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# Strengthening Rule of Law and Access to Justice for the Disadvantaged Groups and Marginalized Communities

Annual Rule of Law and Access to Justice Regional Community of Practice Forum 2011

National Human Rights Institutions

**Gender Mainstreaming**

**Rights of Minorities**

**Women's Rights**

**Legal Aid**

**Marginalized Communities**

**Access to Justice**

**Rule of Law**

**Legal Empowerment**

**Victim Support**

**Persons Living with HIV/AIDS**

**Disadvantaged Groups**

Parliamentary Development

# Strengthening Rule of Law and Access to Justice for the Disadvantaged Groups and Marginalized Communities

**Annual Rule of Law and Access to Justice  
Regional Community of Practice Forum 2011**

Izmir, Turkey  
September 2011

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**REPORT**

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1 Hereafter referred to in the context of the UN Security Council Resolution 1244 (1999)

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# Abbreviations and Acronyms

A2J	Access to Justice
BDP	Bureau for Development Policy
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CIS	Commonwealth of Independent States
CoP	Community of Practice
CPO	Croatian People's Ombudsman
CPR	Crisis Prevention and Recovery
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
DFID	Department for International Development
DGG	Democratic Governance Group
DGTTF	Democratic Governance Thematic Trust Fund
ECIS	Europe and the Commonwealth of Independent States
GONGO	Government organized non-governmental organization
HR	Human Rights
HRJ	Human Rights and Justice
ICC NHRI	International Coordinating Committee of National Human Rights Institutions
ICF	International Classification of Functioning, Disability and Health
IDLO	International Development Law Organization
ILD	Institute of Liberty and Democracy
LA	Legal Aid
LEP	Leal Empowerment of the Poor
LGBT	Lesbian, gay, bisexual, and transgender
MDG	Millennium Development Goal
MP	Member of Parliament
NGO	Non-governmental Organization
NHDR	National Human Development Report
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture
OSI	Open Society Institute
RCC	Regional Cooperation Council
RHDR	Regional Human Development Report

RoL	Rule of Law
SEE	South East Europe
SEESAC	South Eastern and Eastern Europe Clearinghouse for the Control of the Small Arms and Light Weapons
SEPCA	Southeast Europe Police Chief Association
SG	Secretary-General
TTF	Thematic Trust Fund
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNCT	United Nations Country Team
UNDAF	United Nations Development Action Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UPR	Universal Periodic Review
WHO	World Health Organization
WPON	Women Police Officers Network
WVS	Witness and Victim Support

# 1

## Background

*“Promoting the rule of law at both the national and international levels is at the very heart of the United Nations’ mission. The principle that everyone – from the individual right up to the State itself – is accountable to laws that are equally enforced and independently adjudicated is a fundamental concept. It drives the UN’s work in all areas and at all levels – from the maintenance of peace and security to sustainable development.”*

Dr. Asha-Rose Migiro,  
UN Deputy Secretary-General and Chair of the  
Rule of Law Coordination and Resource Group

In the past decade equitable and accessible justice has increasingly been recognised as key component in promoting good governance, rule of law and poverty reduction. Transition positioned justice sector reform as a priority for many countries in Europe and the CIS which have succeeded to a large extent in creating effective and efficient governance systems that respect the rule of law and human rights. Many countries in the region have established laws and institutions, such as judicial bodies, national human rights commissions or ombudsman offices, which protect human rights and ensure access to justice.

However, some of those initial reform initiatives were undertaken without adequate and appropriate consultation with the beneficiaries,

particularly marginalized and disadvantaged groups. A balanced, multi-level approach in improving access to justice and human rights was missing from the regional discourse.<sup>2</sup> Discriminatory practices, biases within institutions, and inadequate legal frameworks still produce social exclusion.

Almost all countries in the region underwent Universal Periodic Review – the UN Human Rights Council process – in the past three years, with Moldova and Tajikistan being scheduled for October this year. Some important issues that can be derived from the UPR recommendations concerning rule of law and access to justice with a special focus on disadvantaged include:

- There is a substantial difference between what law establishes and what happens de facto. Similarly, disadvantaged people often have grievances (e.g. forced eviction, rape, torture) that they do not feel empowered to address through the legal systems, particularly where laws do not provide specific protection;
- Formal justice systems have generally not reached out to most disadvantaged people, who are generally not able to access those systems;
- Although formal legal ways to access justice may exist, these are usually not utilised by disadvantaged people partly due to distrust, alienation and lack of knowledge.

<sup>2</sup> Regional Human Development Report: Beyond transition, towards inclusive societies:  
<http://europeandcis.undp.org/home/show/BCBE0C20-F203-1EE9-B455A13AB9956F84>



According to the 2009 UNDP BRC<sup>3</sup> *Report on the UNDP access to justice survey in Europe and the Commonwealth of Independent States*<sup>4</sup>, the highest percentage among vulnerable/marginalized groups in Europe and CIS belongs to that of women and children, both groups at 64.3 percent. Others include the elderly, persons with disabilities, persons with HIV/AIDS, ethnic minorities, persons of a non-heterosexual orientation, refugees, largely in the countries of the Western Balkans, migrant workers and asylum seekers.

