strategies. In most country assessments, it was noted that projects lack accountability, feedback mechanisms and monitoring and evaluation frameworks. In Cambodia, one of the issues identified was the lack of mechanisms for ensuring credibility and fostering trust in ADR institutions. There was no oversight over work quality. In Sri Lanka the lack of baselines, indicators and a monitoring and evaluation framework hampered project achievements. One exception, however, is Indonesia, where the team has developed a comprehensive monitoring and evaluation framework which is an essential part of the grant mechanism.

8. **There are serious obstacles to the active, free and meaningful participation of disadvantaged groups:** The human rights-based approach stresses that disadvantaged people's perspectives are fundamental for identifying problems and possible solutions. Their active participation is essential to analyzing the scope of A2J problems, obstacles and solutions. A human rights-based approach considers the right of disadvantaged people to determine their own solutions to poverty not as mere rhetoric, but as programmatic guidance. This guidance finds obvious resistance at national and international levels, particularly from those who benefit the most when disadvantaged people do not participate. Furthermore, disadvantaged people generally lack the capacities to participate meaningfully through existing channels. A lesson from all country assessments is that conducting **people-centred research and assessments prior to programme development yields more meaningful involvement of target groups** in the process of identifying the most adequate responses to their grievances. Through a participatory research study in India, AP-A2J sought perspectives from poor and disadvantaged people to understand how they perceive justice, what obstacles they face and how they handle them. AP-A2J incorporated these perspectives into the elaboration of the A2J model. Although the study cannot be considered representative of marginalized populations in the region as a whole, disadvantaged people's perspectives occupied a central role in the analysis. In Sri Lanka, the project had a hard time identifying whose lives it was trying to improve and what for, because of a lack of qualitative (or quantitative) information on the most disadvantaged and their grievances. In Indonesia, the A2J assessment that led to the report *Justice for All* was critical in identifying and addressing the real issues facing the most disadvantaged as reflected in the National A2J Strategy.

9. **Meaningful human rights-based A2J entails financial and time commitments:** A human rights-based approach emphasizes the process of development. Some key development results naturally take time, but development cooperation functions under growing financial and time constraints to produce concrete results. A focus on process should not be done at the expense of results, but sidelining process given very limited time and resources can lead to overestimating a programme's potential.

10. **Need to strengthen existing human rights framework:** The human rights framework, including civil, political, economic, social and cultural rights, reflects humankind's fundamental achievement in protecting human dignity through legal norms – but it requires implementation. It can be rendered more legally concrete at national and international levels. Furthermore, the

existing legal framework should be more actively protected, as human rights are invariably threatened by situations of violent conflict, and national and international security risks threaten existing human rights safeguards.

11. **Need to find the right balance between targeting duty bearers and right holders.** Most of the projects were found to concentrate on claim holders and grassroots-level work. This has hampered in some cases broader policy achievement in promoting A2J. In Cambodia, the project has achieved significant results on the demand side of A2J by empowering and significantly raising awareness among targeted groups (mainly women and indigenous people). The project has addressed the supply side only by assisting the government in setting up ADR mechanisms and capacity development of these institutions. In Sri Lanka the project in its first phase focused mostly on legal awareness and providing services to disadvantaged groups, through mobile clinics for internally displaced persons or community-based legal aid desks. Only recently has the project focused on more institutionalized capacity assessment and development for the Legal Aid Commission and on policy advocacy. In Indonesia, the LEAD project clearly targets mostly claim holders, and is now turning its attention to the supply side to foster sustainability at the local government level.

12. Building on the prior lessons, while targeted training on a human rights-based approach for A2J for different stakeholders is important to generate momentum on human rights standards and principles focusing explicitly on marginalized and disadvantaged groups, A2J interventions must ensure **that the capacity of existing structures** is enhanced to respond adequately to increases in claim holder demand. To this end, training must be complemented with more **targeted institutional capacity development.**

13. **In human rights-based A2J projects it is important to stick to basics and not to strive for the optimum:** A good A2J project reflects the perceptions of the most disadvantaged groups and helps empower them to advocate for change on their own behalf. Human rights-based programming is most effective when it is simple and accessible to practitioners working in the field and national partners.

