

EVALUATION OF UNDP'S SUPPORT TO

MOBILE COURTS

In Sierra Leone, Democratic Republic of the Congo, and Somalia



*Empowered lives.
Resilient nations.*

Summary



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COVER PHOTO

Mobile court hearing in Gabiley, Somaliland. © Elizabeth Wamaitha Kang'atta, UNDP

OVERVIEW





Mobile court hearing in Gbangbatok, Sierra Leone. © Monica Rispo, UNDP

This report consolidates the findings of a comparative evaluation commissioned by UNDP's Bureau for Crisis Prevention and Recovery (BCPR) to assess results and identify good practices and lessons learned in supporting mobile courts (MCs)¹ through UNDP rule of law programmes in post-conflict settings. The evaluation consisted of a field visit by an international consultant to three UNDP Country Offices (COs) (Sierra Leone, DRC and Somalia) and a desk study on two other COs' support to mobile courts (Timor Leste and Central African Republic before the current crisis).

During the three country visits the consultant conducted interviews with about 90 key informants, including representatives of the judiciary, police and prison systems, members of civil society organizations, international partners, mobile court users and UNDP staff. In Sierra Leone and Somaliland, which is a region of Somalia, the missions included a visit to field locations to observe a mobile court session.

This report is based on the findings of the reports drafted for each of the three country evaluations, and on the two desk studies. It is broken into two parts: the first part presents an overview of the mobile justice interventions in each of the evaluated countries and the consolidated conclusions; the second part suggests some common programming.

The key purpose of the evaluation was to assess if mobile courts have improved justice service delivery in remote, conflict-affected areas and if this occurred in an approach focusing on access to justice for the most vulnerable people. The methodology of the evaluations consisted of a mixture of qualitative and quantitative research methods (court record analysis, individual semi-structured interviews, UNDP reports, analysis of national legislation, on-site observation of a mobile court, focus groups, query on UNDP online knowledge exchange networks). Evaluation questions and sub-questions were defined in the Evaluation Matrix² on the basis of the five criteria of relevance, effectiveness, efficiency, sustainability and impact.

¹ In this framework mobile courts are defined as "formal courts that conduct proceedings in locations other than their home offices, usually in remote areas where no justice services are available".

² See Annex 1 for the Evaluation Matrix.

1

CIRCUIT COURTS IN SIERRA LEONE





Mobile courts have been recognized as an efficient stop-gap mechanism to assist the Government in re-establishing the formal justice system after the civil war and temporarily responding to the chronic shortage of magistrates.

1.1 OVERVIEW OF THE MOBILE COURT SYSTEM IN SIERRA LEONE

Circuit courts were established in Sierra Leone through Article 7 of the 1963 Courts Act, which states that “courts should be held at such places as the chief justice may direct”. This principle is reaffirmed in Article 131.3 of the Constitution. Every year a Chief Justice’s order specifies the locations and the schedule for High Court circuits. Magistrate Courts have more flexibility in selecting their locations and schedule.

The mobile court system in Sierra Leone is jointly supported by three international partners with geographically distinct areas of intervention: UNDP supports the Southern Province, GIZ the Eastern and DFID the Northern Province. Similar models of intervention are applied by each agency, mainly consisting in providing financial support to the Judiciary to implement the circuit courts in complementarity with other core activities in the justice and security field, such as legal aid schemes.

UNDP has been supporting circuit courts in the Southern Province since 2010. Two Letters of Agreement were signed between UNDP and the Judiciary for a total amount of \$45,496 during the period 2010-2012. The support relies on national expertise and capacities as mobile courts are entirely run and managed by the Judiciary. However, the functioning of the mobile courts is strongly dependant on international donors, which provide 80 percent of the total budget.

UNDP supports two types of courts travelling on circuit: Magistrate Courts and the High Court. The jurisdiction of the latter is limited to criminal cases, whereas Magistrates on circuit can also hear civil cases. Magistrate Courts on circuit are composed of: one Magistrate, one court clerk/registrar, three police prosecutors, two prison officers and one driver. The court clerk also serves as an interpreter. The High Court on circuit is composed of a judge and the support staff and convenes a local jury of 12 persons. The prosecution is always ensured by a State Counsel.

In the Southern Province UNDP supports two resident Magistrates to cover eight stations and one resident High Court judge to travel on circuit four times per year to the locations identified by the Chief Justice order.

1.2 KEY ACHIEVEMENTS

Between August 2010 and June 2012 the Sierra Leone mobile court system achieved the following key results with UNDP’s support:

- 972 cases received and 568 cases disposed by Magistrate Courts (58 percent rate of case disposal)
- 375 cases received and 198 cases disposed by High Court (52 per cent rate of case disposal)
- 47 Magistrate Courts circuit sessions and 5 High Court circuit sessions held
- 107 Magistrate Courts circuit days sat and 50 High Court circuit days sat
- 10 locations served by courts on circuit
- \$45,496 allocated and two letters of agreement signed

Mobile courts have been recognized as an efficient stop-gap mechanism to assist the Government in re-establishing the formal justice system after the civil war and temporarily responding to the chronic shortage of magistrates. In addition, mobile justice has proven to be an effective tool in reducing the backlog of lower courts in remote areas. The presence of mobile courts has strengthened the role of the formal justice system in the provinces where traditional justice mechanisms are prevalent. Magistrate mobile courts were an opportunity for Local Courts (first instance courts that apply traditional laws and are part of the customary legal system) to transfer cases for which they did not have jurisdiction, such as sexual and gender based violence (SGBV) cases, or to have appeals of their decisions heard.

The support to mobile courts has been biased towards the ‘supply’ side of justice; due to the weakness of measures to assist court users in claiming

their rights (legal aid, interpretation, awareness raising sessions), the impact of mobile courts on the population—the ‘demand’ side—has not been as significant as it could have been. The current programme cycle is, however, drawing attention to the demand side of justice; UNDP has recently launched a ‘court-users perception survey’. With reference to the progressive Sierra Leonean legal framework, which recognizes paralegals as legal aid providers, UNDP is exploring opportunities to develop paralegal services for mobile court users.

1.3 GOOD PRACTICES

A growing network of Court Monitors

UNDP supports a network of community-based Court Monitors structured as coalition of civil society organisations (CSOs) across the country. The initiative encourages civil society to play an oversight role in the judicial system (including in mobile courts), builds bridges between communities and mobile courts by making the formal system less intimidating to rural populations, and provides transparency on court activities.

Good coordination among international partners

The Judiciary implements circuit courts with the financial support of three international partners (UNDP, GIZ and DFID), one for each of the three Sierra Leonean Provinces, which has resulted in an effective framework that ensures the presence of mobile courts throughout the territory of the State. International partners are in the process of improving the coordination framework by, among other things, harmonizing allowance rates in the three Provinces and drafting a joint strategy for support to mobile courts in Sierra Leone.

An adequate and realistic budget

UNDP’s intervention mainly supports the payment of allowances for judges and court staff and funds a witness transportation programme. Amounts are considered in line with the local market and perceived as fair. The allocated funds are managed by the Judiciary, which strengthens local ownership and

accelerates the administrative procedures to release the funds. The average cost for the 750 cases disposed during the evaluated period can be estimated at \$60 per case, which is highly cost-effective, especially if indirect effects, such as increased confidence in the formal justice system, are considered.

An efficient use of courtrooms

Courts operating on circuit dispose of the premises of lower courts (e.g. Local Courts’ courtrooms and lock-ups), while the latter are accommodated in alternative facilities. This cost effective solution allows courts on circuit to have adequate working space without interrupting the ordinary activities of residential courts.

1.4 CHALLENGES

Mobile courts, as with the entire justice system in Sierra Leone, face challenges due to the limited number of magistrates and lawyers, the absence of a case management system and high adjournment rates.

Other challenges are equally recurrent across Sierra Leone’s jurisdictions but exacerbated in remote areas where mobile courts intervene, namely the absence of interpreters for local languages, difficulties in reaching witnesses and ensuring their presence in court, and frequent out-of-court settlements by traditional chiefs.

A remaining group of challenges is specific to the mobile court system and mainly related to logistical matters: the mobile court schedule is unpredictable and not frequent enough, and there are transportation issues related to difficult road conditions and a lack of vehicles.

The challenges most cited during the evaluation interviews were the absence of witnesses in court and the related issue of high adjournment rates, followed by the difficulties that court users have in understanding the procedures due to language barriers and lack of rights awareness.



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2

MOBILE COURTS IN DR CONGO





The cost of a mobile court session varies according to the number of cases and days on mission.

2.1 OVERVIEW OF THE MOBILE COURT SYSTEM IN DR CONGO

Mobile courts were introduced to the Congolese legal system in 1979 and have been implemented with the assistance of the international community since 2004. UNDP has been supporting mobile courts in eastern DRC (North Kivu, South Kivu Provinces and Ituri District) since 2010.

Two types of courts are delivering mobile justice, at first instance and at appeal level, in eastern DRC: i) civilian courts (*Tribunal de Grande Instance and Cour d'Appel*) and ii) military courts (*Tribunal Militaire de Granison and Cour Militaire*). These courts act as collegiate bodies in criminal cases, so involve a significant number of judges: a minimum of three sitting judges for civilian courts and one judge and four locally recruited assessors³ for military courts.