The UNDP (Europe and the CIS) has initiated a number of justice sector projects in various countries in the region; supporting reform processes and finding ways in which the judiciary would be more effective, transparent and responsive in delivering services to people with a special focus on disadvantaged groups.

The events in 2011 – Sub-Regional Training on Strategic Planning and Communication for the NHRIs in South-east Europe/Western Balkans in Zadar (4-6 May 2011), Regional Conference on Human Rights and Social Justice for the Persons with Disabilities in Ashgabat (2-3 June 2011), Regional Policy Dialogue on Legal Empowerment in Kyiv (21-22 July 2011) – are clear evidence of increasing recognition for the importance of social inclusion within a broader UNDP human rights and justice agenda.

Furthermore, one of the key outcomes of the Regional Legal Empowerment Policy Dialogue was agreement to connect and partner with UNDP practices in supporting justice and related systems so that they work for those who are poor and disadvantaged. Inclusive growth, as one of the key elements of sustained poverty reduction, is strongly connected to law and development, particularly when it comes to ensuring access to justice for the poor and

vulnerable. Rule of law, legal empowerment and legal institutions, which are inclusive and accessible to the poor and disadvantaged, are imperative to ensure the rights of participation, especially for those most likely to be excluded, thus contributing to achieving objectives of the inclusive growth.

### Forum Objectives:

1. Promote policy and programming discussion about challenges faced by disadvantaged groups and marginalised communities, with a special focus on women and minorities in accessing justice system;
2. Present lessons learned and good practices in use of mechanisms for facilitating access to justice for disadvantaged groups and marginalised communities (from the UN programmes, CSOs and governmental or independent institutions);
3. To provide a forum for the members of the Regional Community of Practice (CoP) to meet and discuss specific challenges, issues and lessons learned in designing and implementing DGTTF<sup>5</sup> projects to better inform future initiatives maximising cross-practice approach, wherever possible.

Apart from showcasing the good practices and identifying challenges for UNDP development programming in the region, the Annual Rule of Law and Access to Justice CoP Forum featured presentations from experts in the field of rule of law, access to justice, gender, minority, and other issues.

The event was divided into four major thematic sessions:

1. Strengthening Rule of Law and Access to Justice
2. Making Justice Work for the Disadvantaged Groups and Marginalised Communities

3 UNDP Regional Centre for Europe and the CIS, often referred to as Bratislava Regional Centre - BRC

4 <http://europeandcis.undp.org/uploads/public1/files/access%20to%20justice%20.pdf>

5 UNDP Democratic Governance Thematic Trust Fund

[http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/democratic\\_governancethematictrustfund/](http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/democratic_governancethematictrustfund/)

3. Legal Empowerment from the Regional Perspective
4. The Role of the Civil Society Organizations in Strengthening Access to Justice by the Disadvantaged Groups and Marginalized Communities – Road Map for the Future
5. Advancing Rights and Justice Through Innovative and Catalytic Projects – Peer Review

The CoP Forum in Izmir was expanded to include peer review of relevant Human Rights and Access to Justice DGTTF projects. This was to create further synergies with some of the catalytic initiatives being implemented at the country level. Findings and recommendations of the review panel are contained in the DGTTF Peer Review report: *Advancing Rights and Justice through innovative and catalytic projects* (Annex III).

# 2

## Strengthening Rule of Law and Access to Justice

UNDP has used many different entry points into access to justice programming in the region. One of UNDP's most visible strengths is identifying gaps/niches in development programming and designing appropriate interventions/projects to address them.

The specific objective of this session was to inform the design of future programmes and to identify replicable/catalytic approaches and/or innovative examples.

### Country presentation: Turkey

Turkey became an associate member of the European Union in 1999. Turkey's efforts towards accession to the European Union and the obligations to harmonize legislation with the *Acquis* of the EU and its Member States have driven extensive reforms in the judicial, law enforcement and corrections sectors. On its accession path, Turkish Government is actively following National Programme for the Adoption of the *Acquis*. However, apart from European Union membership process, the judicial reform in the new millennium is also driven by various other factors. Since 2001, Turkish economy has been one of the strongest in the world. Fast growing and developing economy as well as social, cultural and technological developments were positive contextual factors that influenced judicial reform efforts over the past decade. On the other side, increasing demand from the public for more freedom and democracy, non-confidence crisis experienced in the judicial

system, and demands and expectations of international community pushed the judicial reform agenda at the front of overall democratic reform efforts in the Country.

Judicial Reform Strategy and Strategic Plan of the Ministry of Justice (2009 – 2014) were developed as the two main strategic documents underpinning the judicial reform process.