14. **Committed staff and visionary leadership are critical** to building trust within UNDP and identifying national A2J champions. Full commitment of staff and passion for the issue were striking features of the regional initiative. Projects enjoyed greater success in countries where this combination of elements was present, in addition to a range of external contributing factors.

15. **The human rights-based approach to A2J would benefit from more research on the interface between informal and formal justice mechanisms:** Human rights-based A2J efforts should identify links between the two systems and focus more on ADR. Experience indicates that service providers and beneficiaries alike prefer to resolve disputes outside the court system.

16. **Some A2J projects tend to focus much on legal aid** for fundamental rights issues, which tend to emphasize **individual rights as opposed to group rights** or public interest litigation to achieve broader social impact. Individual cases have limited ability to empower and secure justice among larger groups of marginalized and vulnerable communities. In conflict countries like Sri Lanka, this limits the power of a human rights-based approach to A2J.

Recommendations

The advancement of the human rights-based approach to A2J faces serious constraints and resistance both within and outside UNDP as it affects sensitive power relations. One challenge may be that the approach is layered and can be difficult to communicate, explain, and apply. It is often relegated to 'window dressing', mentioned in a token manner in documents, when its real power obviously lies in its application.

The approach can also encounter resistance from national governments. But the human rights-based approach should be perceived as an opportunity, not only for the population but also for politicians: those who deliver will be re-elected. UNDP country offices may be wary of adopting the approach, or need to frame it with care. Much work remains in raising awareness among governmental counterparts.

Development research over the past few decades has consistently highlighted a wide range of interrelated factors that contribute to poverty. These include low growth of income, inequality, social exclusion and entitlement failures, inadequate social services, high population growth, environmental degradation, economic inefficiency, social and political instability and vulnerability to debt, disease and natural disasters. Any improvements in A2J for the poor must be linked with the general problem of development at large and this is a human rights issue.

Despite numerous references to human rights principles and approaches in the legal-empowerment discourse,[37] the conceptual link between legal empowerment and human rights remains unclear. Moreover, given the relative popularity of human rights-based approaches to development and poverty reduction there is already some confusion over how and to what extent this and the legal-empowerment approach relate to, and perhaps complement, each other.

Dan Banik suggests that, despite persistent scepticism over the human rights-based approach, (particularly around the legal enforceability of social, economic and cultural rights), one way of strengthening the legal-empowerment approach would be to view it as a subset of the broader human rights-based discourse. This approach has been embraced by Arjun Sengupta (2008). Viewing legal empowerment as an integral part of the human rights discourse allows for the use of existing international human rights instruments that have been largely accepted by the international community. This includes the idea that the obligation to fulfil the rights of the poor transcends national boundaries and extends to all countries that have ratified the human rights treaties and conventions. This is an important angle to consider for the future of the human rights-based approach.

Some practical suggestions for the way forward:

1. Conduct independent evaluations of the impact of a human rights-based approach to A2J in countries that have been adopting the approach for a longer time (for instance, through a clients' survey). It is important to ensure that the achievements or failures of the human rights-based approach are measured from a client's perspective. Only with proof of impact can UNDP sustain this approach over the long term and shore up accountability.

2. Reenergize the community of practice by bringing practitioners together to simplify the Practitioner's Guide. The guide was a product of a collective exercise by multidisciplinary teams, and this major achievement needs to be built on. Currently the guide may be too linear (e.g., its 10-step approach) and rigid to adapt to all situations. This exercise could coincide with the reactivation of the network, for which full-time dedicated facilitation is essential. Though the original core community members have dispersed, performing results-oriented tasks may be a way to build momentum among newcomers.

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[37] Banik D., Implementing Human Rights Based Development, 2007.

3. Ensure that the human rights-based approach and its tools, namely the revised guide, will provide better orientation to law-making. This aspect is currently missing, and legal frameworks should be more influenced by human rights standards. The guide should also provide programming tips to link projects at CO level on law reform to the human rights-based approach.