In addition mobile courts include one prosecutor, one registrar, lawyers, interpreters and police officers.

The mobile court system supported by UNDP in DRC operates under the following circumstances:

- Mobile courts are supported by UNDP under the framework of activities aimed at improving access to justice for women and prosecuting SGBV crimes; UNDP requires that a minimum number of SGBV cases are heard in order to fund a mobile court session.
- Both civilian and military courts are supported, but the latter is prioritised. Criminal cases are also prioritised.
- The mobile courts do not operate on a set schedule as per 'circuit courts', but are implemented on an *ad hoc* basis according to needs periodically identified by the courts: some sessions aim at clearing backlogs, others hear serious criminal cases (such as mass rapes) in remote areas where justice services are absent. Funds are managed by UNDP and are released before each mobile court session.

- The cost of a mobile court session varies according to the number of cases and days on mission. For example, a budget of \$25,000 was estimated for a 15-day session to hear 8 criminal cases involving 16 accused persons and 60 victims constituted as "civil parties". Seventy percent of the budget was for the per diems of mobile court staff. Costs for security and transportation (often covering UN helicopter use) are covered by the UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).
- Each mobile court session is organised by several international partners in cooperation, namely Avocats sans Frontières (ASF), American Bar Association (ABA), MONUSCO, OHCHR and UNDP.
- Security is ensured by the Congolese police or Armed Forces with the support of MONUSCO. Occasionally, MONUSCO sets up a temporary operating base (TOB) in the location where mobile courts are held.

The organisation of each mobile court session is co-ordinated via the following informally agreed upon steps among international partners:

- The civilian or military court presents a request for support to UNDP or other partners detailing the number and type of cases, the necessary resources (staff, transportation, etc.) and a budget.
- A coordination forum composed of judicial authorities and international partners verifies the relevance of the request and the availability of funds, and approves the mobile court session.
- The lawyers travelling with the mobile court are appointed by the Bar Association and travel to the location where the hearing will be held to meet their clients.
- The President of the Court fixes the date for the hearing and the Registrar travels a few days in advance to inform the parties to the case.
- The mobile court team travels to the location where the trial will be held (the courts are generally housed in temporary structures, such as tents).

³ *Juges assessesurs* in French are non-lawyers/lay judges with knowledge of the local context.

UNDP's support to mobile courts is not provided in isolation—the agency also supports additional activities to help address all aspects of criminal justice. In particular, UNDP provides support in the **pre-trial phase** of mobile court sessions by funding investigation missions of prosecution officers and the transfer of detainees. Occasionally UNDP also supports awareness raising activities for the population before the arrival of the mobile court.

2.2 KEY ACHIEVEMENTS

From January 2011 to December 2012 the mobile court system in eastern DRC achieved the following key results:

- 16 mobile court sessions held (12 by military courts and 4 by civilian courts) totalling 198 days on circuit
- 202 cases enrolled, of which 60 percent related to SGBV
- 206 cases disposed, with a 78 percent conviction rate
- 97 lawyers and 72 judges (estimated) involved
- 10 international criminal cases adjudicated
- 12 monitoring missions by UNDP court monitors undertaken
- 22 investigation missions undertaken by the Prosecution
- 16 preliminary missions undertaken by the Registrar
- 11 locations visited by mobile courts
- \$155,000 funding contributed by UNDP

Mobile courts have achieved notable results that have improved justice service delivery in eastern DRC, in particular:

- Impunity was addressed in remote conflict-affected areas; on some occasions justice was brought to populations that had never seen formal justice institutions before. Justice actors have been assisted in their work in reaching out to victims and, in some cases, clearing backlogs of lower courts.
- The capacities of national justice actors, in prosecuting international crimes have been strengthened, in particular through the support to mobile courts. This has also led to a debate on the prosecution of international crimes (crimes against humanity and war crimes) in complementarity to the International Criminal Court (ICC) at national level as a result of the growing of decisions by mobile courts on international crimes.

- Mobile courts have ensured better legal protection for SGBV survivors, with 60 percent of the cases disposed being SGBV cases. In addition, justice actors have developed a strong focus on SGBV issues and some hearings related to mass rapes have generated lively debates in local communities.

The results achieved could have produced a stronger impact on people's understanding of legal procedures and access to courts if the intervention had included an awareness raising campaign. Nevertheless, SGBV survivors represent a notable exception to this shortcoming as they have received support, mainly from legal aid lawyers supported by ASF and ABA, to understand their rights. However, it is debatable if the mobile courts have had a deterrent effect with regard to SGBV related crimes.

2.3 GOOD PRACTICES

An integrated approach supporting all phases of the criminal justice chain

UNDP's support is not limited to the organisation of mobile trials but extends to pre-trial activities such as investigation missions, the transfer of detainees and the notification of parties as well as additional activities such as the transfer of witnesses and radio announcements. As a result, hearings are adequately prepared and adjournment rates are exceptionally low; the number of witnesses and parties to the cases who fail to appear in court is not as problematic as in other countries.

Excellent co-ordination among international partners

Several international partners (UNDP, MONUSCO, Avocats sans Frontières, American Bar Association, OHCHR) are contributing technical and financial assistance to the organisation of each mobile court session; coordination fora are active in all three areas (North and South Kivu Provinces and Ituri District) of intervention.

The prosecution of international crimes in complementarity with the International Criminal Court

Mobile military courts have pronounced convictions for at least 10 cases of international crimes (crimes against humanity), which has provided an important opportunity for national courts to strengthen their capacities to prosecute Rome Statute crimes.

Court monitoring activities

Most mobile courts are monitored by a team of eight court monitors employed by UNDP in the framework of a wider initiative aimed at analysing how SGBV cases are handled in the Congolese justice and security system. Court monitors ensure that trials are held in accordance with international standards and provide the quantitative and qualitative information required for project reporting.

The victim transportation programme

Approximately 20 percent of the budget for a mobile court session is allocated to reimburse transportation costs that witnesses and victims face in attending the hearings. Consequently their presence at mobile court hearings is ensured and frequent adjournments are avoided.

2.4 CHALLENGES

While there is an agreement that mobile courts have contributed to the fight against impunity for SGBV related crimes and has increased justice service delivery for SGBV survivors, there is concern that the focus on SGBV cases could lead to a two-tier mobile justice system where SGBV victims are provided better legal protection than other citizens.

Priority support given to military mobile courts raises issues, however one reason was the competence of military courts for international crimes. The focus of the support might change with the new legislation extending the competence for international crimes also to civilian courts. There are also some concerns related to specific procedural aspects, for example, the violation of the principle of habeas corpus for pre-trial detentions under military criminal procedure or the lack of appeal for some military courts.

Finally, the legal framework for the prosecution of Rome Statute crimes in DRC is unclear and still in the process of being defined, resulting in judges and prosecutors being confronted with legal obstacles that challenge their practice.

Some weaknesses are affecting the planning aspects of the initiative, in particular the lack of a common strategic framework for mobile justice developed jointly by all international partners. Such a tool, eventually combined with a basket-fund, would facilitate the achievement of common objectives through a more harmonised approach. Also, the UNDP monitoring framework could be strengthened by adopting a standard format for monitoring reports and establishing a database to consolidate the collected information with the overall objective of ensuring better follow up on progress towards set targets.