### Human resources, physical and technological infrastructure in light of the judicial reform in Turkey in the new millennium<sup>6</sup>

In the last decade:

- Total number of judges and prosecutors was increased by 26%, and the number of auxiliary staff by 75%;
- Budget for judicial services was approximately doubled and was not affected by the global economic crisis;
- Justice Academy of Turkey was established in order to meet educational needs of justice system employees;
- Modern penal institutions were established, and those penal institutions that failed to meet the international standards were closed;
- In this period, 143 courthouses were built.

<sup>6</sup> Presentation by Alpaslan Azapagasi, Judge, Ministry of Justice of the Republic of Turkey

Reform activities undertaken to date included structural changes and changes of legislative framework, but have also affected human resources, physical and technological infrastructure.

However, further efforts are needed in order to achieve objectives contained in the Ministry of Justice Strategic Plan. UNDP Turkey together with the Ministry of Justice is implementing several projects in support of the judicial reform initiatives of Turkey for increased access to justice and enhanced efficiency of the judiciary:

- Support to Improvement of Practice of Mediation in Criminal and Civil Justice System – the project aims to support the Government of Turkey to improve practices of alternative dispute resolution in criminal and civil justice system in Turkey. The project will achieve this through capacity enhancement and awareness raising programmes;
- Development of Preventive Justice Programmes for Legally Empowered Citizens and Increased Access to Justice for All in Turkey – the project aims to support the endeavours of the Government of Turkey, within the scope of the ongoing justice reform, for legally empowered citizens who have enhanced access to justice. The project will achieve this through activities for institutional and individual capacity assessment in the justice sector, and through activities for public awareness on legal rights.

### **Judicial reform in Turkey within the wider context of the rule of law and access to justice**

#### NATIONAL JUDICIARY INFORMATICS SYSTEM – UYAP

UYAP has been designed in order to improve the functioning and efficiency of the judiciary and to create an effective and less bureaucratic judicial system for the concerned institutions and individuals. Its main features are:

- As a central network project it includes all of the courts, public prosecutors services, prisons, other judicial institutions and other government departments in Turkey;
- All judiciary processes, case management, trials, correspondence and transactions were transmitted into the electronic environment which enables paperless office structure;
- It is now possible to access electronically every kind of data which is needed during both civil and criminal proceedings - all legislation, regulations, circular letters, template texts, holdings of the courts, jurisprudence, studies, exemplary texts, sample decisions;
- The SMS judicial information system provides an outstanding service for the citizens and lawyers: they can be instantly informed by SMS about any kind of legal event related to them without going to courts – ongoing cases, dates of court hearings, the last change in the case and suits or debt claims against them;
- Lawyers and citizens can examine all their files, deposit their case fee, submit any document or claim and file a case to any court of Turkey through the Internet, by using their e-signature;
- Decision Support System - in every stage of investigation, especially during the hearings, the system may suggest some proposals to the users whenever they request, or may warn the users in order to prevent basic judicial errors;
- “Video conferencing systems” were set up in 225 criminal courts across the Country, and the mobile video conference vehicles are also about to be introduced;
- Today’s number of UYAP users exceeds 60.000 with almost 40.000 average system logins per day.

#### PROBATION SERVICES

Probation and Assistance Service in Turkey was established in 2005. To date, Probation and Assistance Centre Branches were founded in 134 regions, and are connected to the Chief Public Prosecution. Duties of the Turkish Probation Service are:

- Supervision and follow up of the offenders
- After-care and reintegration services – services provided to 3.063 offenders released from prisons between 2006-2011
- Assistance services for victims – support provided to 553 victims between 2006-2011
- Assistance to courts – 33.959 social investigation reports were prepared between 2006-2011

## TURKISH JUSTICE ACADEMY

Turkish Justice Academy was established in 2003 with the following duties:

- In Service Training activities – more than 3.200 judges, prosecutors, lawyers and notaries received training in the period from 2004-2010;
- Consultancy and advisory services – the Academy provides consultancy services and delivers opinions concerning national and international law and justice and professional matters;
- Review, research and publications – the Academy issues Law and Justice Review Journal, Human Rights Journal, and Journal of Justice Academy of Turkey;
- Documentation services – the library of the Academy contains over 15.000 documents, publications, and pieces of legislation;
- Pre-service Training and Internship – more than 3.900 trainees received initial training in the period from 2003-2010.

### Rule of Law presentation: Kosovo

The reform of the judiciary is a part of the normative and institutional changes needed to bring Kosovo in line with international norms and standards. In support of these changes, UNDP Kosovo is implementing a justice programme which consists of the two main pillars.

The current number of judges and prosecutors serving actively in Turkey is 14.009. Among these, only 2.801 judges and prosecutors (20%) are women.

However, considerable development is being experienced in this field: the current rate of women judge and prosecutor candidates in the Education Centre of Justice Academy is 60%.<sup>7</sup>

The first pillar, the **Rule of Law institutional capacity building**, aims to provide support to capacity building of justice institutions in Kosovo, as well as support to professionalism and reform of overall practices in the sector. Continuous improvement of the skills of judges and prosecutors remains a primary concern. In order to achieve it, there is need to establish continuous legal education in the form of a long term capacity building for judges, including women judges. In that respect, UNDP Kosovo is working closely with partner institutions to implement the following activities:

- **Ministry of Justice** – organization of trainings for potential Bar Exam candidates; support to legislative activities; and strengthening the capacities of the Probation Service
- **Kosovo Judicial Institute** – support to implementation of a long term and sustainable training programme for judges and prosecutors
- **Kosovo Chamber of Advocates** – provision of expertise for the continuous legal education programme for lawyers in Kosovo, including expertise in gender-based programmes.

