Strengthening the Rule of Law in Crisis-affected and Fragile Situations – In Brief

Global Programme Annual Report 2011
Why does Rule of Law matter?

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

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

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

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

i) Deal with the Legacy of Conflict – including through supporting transitional justice initiatives and mechanisms

ii) Improve Human Security – through working with governing institutions and communities affected by insecurity and injustice

iii) Increase Access to Justice for All – by ensuring that the law is not discriminatory, holds to international and regional standards and norms, and is accessible to all

iv) Deliver Security and Access to Justice for Women

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

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

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

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

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

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

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

[2] Global Programme Priority Countries are: Afghanistan, Bosnia-Herzegovina, Burundi, Central African Republic, Chad, Colombia, Democratic Republic of the Congo, Guinea-Bissau, Guatemala (Conakry), Haiti, Iraq, Kosovo (UN Administered Territory, referred to in the context of UN Resolution 1244), Liberia, Nepal, Occupied Palestinian Territory, Sierra Leone, Somalia, South Sudan, Sri Lanka, Sudan, and Timor-Leste. In 2011, South Sudan seceded from Sudan, making 21 priority countries.
In Tunisia, in February 2011, shortly after the fall of the Ben Ali regime, UNDP fielded experts on democratic transition, using its rapid response capacity, to engage Tunisian counterparts within days of the upheaval. UNDP provided support in a broad range of areas, including for the elections of the new Constituent Assembly, the process of drawing up a new constitution and in supporting reform of the security sector and strengthening human rights. UNDP’s early engagement in this area has enabled the building of trust with national parties to support discussions on subsequent reform issues. Since then UNDP has worked closely with the Ministry of Interior to address the consequences of the transition for the police, notably in the areas of public order, human rights, and relationships with the population. UNDP also initiated support to national partners in their efforts to address gross human rights violations that took place during the dictatorship, leading to the organisation of a major national conference on transitional justice in March 2012 in collaboration with the newly established Ministry of Transitional Justice. Likewise, UNDP is strongly engaged with the interim Government and the civil society through a multi-year programme related to the fight against corruption.

Across the region there was a surge in interest in transitional justice. UNDP organised a series of events highlighting the opportunity that transitional justice mechanisms provide to address root causes of conflict. A regional conference in Egypt in November 2011 gathered national partners from Egypt, Iraq, Libya, Morocco, Syria, Tunisia and Yemen. The event highlighted the similarity in regional transition processes. Following this event, UNDP worked with national governments and various international partners, including the International Centre for Transitional Justice (ICTJ), the Office of the High Commissioner for Human Rights (OHCHR) and (DPA), to introduce transitional justice principles to government officials, civil society actors and victims groups in Libya, Tunisia and Yemen. These are now being translated into programmatic support.

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

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

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

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

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

Guinea (Conakry):
UNDP supported the retirement of close to 15 percent of the armed forces and the development of comprehensive reform plans for the security sector. These are both critical for the long term stability of Guinea.

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

El Salvador:
UNDP support to community security programmes resulted in a reduction in homicide of 12 percent in some of the most violent municipalities in El Salvador - One municipality registered a 40 percent reduction.
Global Programme on Rule of Law

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

Sri Lanka: UNDP supported the provision of free legal aid to 37,662 conflict-affected people through the Legal Aid Commission and a network of NGOs.

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

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

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

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Deal with the Legacy of Conflict

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

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

Providing Support to Victims of the Conflict in Colombia
UNDP has played a critical role in supporting hundreds of thousands of victims of the conflict in Colombia. UNDP supported the formulation of the new Victims and Land Law, in collaboration with the ICTJ. It provides for compensation for the victims of state violence and is a major step towards strengthening the national legal framework to provide victim’s rights and reparation. By April 2012, 75,000 victims had already been provided reparations. The government aims to provide more than 400,000 victims with reparations by 2014.

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


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

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

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

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

**El Salvador – Reducing Homicide through Community Security**
UNDP’s support to the implementation of ‘gun free zones’ in 20 of the most violent municipalities has resulted in an average 12 percent reduction in homicides, a 40 percent reduction in assault, a 21 percent increase in the seizure of weapons and a 7 percent increase in reports of theft.