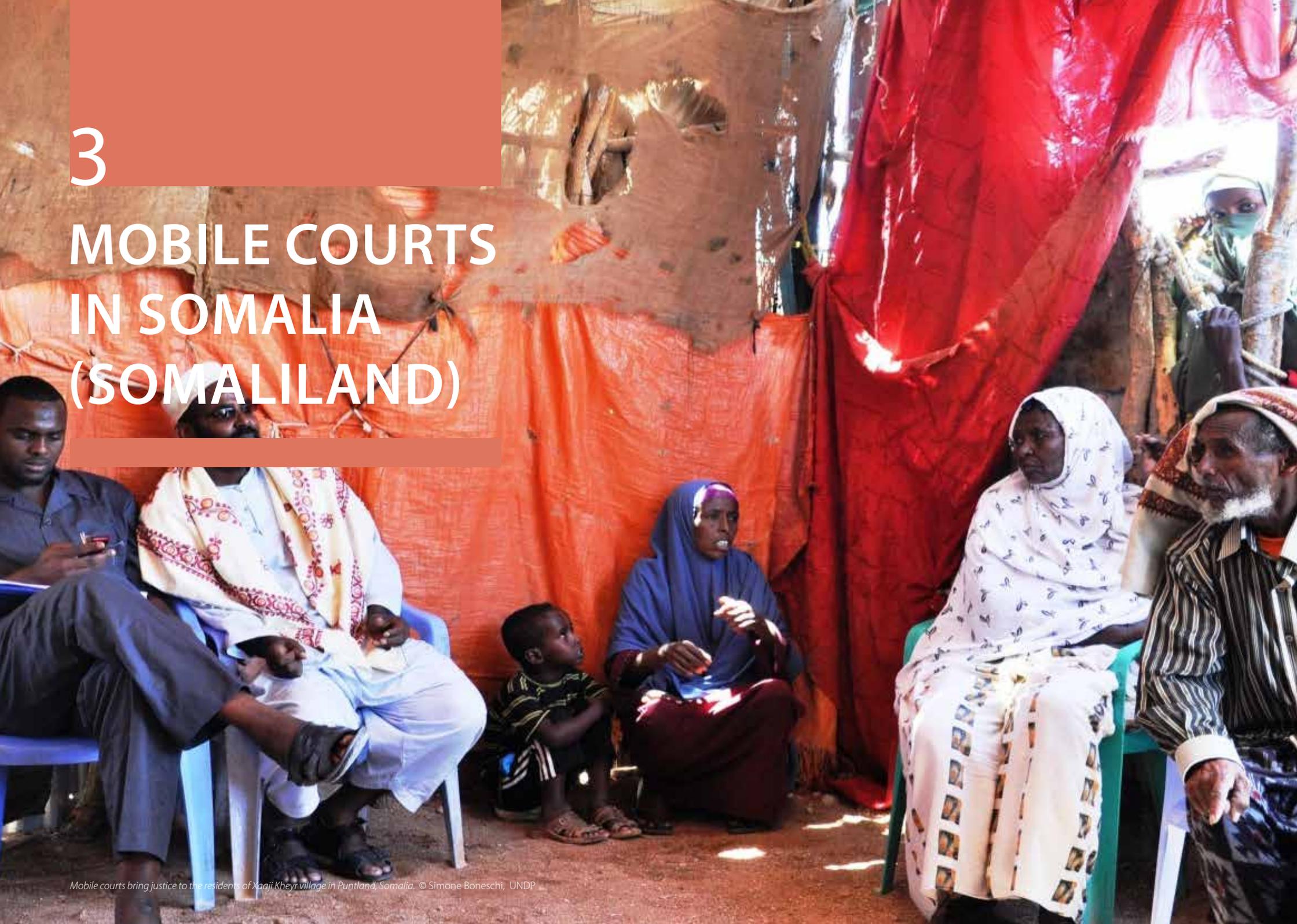
The high costs—approximately \$25,000 for a 15-day session, as detailed above—and the fact that these are provided in full by the international community are hampering the sustainability of the mobile court system.

Similarly the lack of a national strategy for mobile justice and the ad hoc approach adopted for the implementation of mobile courts raises concerns in terms of how the initiative will continue without donor support.

The technical aspects that appear most challenging include: poor legal awareness of the population; weak inequality of arms, due to the fact victims receive more effective representation by lawyers; a lack of adequate means to protect victims and witnesses; weak execution of court decisions; and a lack of reparations for victims of serious crimes.

3

MOBILE COURTS IN SOMALIA (SOMALILAND)



3.1 OVERVIEW OF THE MOBILE COURT SYSTEM IN SOMALIA (SOMALILAND)

Mobile courts were recognized in the Somali legal system in the early 1970s but have been revitalized since 2008 with the support of UNDP in all three regions of Somalia (Somaliland, Puntland and South/Central). The ‘Somaliland Organisation of the Judiciary Law’ of 2003 provides the legal basis for mobile courts in Somaliland and gives authority to the Supreme Court, the six Appeal Courts and the six Regional Courts to “hear cases in any place within its territorial jurisdiction”.

UNDP is supporting mobile courts in five of the six regions of Somaliland and has to this end signed four Letters of Agreement with the national partner (initially the Ministry of Justice and subsequently the Supreme Court). The total amount allocated for mobile justice between 2008 and 2012 is \$321,000. UNDP is the only international partner supporting mobile courts in Somaliland.

Mobile courts in Somaliland do not follow a regular and pre-established circuit of locations as in Sierra Leone, but are organized on an *ad hoc* basis in response to specific needs. When a case arises a wide range of actors (judicial staff, police officers, elders as part of the traditional justice system, victims) can contact the competent Court and request a mobile court. Priority is given to criminal cases, which account for roughly 80 percent of the caseload, but civil cases are also adjudicated, land disputes in particular.

The composition of a mobile court depends on the sections of the court: General Sections of Regional and Appeal Courts⁴ only require one judge, but for Assize Sections of Regional Courts⁵ a panel of three or more judges is required, including one or more assessors⁶. Registrars, prosecutors and legal aid lawyers complete the mobile court team. Security is provided by police officers and a Special Police Unit escort. Ninety percent of mobile courts are held as one-day missions. Only in Saanag

region are mobile courts are organized for longer periods, in any case not exceeding seven days.

3.2 KEY ACHIEVEMENTS

From 2008 to 2012 the mobile court system in Somaliland achieved the following key results:

- 1,579 cases enrolled (50 percent of which were appeal cases)
- 57 percent increase in the total number of cases heard from 2009 to 2012
- 6.5 percent of the total caseload of the formal justice system in Somaliland in 2010 was heard by mobile courts
- 778 (estimated) mobile court sessions organized
- 60 monitoring missions by UNDP staff
- 3 mobile court review workshops organized with the judicial authorities
- 28 days of mission in three districts for 40 Bachelor of Laws students from the University of Hargeisa to provide awareness raising sessions for the population
- 1 mobile court coordinator supported
- \$321,000 USD allocated and 4 letters of agreement signed

Mobile courts have contributed to improving formal justice service delivery in most regions, although the remotest areas along the border with Puntland could not be accessed due to security reasons.

The presence of mobile courts has promoted the development of the formal justice system in a country where traditional justice system (Xeer) is strongly prevalent, particularly in rural areas. This objective was achieved in close cooperation and with the active support of traditional leaders, known as elders, and is gradually resulting in a reshaping of the boundaries of authority between the formal and informal/traditional justice authorities, with elders having gained a better understanding of the limits of their jurisdiction. In application of a 2011 order of the Chief Justice, elders are

The presence of mobile courts has promoted the development of the formal justice system in a country where traditional justice system is strongly prevalent, particularly in rural areas.

4 Dealing with crimes punishable by imprisonment for periods between 3 and 10 years.

5 Dealing with crimes attracting a prison sentence higher than 10 years.

6 Non-lawyers/laypersons with some knowledge of law and/or Sharia law.



UNDP's support of mobile justice has facilitated the establishment of informal linkages between mobile courts and the traditional/informal Xeer dispute resolution overseen by elders.

now encouraged to refer SGBV cases to formal courts, however, in most cases is only possible if a mobile court session of a Regional Court is available because lower District Courts are not competent for such cases. SGBV cases are still very limited, but mobile courts are contributing to advancing the gender agenda. In particular, the increased presence of female staff (lawyers, registrars, prosecutors and paralegals) among mobile court teams is encouraging more women to access justice and gradually changing the cultural norms that restrict the participation of Somali women in public life and decision-making. Mobile courts provided opportunities to introduce formal justice mechanisms to the communities they visited and to offer an alternative to the traditional justice mechanisms, which is particularly important for women and minority groups as they can be discriminated against under the *Xeer* system. Notable efforts were made through a pilot-project with the University of Hargeisa to raise awareness on the role of mobile courts, but a study in 2013 confirmed that the legal awareness among the population remains limited. Finally, mobile courts have contributed to strengthening the technical capacities of justice actors. Newly recruited judges have gained experience working in remote regions and annual 'mobile justice workshops' provided the first opportunity for justice actors from all six regions of Somaliland to meet and share experiences.

3.3 GOOD PRACTICES

Strong focus on the monitoring framework

UNDP has made notable efforts and committed appropriate resources to develop a consistent monitoring framework, in close cooperation with the Judiciary. Mobile court monitoring missions are undertaken by UNDP staff, monitoring tools and knowledge management products have been developed, annual 'mobile court review workshops' have been organized, and UNDP is supporting a mobile court coordinator to ensure reporting. The framework is in the process of being finalized with a database to consolidate mobile court statistics to consistently measure progress towards set targets.

Good cooperation with the traditional justice system (Xeer)

UNDP's support of mobile justice has facilitated the establishment of informal linkages between mobile courts and the traditional/informal *Xeer* dispute resolution overseen by elders, resulting the positive outcomes detailed above. Elders now refer cases, contribute to the enforcement of mobile court decisions, provide information about mobile courts to their communities, and occasionally ensure that perpetrators are brought before the courts.

Excellent synergy with other UNDP access to justice projects

Exemplary coordination is in place among the different components and actors of the UNDP Access to Justice (A2J) project (e.g., legal education, legal aid, case management), which are all contributing to the mobile court system. This approach has resulted in a stronger overall impact of the initiative and facilitated the achievement of some key objectives. For example, the provision of legal aid for mobile court users is partially ensured by the UNDP supported Lawyers Association. Similarly, the awareness raising campaign was delivered by law graduates who had attended the UNDP supported Law Faculty of the University of Hargeisa and organized by UNDP supported legal aid clinics.

3.4 CHALLENGES

The positive impacts of mobile courts on justice service delivery described above have been limited by the challenges listed below.