The second pillar, **Access to Justice**, focuses on capacity development of expanding services in the area of legal assistance and information

<sup>7</sup> Presentation by Abdullah Yıldırım, Judge, Justice Academy of Turkey

awareness in order to enhance both demand and supply of justice services especially to vulnerable groups including minorities and women.

The main challenges for the access to justice in Kosovo:

- Lack of public trust and confidence in the formal justice system
- Large case backlogs
- Inability of people to exercise their civil and political rights
- General lack of fulfilment of economic and social rights, especially among women and other vulnerable groups
- Inadequate quantity and quality of services, government and civil society alike
- Limited legal awareness and education among the general population.

While the Rule of Law project is oriented at the institutional capacity building at the central level, the Access to Justice project involves activities at a grassroots level and is working to support the citizens in their access to justice. It supports the process of Legal Empowerment

### Kosovo Rule of Law Project achievements to date<sup>8</sup>:

- 53 judges and prosecutors were trained and appointed at all levels of judiciary in Kosovo;
- 40 specialized training sessions for current judges and prosecutors in Kosovo were organized in the past three years;
- the project trained more than 500 candidates for Bar Exam, whereas 215 were women;
- the project supported 100 new lawyers to complete their internship as a precondition to undertake the Bar Exam, whereas 40 were women.

### Kosovo Access to Justice Project achievements:

- Legal aid outreach was improved through expansion to 5 more Legal Aid Offices;
- During one year of implementation, legal aid services were provided to 1.100 people with 35% being women and 27 % being ethnic minorities;
- Technical Assistance provided for drafting of the national Law on Legal Aid;
- Legal awareness was improved through use of mass media providing information on legal aid services in 3 languages;
- In order to bring services closer to the citizens 7 regional offices of the Kosovo Chamber of Advocates were established and made fully operational. They are closely cooperating with the regional Legal Aid Offices;
- A secretariat for supporting the functions of the Mediation Commission and Ministry of Justice mandated by the law has been set up.

to facilitate a systemic change through which the marginalized and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interests.

### Country presentation: Tajikistan

The presentation from Tajikistan was focused on findings and recommendations of the recently published UNDP Regional Human Development Report: *Beyond Transition, Towards Inclusive Societies*<sup>9</sup>.

The main purpose of the Regional Human Development Report (RHDR) was to assess the

<sup>8</sup> Data from September 2011

<sup>9</sup> Regional Human Development Report: Beyond transition, towards inclusive societies: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Beyond%20Transition-%20Towards%20Inclusive%20Societies.pdf>

## Social exclusion profiles<sup>11</sup>

	Kazakhstan	Moldova	FYR Macedonia	Serbia	Tajikistan	Ukraine
<b>Magnitude of social exclusion</b>						
A. Social exclusion headcount	32%	40%	12%	19%	72%	20%
B. Average number of deprivations experienced by the socially excluded	40.5	11.0	10.8	10.8	11.1	10.4
C. Intensity – average number of deprivations experienced by the socially excluded percentage of total (24)	44%	46%	45%	45%	46%	43%
Multidimensional Exclusion Index (MEI) = (A) * (C)	14	18	5	8	33	9

situation in the post-socialist countries in Europe and Central Asia in the context of social exclusion and the transformations that have taken place in these specific countries.

It is important to note that the report integrated human development and social inclusion as two complimentary, people-oriented concepts that, unfortunately, until now were evolving in parallel. Human development has been recognized as the goal of development, and the social inclusion, at the same time, is the means to get there, while social exclusion identifies the obstacles that need to be removed in order to achieve that goal.

The goals of the RHDR:

- **Understand** the dynamics of social exclusion, inclusion and human development in the region since 1991.
- **Provide instruments** for evaluation of levels and intensity of social exclusion detecting its main reasons and related risks.
- **Identify** key social exclusion factors in different dimensions.
- **Develop** realistic, sound political measures at the central and local levels to effectively resolve exclusion issues.

The RHDR revealed that social exclusion in Tajikistan is the most acute, with 72 percent of the population found to experience nine or more deprivations, and with the intensity of social exclusion of 46 percent, where socially excluded people face on average 11.1 deprivations out of 24.<sup>10</sup>

### Key issues:

- During transition to market economy in Tajikistan many people did not get sufficient attention. Reform efforts are not always helping to improve quality of lives because there are no proper mechanisms in place to ensure that the reform agenda is taken from the central level to the local level.
- Anyone could be excluded – Everyone is at risk to be excluded from society, not only the marginalized groups, if no proper conditions and policies are in place to ensure social inclusion.
- Income – is not all what is needed in order for an individual to be part of the society. One would also have to have access to social services and equal opportunities.
- Condition of local economy and politics matters – Policy reform efforts in just one area

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.



are not enough to eliminate exclusion – policy should be comprehensive enough to address multiple social exclusion issues.