4. Forge closer links between traditional and formal justice. It is important that UNDP do more to help integrate human rights principles into informal justice mechanisms. The initiative should devote more attention to public interest litigation.[38]

5. Pool regional resources and expertise to foster more capacity development and training. A regional consortium on applying the human rights-based approach to access to justice is a good way forward. This initiative would focus on capacity development for ministries of justice, judiciaries, bar associations, legal aid bodies and civil society organizations, and could offer training programmes and courses, develop communities of practice and networks, and maintain a roster of resources. Reaching out to partners that may be currently applying human rights-based approaches under other names will be key. There is a need to decentralize and bring the approach more to the national level, with a longer-term perspective and broader involvement. Training (including of trainers) will be critical in this regard.

6. To promote UNDP corporate interest in the HRBA, the Global Human Rights Strengthening Programme and the Global Thematic Programme for Justices should be fully utilized by the regional and national initiatives.

7. Semantic divisions among legal empowerment for the poor, justice for the poor, access to justice, the human rights-based approach etc. can frustrate the broader development agenda. UNDP should strive to ensure that legal empowerment initiatives are based on the foundation of A2J as defined in the Practitioner's Guide established according to a human rights-based approach. The RCB could take the lead in producing a second-generation toolkit focusing on legal empowerment and HRBA.

8. The A2J initiative did not wait for corporate guidance to flourish. It was a bottom-up process and this approach succeeded. There must be commitment to a set of human rights principles and to a process. One clear lesson from this initiative – a lesson in empowerment – is that dedication and commitment can inspire far better results than hierarchical, top-down or state-centred arguments that rely heavily on senior managers or governments to sanction one approach or another.

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[38] Gargarella, R., Domingo, P., Roux, T., Courts and Social Transformation in New Democracies: an institutional voice for the poor?

Annex I – List of codified tools

UNDP, Access to Justice Case Studies from the Asia-Pacific Region, Codification of Case Studies, Bangkok, 2004.

UNDP, Asia-Pacific Rights and Justice Initiative, Guidelines for Participatory Consultations on Access to Justice, Bangkok, 2003.

UNDP, Asia-Pacific Rights and Justice Initiative (AP-A2J), Lessons from Operationalizing the Practice Concept, Bangkok, 2003.

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UNDP, Lessons from the Access to Justice Assessments in the Asia-Pacific Region, Bangkok, 2005.

UNDP, Lessons on applying a human rights-based approach to development programming: Case study from the UNDP Asia Pacific Rights and Justice Initiative, Bangkok, 2004.

UNDP, Programming for Justice: Access for All: A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice, Bangkok, 2005.

Annex II – List of persons interviewed

Aparna Basnyat, UNDP Regional Centre in Bangkok

Sinclair Dinnen, Australia National University, College of Asia and Pacific

Jyotsna Poudyal, NGO Advocacy Forum, Nepal

Stefan Priesner, UNDP Bangladesh

Sudarshan Ramaswamy, UNDP Regional Centre in Bangkok

Sanaka Samasrinha, Country Director, UNDP Myanmar

Robin Sully, Director Canadian Bar Association

Cambodia

Sophie Barnes, Deputy Country Director (P), UNDP

Kao Dyna, Woman's Justice Program Manager, Legal Aid Cambodia

Suy Mong Leang, Head of PMU, National Project Director

Kim Leng, Legal Director, Legal Aid Cambodia

Maison de la Justice officials at Korng Pisey district, Kampong Speu province.