Technical challenges: Legal representation is not always ensured and there is weak legal awareness among court users. Actors from the traditional justice mechanisms (elders) occasional interfere in court decisions. The procedures for court fees exemption are unclear thus making it difficult for some parts of the population to access justice services. The quality of court decisions in lower courts can be poor and the coordination among actors involved in the criminal justice chain is weak.

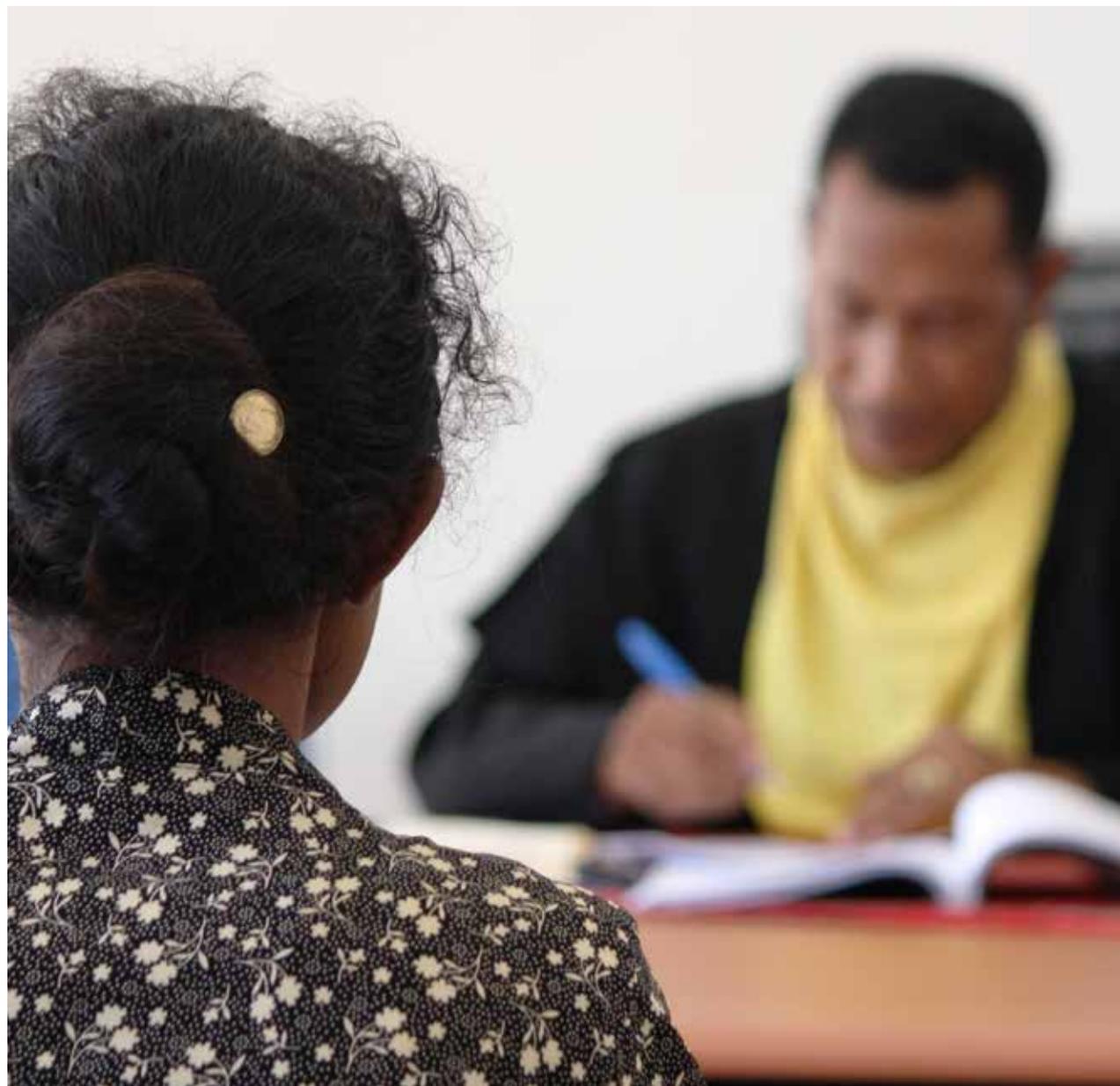
Sustainability: Despite a clear commitment from the Judiciary, the Government is not contributing to the mobile court budget. Also, the management and technical capacities of judicial staff are still developing.

Planning: The lack of a national strategy for mobile justice and the organization of mobile courts on an *ad hoc* basis as a response to specific needs have not allowed for effective planning of the mobile courts initiative.

Gender: There are few SGBV cases tried and a limited, although growing, number of women represented in mobile court teams.

Logistical constraints: The lack of funds for *per diems* only allows for the organization of day-missions. Also, difficult road conditions require constant maintenance of vehicles.

Security: In some areas, such as the Sool Region, mobile court teams are exposed to serious risks to their personal security.



Judge conducting inquiry with domestic violence victim in Maliana, Timor-Leste. © Andrew Harrington, UNDP

4

DESK STUDY OF ADDITIONAL UNDP COUNTRY OFFICES SUPPORTING MOBILE COURTS

4.1 THE MOBILE COURT SYSTEM IN THE CENTRAL AFRICAN REPUBLIC

Since 2009, before the present crisis in the Central African Republic (CAR), UNDP supported six first instance courts (*Tribunal de Grande Instance*) to organize mobile courts in remote locations under their jurisdiction. In 2012, a total of 48 mobile courts sessions were organized and 731 cases disposed.

The organization of a mobile court involves the following steps:

1. Preliminary activities: Judicial authorities and UNDP staff prepare a list of cases to be heard in mobile court sessions and the Ministry of Justice (MOJ) submits an official request for support to UNDP. UNDP awards funding, which is used for *per diems* and fuel. Occasionally, CSOs are enlisted to deliver awareness raising sessions for the local population.
2. The mobile court sessions: The Court issues and delivers summons to those required to appear before it and the prison system ensures the transfer of detainees. UNDP staff monitor court activities.
3. Monitoring activities: Both Court and UNDP staff submit a report containing basic statistical data such as the number of hearings, cases, parties to the cases, outcomes of cases, adjournments, etc. The figures are consolidated in a database.

A good practice that occurred in CAR with remarkable results in the reduction of pre-trial detention rates was the complementing of mobile court sessions with visits by Prosecutors to prisons

and police detention centres. The mobile court sessions allowed to directly address cases of persons in (prolonged) pre-trial detention, which came to the attention of the Prosecutors while inspecting prisons and police detention centres.

4.2 THE MOBILE COURT SYSTEM IN TIMOR LESTE⁷

UNDP has been supporting, in partnership with the Australian Agency for International Development, Timorese justice institutions to conduct a pilot mobile justice project in Timor Leste since 2010.

From 2010 to 2012, the District Court of Suai has organized 14 mobile justice sessions in three different locations resulting in 84 cases heard and more than 850 citizens attending mobile justice hearings and outreach sessions. The cases heard were all criminal cases. They included simple cases presided over by a single judge only and more complex cases that required a panel of three judges. The mobile court sessions involved district judges, prosecutors and public defenders, as well as court clerks and administrators, all based in Suai. In a practice that was not observed in other countries evaluated, international judges and trainee lawyers participated. Locations were selected according to a set of criteria that included the number of pending cases, the seriousness of the crimes and the availability of witnesses and security forces to transport them.

Mobile hearings provided opportunities for local communities to see the judicial process in action and to better understand legal procedures. Efforts were undertaken to simultaneously run legal awareness initiatives, but these proved to be exceptionally challenging and it was eventually decided to separate outreach from mobile justice.

Key lessons learned include:

- Technical coordination between justice actors in Suai has proven effective: the Courts, Prosecution and Public Defenders met regularly to discuss mobile courts arrangements and these synergies continued to develop after the close of the pilot project with the establishment of a justice sector coordination forum. There were some difficulties that emerged with regards to coordinating financial aspects of the initiative, which were mainly due to the high number of different institutions involved.
- To avoid paralyzing established courts while the judges from them are away on circuit, a Court of Appeal directive limited the duration of mobile court sessions to a maximum of two days. This has affected the quality of the initiative, particularly when it has resulted in less time for the most complex cases involving multiple witnesses/victims/perpetrators and difficulties in organizing outreach activities. Despite this, the two-day maximum had the positive effect of forcing justice actors to work more efficiently. For example, the final 2012 session in Maliana saw two court rooms operating simultaneously (one with a single judge, one with a panel of judges) to resolve the scheduled cases.

The development of consistent criteria for the selection of cases and the strong coordination support provided by the UNDP A2J team were key elements to the success of the initiative.



Mobile hearings provided opportunities for local communities to see the judicial process in action and to better understand legal procedures.



Court hearing in Maliana, Timor-Leste.
© Slava Mysak, UNDP



Questioning of victim in Same, Timor-Leste.
© Slava Mysak, UNDP

⁷ Adapted from the report "Review of Support for Mobile Justice Initiative by UNDP's Justice System Programme" by UNDP Timor Leste, May 2013.