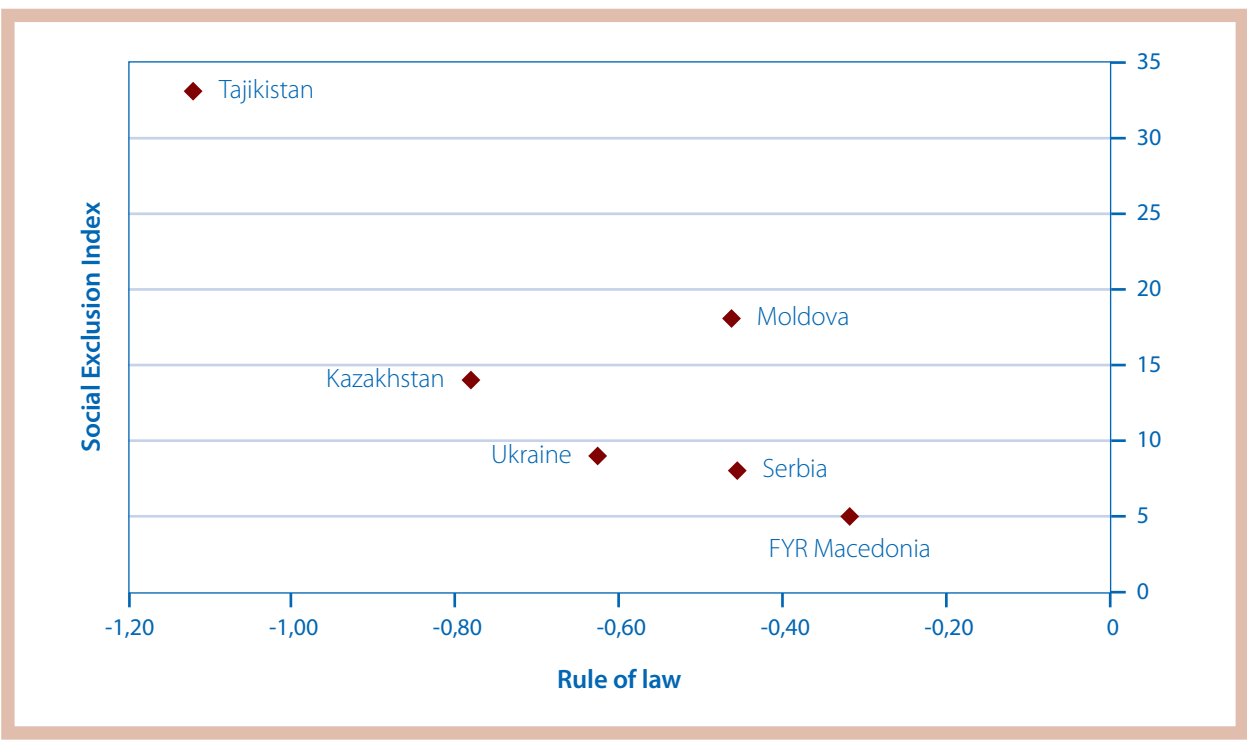
development as well as to identify the opportunities for aligning donor assistance and the needs in the Country.

In Tajikistan most of the efforts in the area of social protection and human rights are rather donor driven than nationally owned (given the poverty reduction is top priority on the GoT agenda). International organizations are playing important role by working with the population and teaching them about their rights and how they need to exercise them and demand for provision of relevant services by the State to address the gaps.

UNDP Tajikistan does not have a stand-alone initiative for access to justice and rule of law. Office of the High Commissioner for Human Rights in Tajikistan is having more extensive role on the issues of human rights and the rule of law. However, a project proposal was recently prepared in the frame of the UNDP CPR Mine Action Programme, more precisely its Victim Assistance initiative. The aim of the project is to help the Government, in light of the adoption of the Law on People with Disabilities and Protection of their Rights, to prepare the strategy on ratification of the Convention on the Rights of Persons with Disabilities. This is clearly an area concretely linked to access to justice and rule of law. Also, there are many opportunities for UNDP to become more involved in the rule of law and access to justice activities, especially at the policy level, to ensure, for example, that some policies at the national level are being implemented at the local level, taking into

On the more positive side, there is a new mechanism in Tajikistan called Development Forum that brings both the Government and development partners together, and where, based on the national strategies and priorities identified by the State (national development strategy, poverty reduction strategy) and the commitments that are already made by the donors, the planned activities are being revisited to address poverty in the Country and to ensure

**Social exclusion and the rule of law<sup>12</sup>**



12 Ibid.



consideration the international practice and experience from other countries that could be potentially replicated in Tajikistan.