[4] UN Administered Territory, referred to in the context of UN Resolution 1244
Increase Access to Justice for All

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

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

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

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

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[5] UN Administered Territory, referred to in the context of UN Resolution 1244
Women and girls are most often the victims of SGBV. In addition to the trauma suffered by survivors of conflict related sexual violence, the use of rape in conflict brutalises whole communities. Impacts continue long after the conflict has ceased. The UN Security Council has recognised that sexual violence in conflict is an issue of international peace and security. Strengthening women’s security and access to justice is a cornerstone of UNDP’s rule of law assistance in crisis-affected countries. UNDP works closely with all parts of the UN system, especially UN Women and UN Action to make women, peace and security a priority.

Tackling Sexual and Gender Based Violence and Ensuring Access to Justice
UNDP support has led to improved access to justice and a stronger response to tackling sexual and gender based violence in a number of countries, including Burundi, CAR, Chad, DRC, Guinea (Bissau), Kosovo, Iraq, Liberia, Sierra Leone, Somalia and Timor Leste.

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

Expanding Women’s Participation and Leadership
Representative and inclusive institutions contribute to resilience and legitimacy. As well as improving gender equality, there is a positive correlation between women’s representation in the police and reporting of sexual assault. Ensuring that women are represented in courts and on legal teams can play an important part in making courts more accessible. UNDP has supported the professional development of women as rule of law actors systematically in crisis countries.

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

Supporting Women Lawyers in Somalia
In the justice sector, UNDP has supported the establishment of the Somaliland Women’s Law Association (SWLA), which has given women a means to utilise the legal system to protect their rights and seek redress for harm. The group focuses on helping women defendants and victims in particular. Since 2009 they have provided legal services to 1,760 people, in particular to women and children. Through the SWLA the number of women in the legal profession has increased— from five to 50 female lawyers— with five of them being appointed as Somalia’s first female prosecutors in 2011.
UNDP has made a concerted effort to deliver joint rule of law assistance with other parts of the UN system. The Global Programme has been a driving force in developing joint programmes including with UNWOMEN, UNICEF, UNHCR and UN peacekeeping and special political missions.

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

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

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

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


Contribution from the Government of The Netherlands

The Government of The Netherlands has been a strong supporter of UNDP’s Global Rule of Law Programme since its inception in 2008. It has become evident that the Millennium Development Goals are unlikely to be met in conflict-affected and fragile situations. Sustainable security, development and economic growth can only be achieved, if and when countries have the capacity to secure people’s physical safety and to uphold the rule of law. In fragile situations this entails prevention of violence and consolidation of peace and stability. This includes alignment with international peace missions to foster people’s safety, creation of jobs for former combatants, promotion of inclusive access to justice and building a functioning judicial system. A new approach is required, as presented in the New Deal for Engagement in Fragile States and the World Bank’s World Development Report for 2011, Conflict, Security and Development. The Netherlands prioritises, within its development cooperation policy, investment in national capacities to enhance security for citizens and to strengthen the rule of law. In doing so the overall aim is to contribute to an enabling environment for sustainable development and self-reliance. In our view the UN has a leading role to play in coordination of and support for international efforts to promote freedom, security and prosperity. UNDP’s Global Programme is an important cornerstone of the UN’s support for the Rule of Law in developing countries and the Netherlands is grateful to be a partner in these efforts in the past and in the future.

Mr. Joost Andriessen,
Director, Peacebuilding and Stabilisation Unit
Ministry of Foreign Affairs, The Netherlands
UNDP has contributed to improvements in the justice and security sectors in many countries. We have also made significant progress in making the UN work better together, through joint programming and strengthening our capacities to understand whether assistance generates measurable results. We have improved our operational capacities and our ability to respond rapidly.

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

Critical lessons have been learned. In particular, more attention needs to be paid to ensuring that the political dimensions of rule of law assistance are addressed. We should work harder to ensure our support does not remain at the purely technical level but focuses on transformation with a view to ensuring conflict prevention. We will continue to play a leadership role in improving the UN’s ability to work better together and to support justice and security programmes which contribute to the collective goal of peacebuilding. We will work with national governments to support their ability to evaluate, monitor and plan for measurable improvements in the rule of law, justice and security in their countries.

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

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

We will continue to work together to develop even better approaches to building the rule of law, justice and security in those countries most affected by conflict, crisis and fragility.
UNDP’s Global Programme for Strengthening the Rule of Law in Crisis-affected and Fragile Situations provides rule of law support to approximately 37 crisis-affected countries, including 21 priority countries. The programme has been a driving force in improving the delivery of UNDP’s assistance and in pioneering joint UN approaches to supporting the rule of law.

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

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