5

CONSOLIDATED CONCLUSIONS FOR SIERRA LEONE, SOMALIA AND DR CONGO

5.1 RELEVANCE

UNDP's support to mobile courts is aligned with national justice sector strategies in all three countries; national partners (Judiciary or MOJ) found the initiative relevant to supporting the implementation of their strategy and to bringing justice closer to the people affected by conflict. Thus, mobile courts are supported in compliance to the principle of national ownership: in all three countries the intervention is nationally driven and owned. The national financial contribution is, however, limited as 80 percent of the budget for mobile courts is provided by international partners. In DRC, national ownership of planning and monitoring aspects could be strengthened via the model of Somaliland (Somalia) and Sierra Leone, where UNDP has entered into formal agreements with the Judiciary.

Mobile courts are rooted in the three national legal systems and have been recognized since the 1970s. In Somaliland (Somalia) the legal basis could be further detailed. In DRC, meanwhile, the new 2013 Law on the Organization of the Judiciary dedicates an entire Section to mobile courts.

All interventions by UNDP in support of the mobile courts in the three countries appear more focused on the supply side of justice, as support is mainly oriented towards the courts through needs such as transport and allowances. While the mobile courts allowed to improve access to justice of victim in remote areas to some extent additional activities are gradually being introduced in order to ensure that mobile courts address more effectively the needs of vulnerable groups in these areas. The awareness-raising campaign conducted by the University of Hargeisa in Somaliland and the community-based court monitors of Sierra Leone are good initiatives for this purpose.



Monitoring of mobile courts has been challenging in all three countries: the lack of databases to consolidate court statistics and frequent inconsistencies among collected data are common challenges to measuring progress towards targets.

In DRC mobile courts have achieved results in protecting the rights of SGBV survivors, but they have also raised a controversial issue. In particular, donor policies have pressured judges to prioritize SGBV cases at the risk of creating a two-tier justice system.

Justice systems in Somaliland (Somalia) and Sierra Leone seem to have gradually become more responsive to women's needs, but the proportion of women involved in helping women get access to mobile courts and the presence of female legal professionals in mobile teams can still be improved.

5.2 EFFECTIVENESS

UNDP has been supporting mobile courts since 2008 in Somaliland (Somalia) and since 2010 in DRC and Sierra Leone. Mobile justice programming initiatives seem to be more effective when designed under formal agreements with national partners as in Somaliland (Somalia) and Sierra Leone, as such documents provide a framework to identify indicators and targets and ensure the process reflects a participatory approach. Programming in support of mobile courts has been more effective in contexts like Sierra Leone where mobile courts travel on regular circuits in pre-established locations. Baseline data is limited in all three programming interventions but is gradually developing, particularly in Sierra Leone as a result of the ongoing court-users perception survey.

Monitoring of mobile courts has been challenging in all three countries: the lack of databases to consolidate court statistics and frequent inconsistencies among collected data are common challenges to measuring progress towards targets.

Court monitoring activities have been implemented with different modalities in all three countries and have partially filled this gap. In Sierra Leone this role is undertaken by civil society organizations, whereas in Somaliland

(Somalia) and DRC it is done by UNDP staff. In DRC this solution was effective in terms of quality of the results as court monitors were hired with specific legal competences, however the monitoring is not cost-effective. The Sierra Leone approach is more sustainable in the long term and in line with an approach focusing on access to justice for the most vulnerable people, especially since the CSO-sourced court monitors are often members of the communities visited by the mobile courts.

In Somaliland (Somalia), monitoring tools have been developed in collaboration with the Judiciary. The 'mobile court review workshop' there is an innovative practice that has allowed mobile courts operating in different regions to share their experience and discuss common issues.

Results are improving in all three countries, particularly in terms of the number of cases heard. The technical competence of mobile court teams is particularly noteworthy for the development and strengthening of the formal justice system in Sierra Leone and Somaliland (Somalia), where traditional justice mechanisms are strongly prevalent. In DRC, the mobile courts are effective in strengthening the capacity of national authorities to deal with international crimes.

With regard to basic fair trial standards, common concerns in delivering justice services through mobile courts include: the population has limited knowledge of its rights and the role of mobile courts; the presence of lawyers is not always ensured, particularly with regards to defence lawyers in DRC; and coordination between justice and security institutions is weak, particularly in Sierra Leone and Somaliland (Somalia) where mobile courts cannot always rely on effective investigations or prompt enforcement of court decisions.



Mobile justice interventions that promoted coordination among justice and security actors proved to be more effective and efficient.

Defendants in both Sierra Leone and Somaliland (Somalia) suffer from prolonged pre-trial detention due to delays in the arrival of mobile courts and high adjournment rates due to the absence of witnesses in court. The DRC mobile court model did not incur these challenges as a result of the aforementioned integrated approach, which supports all phases of the criminal justice process including investigations and the transport of witnesses and detainees.

5.3 EFFICIENCY

In all three countries the mobile court system is strongly dependent on international donors: an estimated 80 percent of their budgets, which is used for transport, allowances and stationary, is currently covered by international partners. The remaining 20 percent, which is used for salaries for mobile court teams and maintenance of donated vehicles, comes from state budgets. Discussions to promote stronger financial participation of national partners are at an advanced stage in Somaliland (Somalia), ongoing in Sierra Leone, but absent in DRC.

Allowances for mobile court staff have raised some issues. In DRC and Sierra Leone allowances were not harmonized among the different international partners, but were still perceived as fair. In Somaliland (Somalia) allowances were considered too low and were rarely paid by the Judiciary (UNDP funding in Somaliland does not include allowances).

The cost of each mobile court session varies across the three countries: they were found to be cost-effective in Somaliland (Somalia) and Sierra Leone but too high to be sustainable in DRC. This was due to DRC mobile courts requiring flights and stronger security measures, and the initiative there covering a broader set of activities such as witness transportation.

The DRC programme is exemplary in terms of coordination among international partners, as multiple organizations (UNDP, ASF, ABA, MONUSCO,

OHCHR) are contributing technical and financial assistance to the organization of each mobile court session. The Sierra Leone programme also demonstrates positive coordination, with three international partners (UNDP, GIZ and DFID) supporting mobile courts in their respective geographic areas of intervention, thereby ensuring the presence of circuit courts throughout the territory of the country. In neither DRC nor Sierra Leone has this coordination been developed under a formal framework, which would have strengthened the initiative.

Mobile justice interventions that promoted coordination among justice and security actors proved to be more effective and efficient, as illustrated by the experience in DRC with the integrated approach to mobile justice. In Sierra Leone and DRC, police child and family support units, established with UNDP support, facilitated the referral and the follow up of SGBV cases to mobile courts. In Somaliland (Somalia) the strong linkages mobile court judges established with traditional leaders facilitated the implementation of mobile court services.

5.4 SUSTAINABILITY

Some of the preconditions for the mobile courts to continue without international support are in place in all three countries. In particular, all mobile court systems are integrated in the national legal frameworks, they are all implemented independently under the lead of the Judiciary, and have recourse only to local capacities. In Somaliland (Somalia) mobile courts are well accepted by elders and rooted in Somali traditions.

In general, mobile courts are evolving towards technical sustainability as national partners develop the competencies to effectively implement them. However, in practice, due to the lack of financial resources it is unlikely that these initiatives would be maintained independent of UNDP's support in the coming years. This is of particular concern in DRC where mobile court costs are very high and mostly covered by the international community.

Exit strategies for UNDP's support to mobile courts have not been developed in any of the evaluated countries.

5.5 IMPACT

The three evaluated initiatives are relatively recent, so it is premature to assess institutional and behavioural changes that, by their nature, are long-term processes and would require more appropriate methodologies, such as population-based surveys and/or user surveys to assess. The findings below summarize the opinions collected during the evaluation missions and represent a tentative indication of how mobile courts are progressing towards the key objective of improving the delivery of justice services in remote conflict-affected regions.

In all three countries mobile courts have achieved notable and progressive results in improving justice service delivery, as illustrated in the previous paragraphs. It appears, however, that the interventions have not always reflected the UNDP's approach to access to justice, putting vulnerable people at the core of the intervention, because there were few activities in any of the three evaluated countries directly targeting the legal empowerment of mobile court users.

As remote populations often have limited understandings of rights and legal procedures, it is essential to ensure that awareness raising sessions take place before and after the arrival of mobile courts. Moreover, that lawyers, paralegals and interpreters are available to assist mobile court users in navigating and understanding the justice system. The presence of large audiences from local communities during mobile court trials is common in all three countries, however, at this point we are unable to say that mobile courts have achieved an educational objective and promoted legal awareness.

The points below summarize the main changes indicating the positive impact of mobile courts as mentioned by stakeholders and partners during the evaluation interviews.

A) Changes for rights holders (populations and court users):

- Reduced crime rates and conflicts in the villages where mobile courts travel; reduced impunity for international crimes in DRC.
- Reduced costs for litigants and their families when travelling to courts.
- Increased confidence in the formal justice system.
- Growing, although still very limited, legal awareness and participation in court proceedings by rural populations.
- Increased justice opportunities for people living in areas where traditional justice is prevalent.