Maison de la Justice officials and CDRC members at Phnom Srouch District, Kampong Speu province

Sok Narin, former Head of Governance Unit, UNDP

Koy Neam, former Project Manager, UNDP

Heang Path, CCE Specialist

Rany Pen, Programme Analyst, Acting Project Manager

Kong Rady, National Legal Specialist

Yin Sopheap, Regional Specialist

Ismaël Toorawa, Assistant Country Director

Tan Try, Consultant for the midterm review report

UNDP Access to Justice Project Team

Josep Vargas, Country Representative, Spanish Agency for International Cooperation and Development

Dorine Van Dekur, Advocacy and Management Adviser, Legal Aid Cambodia

Yeng Virak, Executive Director, CLEC

India

Flavia Agnes, Advocate, Bombay High Court

Archana, MYRADA, Bangalore

Asha Bajpai, Tata Institute of Social Sciences, Mumbai

Balakrishna, MYRADA in Kamasamudram Project, Kolar District, Karnataka

Pukhraj Bora, District Judge, Pune, Maharashtra

Nimmi Chauhan, Drishti, Gujarat

Mihir Desai, Advocate, Bombay High Court

Ranjana Desai, Judge, Bombay High Court

Mohan Gopal, Director, National Judicial Academy, Bhopal

Kanikaparameshwari, Advocate, Kolar, Karnataka

Shiv Kumar, Advocate, Benguluru

Rohan Mallick, MYRADA of Kamasamudram Project in Kolar, Karnataka

Yasmin Master, formerly of MYRADA, Benguluru

Mehul, formerly of Drishti, Gujarat

Madhava Menon, former Director, National Judicial Academy, Bhopal

Nupur, CSJ, Gujarat

Parasuraman, Director, Tata Institute of Social Sciences, Mumbai

Rohan, Reporter-cum-Coordinator, Radio Unit, CSJ, Gujarat, Damini Patel

Ashish Sen, formerly of VOICES, Benguluru

Gagan Sethi, CSJ, Gujarat

Indonesia

Ibu Diani, Director of Law and Human Rights, BAPPENAS

Dianne van Oosterhout, Research and M&E Coordinator, LEAD

Rachael Diprose, Researcher, University of Oxford

Frederik Frisell, First Secretary/Development Cooperation,
Embassy of Sweden/Sida

Risya Kori, Sector Coordinator of Justice & Gender, LEAD

Mohammad Doddy Kusadrianto, Programme Officer, Human Rights,
Legal and Justice Reform, UNDP

Agus Loekman, Sector Coordinator of Justice & Legal Service, LEAD

Paulus Lotulung, Deputy Chief Justice of the Supreme Court

Mochammad Maksum, PSPK University of Gadjah Mada

Allison Moore, Programme Manager, Human Rights,
Legal and Justice Reform, UNDP

Igor O Neil, World Bank Justice for the Poor Programme

Patra, YLBH

Yesua Pellokila, Sector Coordinator of Justice & Local Governance, LEAD

Jhank Regmi, Grants Administrator, LEAD

Taufik Rinaldi, World Bank Justice for the Poor Programme

Meissy Sabardiah, Secretariat, Judicial Reform Team, Supreme Court of Indonesia

Mas Achmad Santosa, Senior Advisor, Human Rights,
Legal and Justice Reform, UNDP

Leonard Simanjuntak, Programme Manager, Decentralization, UNDP

Ari Suyudi, Director, PSPK University of Gadjah Mada

Abdul Wahib, Sector Coordinator of Justice & Natural Resources, LEAD

Sri Lanka

Gamini Dissanayake, Attorney at Law, Police Legal Division

Shevon Gooneratne, Sarvodya Legal Services Movement

Ajantha Ismail, Institute of Human Rights

Zoe Keeler, Assistant Resident Representative, UNDP Sri Lanka

Melonie Lindberg and Ramanie, Asia Foundation

Nawaaz Mohamed, SIDA

M.A.M Navas, Assistant Superintendent of Police, Police Legal Division

Sharmeela Rassool, Equal Access to Justice National Project Coordinator

Sharya Scharenguivel, Centre for the Study of Human Rights

N. Selvakkumaran, Dean Faculty of Law

Menaka Shanmuggalingham, Institute of Human Rights

Sunara Sumsudeen, Equal Access to Justice National Project Officer

W. Wickramesinghe, Secretary of Ministry of Constitutional Affairs

Vajira Wijegonawardene, Prison Commissioner General

S.S. Wijeratne, Chairman, Legal Aid Commission
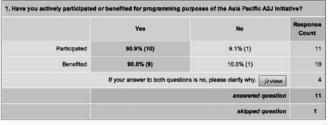
Annex III – Online survey results
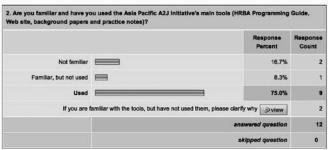
Background presentation of survey:

UNDP Regional Centre in Bangkok has received support from DGTTF in 2002 for the Asia-Pacific Rights and Justice initiative to codify the links between (A2J) and human rights, and to help define the UNDP niche in this field. This initiative was supposed to be innovative and catalytic in nature to strengthen democratic governance in the region.

In April 2009 RCB commissioned an assessment to analyze the results of this regional project. This assessment is primarily expected to assess the results of AP-A2J with a view of strengthening the DGTTF role in supporting innovation in democratic governance by codifying, analyzing and sharing lessons from past experiences to enhance regional and global interventions.

The assessment team has conducted extensive desk review, country studies, interviews, collection of tools and the present online survey targeting members of the AP-A2J community of practice or justice practitioners and programming officers.

Please reply to the survey below that is comprised of multiple-choice questions, direct open-ended questions and questions where you can share your lessons learned and recommendations for the future. Your answers should be concise and straightforward. The RCB and the assessment team would like to thank you in advance for taking time to participate in this survey.

1. Have you actively participated or benefited for programming purposes of the Asia Pacific A2J Initiative?

	Yes	No	Response Count
Participated	90.9% (10)	9.1% (1)	11
Benefited	90.0% (9)	10.0% (1)	10
If your answer to both questions is no, please clarify why. [view]			4
answered question			11
skipped question			1

2. Are you familiar and have you used the Asia Pacific A2J Initiative's main tools (HRBA Programming Guide, Web site, background papers and practice notes)?

	Response Percent	Response Count
Not familiar	16.7%	2
Familiar, but not used	8.3%	1
Used	75.0%	9
If you are familiar with the tools, but have not used them, please clarify why [view]		2
answered question		12
skipped question		0

3. Has your Country Office launched an A2J project?

	Response Percent	Response Count
Yes	75.0%	9
No	0.0%	0
N/A	25.0%	3
If yes, how was it influenced by the A2J initiative? If no state why [view]		9
answered question		12
skipped question		0

4. At your own level please identify one to two main lessons learned from your experience in the A2J practice?

	Response Count
[view]	12
answered question	12
skipped question	0

5. Please provide one recommendation for change and/or improvement of the future development A2J sub practice.

	Response Count
[view]	11
answered question	11
skipped question	1

Analysis of answers to question 3:

The nine respondents that said that their offices had launched human rights-based approach to A2J projects clarified that this launch had been influenced by the AP-A2J initiative mostly through its development perspective, the Practitioner's Guide and other tools, as well as policy advice from RCB. Influence of the initiative is clear in all responses.

Analysis of answers to question 4:

Ten respondents: Main lessons focused on the need for more research on traditional justice. It was recommended to base A2J projects on assessments and build national champions. The tools were acknowledged as valuable, but more live interaction with other experiences and experts was recommended, as was greater collaboration with other practice areas. Poor and disadvantaged groups need better targeting, respondents said. They acknowledged the importance of the human rights approach to economic development and the significant role of globalization-related legal structures in economic and social justice, as well as the central role of democratic governance in policy formulation for equitable economic development. They called for more training within UNDP and among relevant national stakeholders.

Analysis of answers to question 5:

Ten respondents provided recommendations for the future of A2J grouped around the following ideas: a better approach to customary law and local conflict resolution, and more work between formal and informal justice systems (including a regional seminar); expanding the range of experiences on traditional justice, and updating the guide accordingly; more information exchange, joint knowledge-building and exposure to similar experiences; improved outreach to country offices; sustaining the momentum of the A2J initiative and reactivating the community of practice; stronger links between A2J and legal empowerment; and strengthening the human rights-based approach operationally on economic issues.

Annex IV – Bibliography

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