## Conclusions

In support of rule of law promotion efforts, judicial reform has become a central component of overall democratic reform processes in many countries. Rule of law is a vital part of the UNDP mandate to reduce poverty and strengthen democratic governance. UNDP's special niche in the field of access to justice and strengthening of the rule of law is to provide technical assistance on institutional capacity-building based on its global experience and technical expertise in providing country experiences in restructuring of judicial systems for strengthening the rule of law.

The experience has shown that for the judicial reform to be successful the following should be taken into account:

- The reform requires an integrated approach and a strong commitment by the leaders of the judiciary;
- The reform needs to ensure participation not only of legal professionals (judges, prosecutors, lawyers) but also of all segments of the community;
- It should be approached with a long-term point of view and in a strategic manner;
- It should take into consideration international developments;
- The reform should be "System-oriented" instead of "Problem-oriented".

# 3

## Making Justice Work for the Disadvantaged Groups and Marginalised Communities

Within the broad context of justice reform, UNDP's specific niche lies in supporting justice and related systems so that they work for those who are poor and disadvantaged (Access to Justice Practice Note, UNDP, 2004). The Specific Objective of this session was to explore possibilities of strengthening UNDPs comparative advantage with a view to optimise existing resources through cross-practice collaboration within UNDP.

### Women and the Rule of Law

Today, international standards require from governments and public administration systems to assume an obligation to be diligent about rights' protection and about rights' recognition – in other words, it is not enough to just have good laws or good institutions but the responsibility goes beyond making a standard legislation or implementation. It goes to place where systems are particularly responsive to gender needs and to the gender intricacies of the societies they live in. One of the main findings of the Committee on the Elimination of Discrimination against Women over the years has been that the most important bottleneck in realizing the equality and the rights in reality is access to justice.

Quoting the well known legal expression - justice delayed is justice denied. But, inaccessible justice is injustice. And inaccessible justice is what women of the world many times are faced with. It should therefore be kept in mind that,

when talking about legal reform, law reform and justice accessibility, for women who constitute half the population of the world and in all societies it is a gender sensitive, gender responsive reform that is needed.

### ***UN Women Global Report 2011 – Progress of the World's Women (In Pursuit of Justice) and Regional Challenges: Taking forward the Recommendations – challenges and opportunities***

The UN Women Global Report 2011<sup>13</sup> (hereinafter: the Report) contains extensive analysis and statistics, and some very compelling stories, but the focus of the presentation was on the key Report findings and recommendations in the context of the use of these recommendations in UNDP's future programming – what are the lessons learned and what should be done in the future to make more impact and more results.

Generally, there has been a significant progress especially in relation to women's legal and political rights, especially taking into consideration that 100 years ago there were only two countries in the world where women had voting rights, while nowadays there are almost 140 countries guaranteeing gender equality in their constitutions. Indeed there was a move ahead and that move has been made through legal reforms including constitutional ones – more than half countries of the world have

13 UN Women Global Report 2011 – Progress of the World's Women (In Pursuit of Justice): <http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf>

changed the constitution and that included accommodation for gender equality and women empowerment. But more significant and substantive changes, according to examples presented in the Report, have actually been made through bringing cases to courts and some precedent setting cases, which have in a number of cases been result of women initiative, women persistence or women organization intervention.

#### Progress recorded so far<sup>14</sup>:

- 125 countries have outlawed domestic violence
- 115 guarantee equal property rights
- 117 passed equal pay laws
- 28 countries have reached or surpassed the 30 percent mark for women's representation in parliament
- 19 women are currently serving as elected Heads of State or Governments
- 117 countries outlawed sexual harassment
- 186 Member States worldwide have ratified CEDAW – the Convention on the Elimination of All Forms of Discrimination against Women

Positive facts are demonstration of the move forward, but even though there have been positive changes in a number of countries, the number of women who are still out of reach or not affected by these legal changes is very significant.

In many countries, for example, family laws, which are mainly affecting women and their position in the society, are most likely to be the subject to legal plurality, but even if they are not the tradition very often prevails over the law. Moreover, it is obvious that, in some countries, there is a discriminatory attitude by service providers, unfortunately very sensitive service

providers – like police and judiciary, which is affecting the number of legal steps and the ability of women to actually bring the case to the courts, which is again something that can not be disregarded. Furthermore, in implementing different reforms and in making efforts to increase access to justice for women sometimes the barriers that women face due to social norms, poverty, lack of awareness or information, are not taken into account and then consequentially the implementation gaps are getting bigger and bigger, and the actual legal reform does not result in practical changes or changes on the ground.

Encouraging news is coming from the donor community. Out of \$126 billion that the World Bank has allocated in the past decade for public administration, law and justice, only \$7.3 million were directly allocated to the gender equality components in the projects. However, in December 2010, \$49 billion was pledged for the poorest countries with gender equality as one of the four special focus areas. Given the aforementioned it is visible that a certain progress exists and the donor community and international organizations are becoming more and more aware of the multiplier effect of gender equality and women empowerment and the need for further intervention in that field.