B) Changes for duty bearers (justice actors)

- Strengthened role of the formal justice system in remote areas; presence of justice institutions where there has never been any before.
- Improved technical capacities of mobile court actors, including in the prosecution of international crimes in DRC.
- Better understanding of justice needs and contexts in remote areas.
- Growing, yet still limited, coordination among justice and security institutions



Exit strategies for UNDP's support to mobile courts have not been developed in any of the evaluated countries.

6

MOBILE COURTS FOR THE PROSECUTION OF INTERNATIONAL CRIMES IN COMPLEMENTARITY WITH THE ICC - DR CONGO

Mobile court systems in the three evaluated countries were also assessed in terms of their contribution to developing the capacities of national institutions to prosecute international crimes in complementarity with the International Criminal Court. In both Sierra Leone and Somaliland (Somalia), due to legal and political obstacles, no prosecutions of international crimes were initiated by the national justice system. However, the mobile court system in DRC is playing a key role in prosecuting international crimes in complementarity with the ICC.

DRC is party to the Rome Statute, but national legislation to domesticate the Statute has not yet been adopted. Meanwhile, military courts have been recognized as having exclusive jurisdiction to hear cases of international crimes such as war crimes and crimes against humanity. As a result of the support from the international community, military courts are gradually consolidating a body of case law in the field of international criminal justice, which has been mainly developed during mobile court trials.

Between 2011 and 2012 UNDP supported, in partnership with other international actors, the prosecution of eight cases of international crimes in eastern DRC, including the landmark Fizi trial in South Kivu, where for the first time in DRC a high ranking military commander was sentenced to 20 years imprisonment for crimes against humanity for the mass rapes committed in Fizi town. During the 2012 mobile court session, organized by the *Tribunal Militaire de Garnison de Bukavu* in Walungu, South Kivu, the court convicted four soldiers of war crimes for rape, looting and killing of civilians. The 10-day mobile trial involved 106 victims including 16 SGBV

survivors and 32 witnesses represented by 4 lawyers. The total budget was \$30,000 – \$70,000 of which was contributed by UNDP.

Mobile courts have proven to be effective in prosecuting international crimes in conflict settings. Hearings have been held in highly insecure areas where permanent civilian or military courts were not available. In some locations, such as Mambasa in DRC, it was the first time the population had seen a formal court. In addition, judges and prosecutors acquired skills in a branch of law that is new in DRC, and mobile courts have promoted a lively debate at the national level on positive complementarity.

Several challenges remain to be addressed, in particular the legislative gap created by the delay in the domestication of the Rome Statute and the issue of coordination between military and civilian courts, which has become urgent after the new ‘law on the organization of the Judiciary’ from April 2013 has extended to civilian courts the jurisdiction for Rome Statute crimes, which was previously limited to military courts.



Mobile courts have proven to be effective in prosecuting international crimes in conflict settings. Hearings have been held in highly insecure areas where permanent civilian or military courts were not available.

7

MODELS FOR IMPLEMENTATION

The three interventions evaluated demonstrate two distinct mobile court models: circuit courts, as in Sierra Leone, and *ad hoc* mobile courts, as in DRC and Somaliland (Somalia).

- **The circuit court model:** A permanent court organizes mobile courts within its territorial jurisdiction in pre-identified locations and according to a yearly schedule, with the objective to: i) hear appeal cases; ii) hear cases for which lower courts do not have jurisdiction; and iii) to sit in substitution of a court that is established by law but not yet in place. This approach is applicable in contexts where mobile courts can be implemented as part of a system of permanent courts that is either functioning or in the process of being established, and is suited to hearing ordinary criminal and civil cases. The circuit court model can be effective in re-establishing the formal justice system after a conflict or civil war, for temporarily responding to a shortage of magistrates, and to clear backlogs and appeals from lower courts.
- **The *ad hoc* mobile court model:** Mobile courts are held to address specific one-time justice needs that arise in remote locations. For example, in DRC mobile courts are often deployed to hear cases of serious human rights violations committed in remote conflict-affected areas. This model is best suited to addressing serious criminal cases, and eventually international crimes, in insecure conflict-affected settings where justice institutions are not present.

7.1 THE WAY FORWARD

The description and assessment of the two mobile court models is intended to provide some guidance to planners of mobile justice initiatives and to draw attention to the distinct programmatic



approaches that underline each model. This knowledge can be used to ensure that recommended preconditions are in place, challenges anticipated and standard activities included. These two approaches to mobile justice are quite distinct but are not mutually exclusive, so a combination of the two models can be envisaged. A variety of implementation modalities can subsequently be developed according to the context and the specific needs, resulting in, for example, military mobile courts, mobile courts in prisons to address pre-trial detention, or gender-based mobile courts.

- ▶ **Ad hoc models** will require a special focus on developing a strong case referral system and pre-defined criteria for the selection of cases. The high profile cases heard by *ad hoc* mobile courts should be seen as tools for advocating change in legal practice and promoting debate on key legal issues, so planners and practitioners should maximize efforts to disseminate results achieved. The strength of this model is its capacity to fight impunity in remote areas where no permanent justice services are available. However, it has proven to be very weak in terms of sustainability, mainly because of the high costs of undertaking activities that need to be carried out in preparation of mobile sessions, such as investigations, transfer of detainees, communications and security, in the absence of justice and security institutions in remote areas.
- ▶ Supporting **circuit court models** requires special attention when planning the circuit locations and dates, when establishing frameworks for cooperation with justice and security institutions in field locations, and when promoting opportunities for communities to participate in mobile justice initiatives. This model facilitates the integration of legal empowerment approaches and is a tool to strengthening the effectiveness of justice systems in remote areas by clearing backlogs, supervising lower courts and increasing the confidence of the population in formal courts, as well as developing legal awareness.

The specific country context will determine if mobile justice is an appropriate intervention to decentralize justice services, and which implementation model is most suitable. Criteria that should be taken into consideration include the status of the justice sector, the number of available judges, the geography of the country, the type of crimes that need to be addressed and their priority, the security situation and the phase of conflict.

Given the high costs and limited sustainability of *ad hoc* mobile courts they should be reserved for a select number of high profile cases, such as international crimes or cases that would set a legal precedent. Circuit courts, meanwhile, are suitable for ordinary cases, both criminal and civil.

This evaluation's findings indicate that mobile courts are less effective if implemented with an exclusive focus on the trial phase and without assisting the population to understand the legal procedures. A common recommendation for both mobile court models is therefore to include complementary activities aimed at: i) supporting all phases of the criminal justice chain; ii) promoting coordination among justice and security actors; and iii) ensuring mobile court users understand the legal procedures and are aware of their rights.

Given the high costs and limited sustainability of ad hoc mobile courts they should be reserved for a select number of high profile cases, such as international crimes or cases that would set a legal precedent.

7.2 POINTS FOR CONSIDERATION IN SUPPORTING MOBILE COURTS SYSTEMS

Based on lessons learned from the three evaluated interventions, below are some key recommendations for UNDP Country Offices that are considering supporting mobile court systems.

LEGAL FRAMEWORK	<ul style="list-style-type: none"> – Ensure that mobile courts are recognized in the national legislation and, eventually, provide technical assistance to strengthen the legal framework for mobile justice initiatives. – Promote the inclusion of mobile courts in national justice strategies.
PLANNING	<ul style="list-style-type: none"> – Undertake an analysis to identify the mobile court model most appropriate for the context, that is, circuit courts, ad hoc mobile courts or a combination of both. Areas to be assessed include the recurrence and type of crimes and disputes in each judicial district, and the mapping of justice and security actors in remote locations. – Promote an integrated approach that addresses all phases of the criminal justice chain as well as the demand side of justice, that is, the needs of the population. – Promote complementary activities, such as providing assistance to sustainably improve the conditions of service for judges and recruit additional ones, aimed at establishing permanent courts in remote areas to gradually reduce the number of mobile courts. – Ensure that support to mobile courts is defined in formal letters of agreement with the national partner—the Judiciary or eventually the MOJ—and include detailed results frameworks and budgets.
MONITORING	<ul style="list-style-type: none"> – Develop tools to monitor mobile courts in cooperation with the Judiciary and eventually in complementarity with a court management system. – Ensure that SMART indicators and targets, as well as a database to consolidate mobile court statistics, are available. – Support, at least in an initial phase, the position of a Mobile Court Coordinator in the Judiciary, with a special focus on monitoring activities. – Promote a network of court monitors sourced from members of the communities visited by mobile courts or specialized CSOs. – Disseminate landmark cases disposed by mobile courts and carry out regular case-audits. Publications providing an analysis of mobile court decisions can be useful tools to improve judicial practice without interfering with the independence of the judges.
INTERNATIONAL PARTNESHIPS	<ul style="list-style-type: none"> – Promote partnerships with other international organizations by ensuring that either: i) the contribution of each partner to a mobile court intervention occurs in accordance to their mandate and comparative advantage, or ii) the geographic area of the intervention is divided in order to ensure the mobile courts cover the widest possible area of the State. – Ensure that international partners provide equivalent allowance rates for mobile court staff and other financial contributions. – Establish official mechanisms such as joint strategies, coordination meetings and basket funds to ensure effective coordination among international partners.
COORDINATION AMONG MOBILE COURT ACTORS	<ul style="list-style-type: none"> – Promote linkages between lower courts and higher courts on circuit—visits from higher courts provide opportunities to improve the practice and jurisprudence of lower courts. Annual review workshops with all justice actors can be used to sharpen and inform their shared vision. – Strengthen coordination with the police to establish clear case-referral mechanisms and to ensure prompt transfer of remandees to prison facilities in order to avoid prolonged pre-trial detentions. – Encourage Prosecutors to visit prisons and police detention centres during mobile court sessions to verify the standard and legitimacy of pre-trial detentions. – In countries where traditional justice is prevalent, involve traditional leaders in mobile court activities to facilitate the acceptance of formal courts in remote areas and to reduce the number of cases settled out of court, particularly SGBV cases.