#### Recommendations of the Report relevant to possible UNDP intervention:

##### Support women's legal organizations –

The report argues that a significant impact and change have come from certain women's legal organizations and through strategic litigation cases. Women's legal organizations are an avenue that has so far demonstrated a lot of impact and should be taken into account during the programming process;

##### Support one-stop shops and specialized services to reduce attrition in the justice chain –

As an example, in Thuthuzela care

<sup>14</sup> Ibid.

centre in South Africa the conviction rate for rape cases which were supported by this centre reached 89 percent as compared to the average of 9 percent at the country level. So there is definitely a need for one-stop shops as a form of direct assistance to women to go through numerous hurdles and steps in the legal process and to be able to access justice;

#### **Implement gender sensitive law reform –**

In Montenegro, for example, the Law on Free Legal Aid stipulates that victims of family crime or domestic violence are immediately eligible for free legal aid. This has also been the case with 45 percent of countries which immediately offer the support in the cases of domestic violence;

#### **The Report also revealed that<sup>15</sup>:**

- In 17 out of 41 countries, a quarter or more people think that it is justifiable for a man to beat his wife
- 603 million women live in countries where domestic violence is not considered a crime
- 2.6 billion women live in countries where marital rape has not been explicitly criminalized
- Based on information from 83 countries, ILO reports that women are generally paid between 10 and 30 percent less than men
- 600 million women, more than ½ of world's working women, are in vulnerable employment, insecure jobs, outside the purview of labour legislation
- Globally, women average just 9 percent of the police and average 27 percent of judges worldwide
- In 23 out of 52 countries, less than ½ of women and men surveyed have confidence in their country's justice system

#### **Use quotas to boost the number of women legislators –**

There is a correlation between the increase of women representation and the new laws being passed advancing women's rights. That correlation should also to be taken into account in the programming process;

#### **Put women on the front line of law enforcement –**

Globally, women average only 9 percent of the police, and only 27 percent of judges;

#### **Train judges and monitor decisions –**

This is about monitoring the impact and whether the training actually results in a different approach, in more access to justice. One of the recommendations refers to systematic monitoring of judicial decisions as critical to track performance of courts in terms of enabling women's rights.

#### **Success story: SEESAC Support for Gender Mainstreaming in Policing: The Women Police Officers Network in South East Europe (WPON)**

In all the countries of the Western Balkans and the South-East Europe the women have joined the police services quite lately. For instance, in Serbia this process started in 2002. While a lot of progress, in terms of quantity, has been achieved since, one of the biggest concerns is the fact that only 8 percent of women occupy managerial positions in the police service. WPON SEE is a newly established network of the women police officers of the South-East Europe, initiated by the UNDP SEESAC<sup>16</sup> project after several attempts to establish similar networks at national levels. The main reasons for establishing the network were to provide for the mutual support, improve working conditions and conditions for career building, improve professional competencies, integrate into the service better and faster, fulfil the individual's full potential, and develop the police service consequently.

<sup>15</sup> Ibid.

<sup>16</sup> South Eastern and Eastern Europe Clearinghouse for the Control of the Small Arms and Light Weapons; <http://www.seesac.org/>

**WPON's mission:**

- To provide a platform for the exchange of experience and knowledge across police services in the region on the status, needs and priorities of police women in South East Europe;
- To facilitate the advancement of the position of women in police services and promote gender sensitive policing practices in SEPCA<sup>17</sup> police services;
- To advocate for the implementation of gender equality and democratic principles in policing within SEPCA police services.

The project was initiated by the research based on the sample of around 4.000 respondents – Ministry of Interior staff from 8 countries/political entities in the region: Albania, BiH – Federation, BiH – Republika Srpska, Bulgaria, Croatia, Macedonia, Montenegro, and Serbia. The sample included: women police officers, men police officers, managers – women and managers – men. The areas of the research were<sup>18</sup>:

- Recruitment and hiring of women law enforcement officers,
- Selection issues,
- Education and training,
- Career development issues,
- Gender and policing skills,
- Legislation issues,
- Discrimination and threats in the working place, and
- Possibilities for networking.

The research came up with 16 concrete recommendations among which the following could be highlighted:

- The need for strategic approach to enrolment of women in the police service

- Introducing a transparent system of human resources management
- Raising awareness with all interested parties about their own responsibility for a successful integration of women in police service

The recommendations created a solid framework and starting point for defining WPON's activities and the work plan. In the future, WPON plans to develop the guidelines on gender-sensitive police work (recruitment, enrolment and selection criteria, and mentoring system). The research is also an excellent base for further analysis and research that can be done in this field.

The most important thing that followed after the establishment of the network is that the representatives of all the countries have initiated some work in the national police services of the region which was the most important reason for the establishment of the regional network. This is a very positive step because the experience has shown that all the good things that have come in the area of women's rights in particular and women's access to justice have been initiated at supranational levels and in that sense a regional approach certainly appears to be a productive approach.