PROCEDURAL ISSUES	<ul style="list-style-type: none"> – Ensure that mobile court users are represented by lawyers, at least in criminal cases. To this end legal aid schemes should be developed and/or lawyers should be supported to establish their practices in remote districts, with the specific objective of assisting mobile courts. – Ensure that court fees exemption procedures and related criteria to assess the vulnerability of mobile court users are in place. – Provide interpretation services to address difficulties court users have in understanding the procedures due to language barriers. – Ensure respect for the right to be tried without undue delay and closely monitor adjournment rates. – Ensure the protection of victims and witnesses, particularly in SGBV cases. – Ensure that court decisions are executed and that victims of serious human rights violations receive reparations.
LEGAL AWARENESS FOR MOBILE COURT USERS	<ul style="list-style-type: none"> – Support activities to assist court users in remote areas to understand legal procedures and the role of mobile courts. In particular: <ul style="list-style-type: none"> i) Develop community-based paralegal networks to organize awareness raising sessions in the communities and offer other services such as assistance to lawyers in preparing their cases, witness tracking and, eventually, court monitoring; ii) Assist universities to hold awareness raising sessions in remote locations with the support of law students and trainee lawyers; iii) Encourage mobile court staff to ensure their availability for brief Q&A sessions at the end of the hearings.
FINANCIAL ARRANGEMENTS	<ul style="list-style-type: none"> – Ensure that allowances for mobile court teams are aligned with local income expectations and are perceived as fair to avoid creating unsustainable expectations that could hamper efforts to a gradual increase of cost coverage for mobile courts by the national partner. – Encourage national partners to contribute to mobile court budgets, and not only in terms of in-kind contributions. – Apply transparent and harmonized financial procedures to all the institutions (police, judiciary, prisons) contributing to mobile courts. – Basket-funds managed jointly by national and international partners should be established in contexts where several donors are contributing to the mobile court system and the national partner is still developing the competencies required to manage funds independently.
SUSTAINABILITY	<ul style="list-style-type: none"> – Define an exit strategy identifying the priorities to be addressed in preparation for the transfer of responsibilities to the national partner. – Ensure that judicial authorities are actively involved in all mobile court related activities, including planning and monitoring. – Assist the Judiciary in lobbying at the national level for the allocation of a specific budget for mobile courts.
COMMUNICATION	<ul style="list-style-type: none"> – Ensure that the population and the parties to the cases are informed in a timely manner about the arrival of mobile courts and ensure that the pre-established schedule is respected. – Disseminate information about the objectives, role and achievements of mobile courts among the international community.
WOMEN AND CHILDREN'S RIGHTS	<ul style="list-style-type: none"> – Encourage mobile courts to dedicate special attention to SGBV cases without adopting the 'gender mobile court' model. In particular: <ul style="list-style-type: none"> i) Promote special measures to protect SGBV survivors in court proceedings, such as 'in camera' hearings and protection orders in case of domestic violence; ii) Train judges and judicial staff on the promotion of women's rights and the prosecution of SGBV cases; iii) Ensure female legal practitioners are part of mobile court teams.

ANNEX I

Evaluation of UNDP support to mobile courts arrangements in post-conflict situations EVALUATION MATRIX

1. RELEVANCE

Relevance concerns the extent to which a development initiative and its intended outputs or outcomes are consistent with national and local policies and priorities and the needs of intended beneficiaries. Relevance also considers the extent to which the initiative is responsive to UNDP corporate plan and human development priorities of empowerment and gender equality issues. Relevance concerns the congruency between the perception of what is needed as envisioned by the initiative planners and the reality of what is needed from the perspective of intended beneficiaries. It also incorporates the concept of responsiveness—that is, the extent to which UNDP was able to respond to changing and emerging development priorities and needs in a responsive manner. An essential sub-category of relevance is the criteria of appropriateness, which concerns the cultural acceptance as well as feasibility of the activities or method of delivery of a development initiative.⁸

QUESTIONS & SUB-QUESTIONS	DATA SOURCES	DATA COLLECTION METHOD
<p>Q1.1 To what extent do the mobile courts' support interventions respond to the priorities outlined in national strategies?</p> <ul style="list-style-type: none"> ▶ What is the legal basis for implementing mobile courts? ▶ Are a national strategy and a national budget available for MC? ▶ Is there an MOU between UNDP and the Judiciary/MOJ to support mobile courts? ▶ Has the Judiciary implemented MC without the support of international donors? If so, what were the results? ▶ How does the country legal system (civil/common law, pluralistic..) influence mobile courts arrangements? 	<ul style="list-style-type: none"> - National legislation - National Justice Sector strategies - MOU between UNDP and Judiciary 	<ul style="list-style-type: none"> - Online research - Request CO/HQ - Interviews: judicial authorities...
<p>Q1.2 How well do programming and implementation modalities match the needs of the population and national partners?</p> <ul style="list-style-type: none"> ▶ What influenced UNDP's decisions on where, how and to what extent to engage in supporting mobile courts? Was the decision discussed with relevant stakeholders? ▶ Was a needs assessment conducted before launching the mobile court intervention? Was the Judiciary involved? ▶ Which are the most vulnerable groups in the country? Are they targeted by mobile courts interventions? ▶ To what extent were issues related to the restorative v. retributive conception of justice in remote areas taken into consideration? 	<ul style="list-style-type: none"> - Needs assessment or baseline analysis reports (by UNDP, Judiciary or other actors) - Research reports - Reported opinions from key informants 	<ul style="list-style-type: none"> - Online research - Request CO/HQ - Interviews: MOJ, judicial authorities, UNDP staff...
<p>Q1.3 What was the relevance of mobile courts assistance for other priorities of UNDP Rule of Law programmes and the cross-cutting areas of gender equality, capacity building and national ownership?</p> <ul style="list-style-type: none"> ▶ Were synergies established between MC and other components of UNDP Rule of law programmes (Legal aid, Paralegalism, Policing ...)? If so, what was the added value of a mobile court component? ▶ How was gender mainstreamed across the mobile court intervention? ▶ Have mobile courts interventions utilized existing local capacities of rights holders and duty bearers to achieve their results? How were their capacities strengthened? 	<ul style="list-style-type: none"> - UNDP documents: CPAP/ UNDP project documents /BCPR field visits reports/ BCPR integrated projects/ evaluation reports... - Reported opinions from key informants 	<ul style="list-style-type: none"> - Request CO/HQ - Interviews: UNDP staff...

⁸ "Handbook on Planning, Monitoring and Evaluating for Development Results", UNDP, 2009.

2. EFFECTIVENESS

Effectiveness is a measure of the extent to which the initiative's intended results (outputs or outcomes) have been achieved or the extent to which progress toward outputs or outcomes has been achieved.

QUESTIONS & SUB-QUESTIONS	DATA SOURCES	DATA COLLECTION METHOD
<p>Q2.1 What model of MC emerges from the CO practice?</p> <ul style="list-style-type: none"> ▶ What is the composition of the MC? How are the judges/prosecutors/lawyers selected to participate? ▶ What is the jurisdiction of mobile courts with regards to subject matters, litigants and geographical coverage? ▶ What is the average distance between the permanent tribunal and the mobile court? ▶ How long does the mobile court session last and how often does it visit the same area per year? ▶ To what extent have interventions addressed transitional justice process and impunity of international crimes? 	<ul style="list-style-type: none"> - Databases /statistics - Map of the judiciary - Project document - Reported opinions from key informants 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice... - Request CO/HQ
<p>Q2.2 What results (quantitative and qualitative) were achieved in each phase of mobile court interventions?</p> <p><u>PHASE 1: BEFORE MOBILE COURT SESSIONS</u></p> <ul style="list-style-type: none"> ▶ What support did UNDP ensure to the logistical aspects of mobile courts (transport, courtroom, accommodation, office and legal material for judges on circuit)? ▶ Were the population and local authorities informed about the arrival of the mobile court in an appropriate and timely manner? ▶ Were investigations in criminal cases effectively conducted? Were eventual pretrial detention issues addressed? Were linkages between Prosecutors and Police promoted? ▶ Were notifications of procedural acts issued and communicated in a timely manner? ▶ Were specific trainings for mobile court staff organized (knowledge of the local culture and traditional law practices, gender/child rights...)? <p><u>PHASE 2: DURING MOBILE COURT SESSIONS</u></p> <ul style="list-style-type: none"> ▶ How many and what cases received free legal aid from a lawyer? Was the Bar Association involved? ▶ How many witnesses appeared before the mobile court? Which measures were in place to protect witnesses and victims, and in particular SGBV victims? Is there a "travel cost reimbursement program" to assist witnesses and victims to appear in court? ▶ Were hearings translated into local languages? ▶ How many people participated in the public hearings? Were they assisted in better understanding the hearings? ▶ Were mechanisms in place to ensure the security of mobile court staff? ▶ Were the proceedings adequately recorded? Are there higher rates of adjournment for MC proceedings? <p><u>PHASE 3: AFTER MOBILE COURT SESSIONS</u></p> <ul style="list-style-type: none"> ▶ How many judgments were enforced (criminal/civil)? ▶ Were mechanisms in place to enforce prison sentences in the absence of local prison facilities? ▶ What is the rate of appeal of MC decisions? ▶ Are there mechanisms in place to ensure the communication of MC decisions to the rest of the justice chain to ensure decision enforcement and information sharing? ▶ Were parties assisted to collect eventual financial compensation that they were awarded? ▶ If alternative sanctions to imprisonment were applied (community services), was a follow up ensured? 	<ul style="list-style-type: none"> - Project performance indicators - Databases/ statistics - UNDP quarterly and annual reports - MC reports - Judiciary reports - Research studies - Reported opinions from key informants 	<ul style="list-style-type: none"> - Interviews: Ministry of Justice, judicial authorities, police, prison staff, traditional authorities, lawyers, other implementing partners, UNDP staff... - Focus group with beneficiaries

<p>Q2.3 Were planning and monitoring procedures appropriate to achieve results and ensure accountability?</p> <ul style="list-style-type: none"> ▶ Is a clear results framework with SMART indicators, targets and risks analysis available? ▶ What monitoring tools are available? Are court statistics available? ▶ Are national partners involved in monitoring activities? ▶ Is there a system in place for trial observation? ▶ Is feedback from mobile court users collected to assess needs and adjust services accordingly? ▶ How is the quality of mobile court judgments assessed? ▶ Are landmark cases identified and disseminated? 	<ul style="list-style-type: none"> - Project document and results framework - UNDP quarterly and annual reports - Evaluation reports of broader ROL projects - Reports drafted by MC staff 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice...
<p>Q2.4 What were the reasons for achievement and non-achievement of results and the factors contributing or hindering their achievement?</p> <ul style="list-style-type: none"> ▶ How can UNDP build upon or replicate the achievements? ▶ How can the shortcomings be overcome? ▶ What are the lessons learned? ▶ Were there any unanticipated events, opportunities or constraints? ▶ What could be done differently in the future? ▶ What were the unintended results (positive/negative) 	<ul style="list-style-type: none"> - Reported opinions from key informants - UNDP quarterly and annual reports - Judiciary reports 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice, Mobile court staff...
<p>3. EFFICIENCY <i>Efficiency measures how economically resources or inputs (such as funds, expertise and time) are converted to results. An initiative is efficient when it uses resources appropriately and economically to produce the desired outputs. It is also important to assess how the partnership strategy has influenced the efficiency of UNDP initiatives through cost-sharing measures and complementary activities.</i></p>		
<p>QUESTIONS & SUB-QUESTIONS</p>	<p>DATA SOURCES</p>	<p>DATA COLLECTION METHOD</p>
<p>Q3.1 Has the MC intervention been implemented within its cost estimates and is it cost-effective?</p> <ul style="list-style-type: none"> ▶ Were sufficient resources allocated for mobile courts' support interventions? Is the national government contributing to the budget for MC? ▶ Are the expenditures for MC proportionate to the number of cases and broader indicators as the number of participants in public hearings? ▶ What are the costs per trial? Would it be cheaper to build court rooms and provide staff in remote areas? ▶ Are per diems for judges and MC staff in line with local market? 	<ul style="list-style-type: none"> - Resource frameworks, budgets, AWP, - Reported opinions from key informants - UNDP quarterly and annual reports - MOJ reports 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice... - Request CO/HQ
<p>Q3.2 Has UNDP promoted a partnership strategy at the global, regional and national level to implement MC interventions? If so, was it effective and appropriate?</p> <ul style="list-style-type: none"> ▶ What was the nature and added value of these partnerships? ▶ Did such partnerships promote an integrated approach aiming at addressing complementary aspects of mobile courts interventions (legal awareness for the population; support to police and prisons; linkages with traditional justice ...) ▶ Were UNDP's comparative advantages perceived/ interpreted and were these reflected in the division of responsibilities? ▶ If the Judiciary received specific support for mobile courts interventions from several donors, were the initiatives efficiently coordinated? 	<ul style="list-style-type: none"> - UNDAF - Partnership agreements/ MOU - Reported opinions from key informants 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice, Protection cluster, UN agencies and INGOs, civil society organisations, universities... - Request CO/HQ
<p>Q3.3 What effect did UNDP technical assistance and management arrangements have on the quality of mobile courts interventions in terms of programming, delivery and monitoring for results?</p> <ul style="list-style-type: none"> ▶ Were the project management structure and the administrative modalities appropriate and effective? ▶ Was the support from UNDP staff effective and timely? 	<ul style="list-style-type: none"> - Project document and monitoring reports - Reported opinions from key informants 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice, Mobile court staff...

<p>Q3.4 Did mobile courts interventions focus on the set of activities that were expected to produce significant results?</p> <ul style="list-style-type: none"> ▶ Are all the planned activities implemented? Should additional activities be planned? ▶ Are mobile courts ensuring the implementation of the international standards of fair trial? Would some of the fair trial rights need more attention? 	<ul style="list-style-type: none"> - Project document - Reported opinions from key informants - International standards on fair trial 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice, other implementing partners...
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4. SUSTAINABILITY

Sustainability measures the extent to which benefits of initiatives continue after external development assistance has come to an end. Assessing sustainability involves evaluating the extent to which relevant social, economic, political, institutional and other conditions are present and, based on that assessment, making projections about the national capacity to maintain, manage and ensure the development results in the future.

QUESTIONS & SUB-QUESTIONS	DATA SOURCES	DATA COLLECTION METHOD
<p>Q4.1 To what extent were sustainability considerations taken into account in the design and implementation of interventions?</p> <ul style="list-style-type: none"> ▶ Were exit strategies for mobile courts interventions appropriately defined and implemented? ▶ What steps were taken to ensure that the effects of the intervention would continue beyond UNDP's support? ▶ Has the development of partnerships contributed to the sustainability of results 	<ul style="list-style-type: none"> - Project document - Annual reports - Reported opinions from key informants 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Ministry of Justice, Judiciary other implementing partners...
<p>Q4.2 How were different stakeholders engaged designing, monitoring and implementing mobile courts interventions?</p> <ul style="list-style-type: none"> ▶ Has UNDP promoted and facilitated the coordination among local justice and security actors (Police, Prisons, Traditional justice, local authorities...)? ▶ Have linkages been established between mobile courts and ADR mechanisms? (for example to establish mandatory court annexed mediations). 	<ul style="list-style-type: none"> - Project document - Annual reports - Reported opinions from key informants 	<ul style="list-style-type: none"> - Interviews: UNDP staff, Judiciary, Ministry of Justice, Police, Prison staff, traditional authorities, local authorities...

5. IMPACT

Impact measures changes in human development and people's well-being that are brought about by development initiatives, directly or indirectly, intended or unintended.

QUESTIONS & SUB-QUESTIONS	DATA SOURCES	DATA COLLECTION METHOD
<p>Q5.1 What changes did mobile courts interventions bring for rights holders in terms of making justice more accessible to them?</p> <ul style="list-style-type: none"> ▶ Have MC interventions promoted a better confidence in the justice system? Is there a perception that impunity is being addressed? ▶ Are vulnerable groups in remote areas more aware of their rights and do they have a better understanding of the formal justice system? ▶ Do MC provide an alternative to traditional justice? 	<ul style="list-style-type: none"> Reported opinions from key informants 	<ul style="list-style-type: none"> Focus groups with beneficiaries and interviews with their lawyers / Eventual users perception survey
<p>Q5.2 What changes did mobile courts interventions bring for duty bearers in terms of making them more effective in responding to justice need of conflict affected populations in remote/underserved areas?</p> <ul style="list-style-type: none"> ▶ What is the impact of MCs on ordinary courts (in terms of case backlog, promoting case management systems, costs)? ▶ What was the impact on ordinary courts of assigning judges and other judicial staff to mobile courts? ▶ Have MC interventions led to the re-establishment of the justice system eventually in conflict-affected areas? ▶ Have MC interventions promoted closer coordination among the different actors in the justice chain? ▶ Have judicial authorities acquired additional skills and knowledge in terms of managing a MC intervention? 	<ul style="list-style-type: none"> Reported opinions from key informants 	<ul style="list-style-type: none"> Interviews: Judicial authorities and Ministry of Justice, Police, Prison staff, traditional authorities



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