However, in spite of the progress achieved so far at both regional and national level, the network will have to face a great number of challenges. Existence of the regional network has most certainly encouraged and sped up the process of creation of similar networks at the national levels, however, this was only the first step towards putting women on the front line of the law enforcement. The process of transforming the women from desk-officers to intelligence and investigation officers would require a clear strategy, but also a career development system in place and a more transparent human resources system.

17 South East Europe Police Chiefs Association; <http://www.sepca-see.eu/>

18 Establishing the Southeast Europe Women Police Officers Network: Research Findings, [http://www.seesac.org/uploads/studyrep/WPON\\_ENG\\_web.pdf](http://www.seesac.org/uploads/studyrep/WPON_ENG_web.pdf)

## Conclusions

There have been a lot of cases mentioned in the Report which have argued that the state is not only responsible to have the laws and to try to implement them. Equally important is ensuring government's responsibility for the impact of the law. There needs to be a continuous investment in securing that all the steps have been undertaken and in an adequate manner so that access to justice is really there.

For example, employing a woman, according to a lot of cases presented in the Report, does not immediately result in an impact. There needs to be subsequent investment in terms of resources, training and real positioning of that institution or this woman in the institution.

Furthermore, monitoring and evaluation are crucial components of every reform effort. Tailoring the intervention and defining a way forward require a constant feedback and analysis. Moreover, monitoring, tracking and data collection related to what is happening as a consequence of a reform is important for measuring the impact of that reform.

It is also important to take into account the need to scale up investment in gender equality and women empowerment – meaning more money, more targeted interventions and more prominence of this issue, having in mind its overall impact on the MDG3<sup>19</sup>. Integrated approach and partnerships in the context of UNDP mean that there is a need for cross-practice cooperation as well as for closer work with civil society organizations, especially women's organizations. In addition, there are lots of opportunities for partnership with different international organizations who are very active in these areas.

Finally, as mentioned above, it is of utmost importance to have proper systems of data collection in place for the purpose

of monitoring and evaluation – not only for gender programming but for the programming in general.

## Modernise and Rebalance the Justice System for Victims and Law abiding Majority

This panel focused on specific projects that look to assisting victims and witnesses in criminal procedures.

Victims and witnesses are often the parties that are most injured but have the least influence in the process and they are in many cases women, for example in domestic violence and some other cases, and although they are part of the system they often get re-victimised by it.

In the context of the justice sector reform there is a tradition to focus reform efforts on judges and prosecutors, and increasingly over the past 10 years there has been greater recognition of the need to focus on defence lawyers and on legal aid and legal representation. The missing parts of that equation have been victims and witnesses and those in the process by whom justice is supposed to be owned.

As with the need to address the fear of crime, there has been a shift in recent years in the thinking of European criminal justice agencies away from just focusing on arresting and convicting criminals, to the provision of better treatment and services for the victims and witnesses of crimes, in order to enable them to cope better with their victimisation and regain faith in the criminal justice system's ability to protect them.

Experience elsewhere has suggested that providing better care for victims and witnesses can deliver many important benefits for both the victim or witness themselves, and the effectiveness of the criminal justice system.

19 Millenium Development Goal 3: Promote Gender Equality and Empower Women

### ***Rule of law, Justice and Security from a gender perspective: Success story: Victim and Witness Support Croatia***

Everyone reacts differently to their experience of crime or attending court and, for some, being a victim or witness of crime can create real problems for them and their families. In addition to coping with the experience, there are often many practical matters to attend to, and, if a case is investigated by the police or goes to court, worries about dealing with the procedures and processes of the criminal justice system. Attending court to give evidence, either as a victim of crime or a witness, can be a traumatic and worrying experience. In the past, many criminal justice systems have treated victims and witnesses who attend court insensitively, which has produced a general decline in confidence in the criminal justice system and a reluctance on the part of some victims and witnesses to attend court or give evidence.

It is clear that the handling of the court case brings back emotions and disturbing memories. However, especially the voice of witnesses and victims should be heard loud and clear: they deserve a central place in the court proceedings.

To do justice to their role, witnesses and victims need support. There are two major aspects as to why this should be taken very seriously:

#### **Witness and Victim Support in Croatia in numbers<sup>20</sup>:**

- 7 offices in 7 county courts
- More than 7.500 witnesses and victims received support from May 2008 to date
- 6.021 witnesses requested the support by the telephone
- 14 employed court professionals
- 217 volunteers with 4.098 volunteer hours

1. Moral aspect: Making witnesses and victims understand what the procedures are (and explaining them how a court works), while giving them personal and emotional support to cope with the incident is the right thing to do in a moral sense; The administration of justice in a modern constitutional State is about people: procedure in the interest of the citizen, not the other way around;
2. Practical/court efficiency aspect: Witnesses and victims who are aware of their rights and who know what to expect will feel less pressured and less uncomfortable, thus giving exact and useful statements, adding to justice being done.

Prior to the UNDP's Witness and Victim Support Project there was no institutionalized service in Croatia for providing general witness/victim support in courts and no coherent policy for strategic approach to this important segment of criminal justice system.

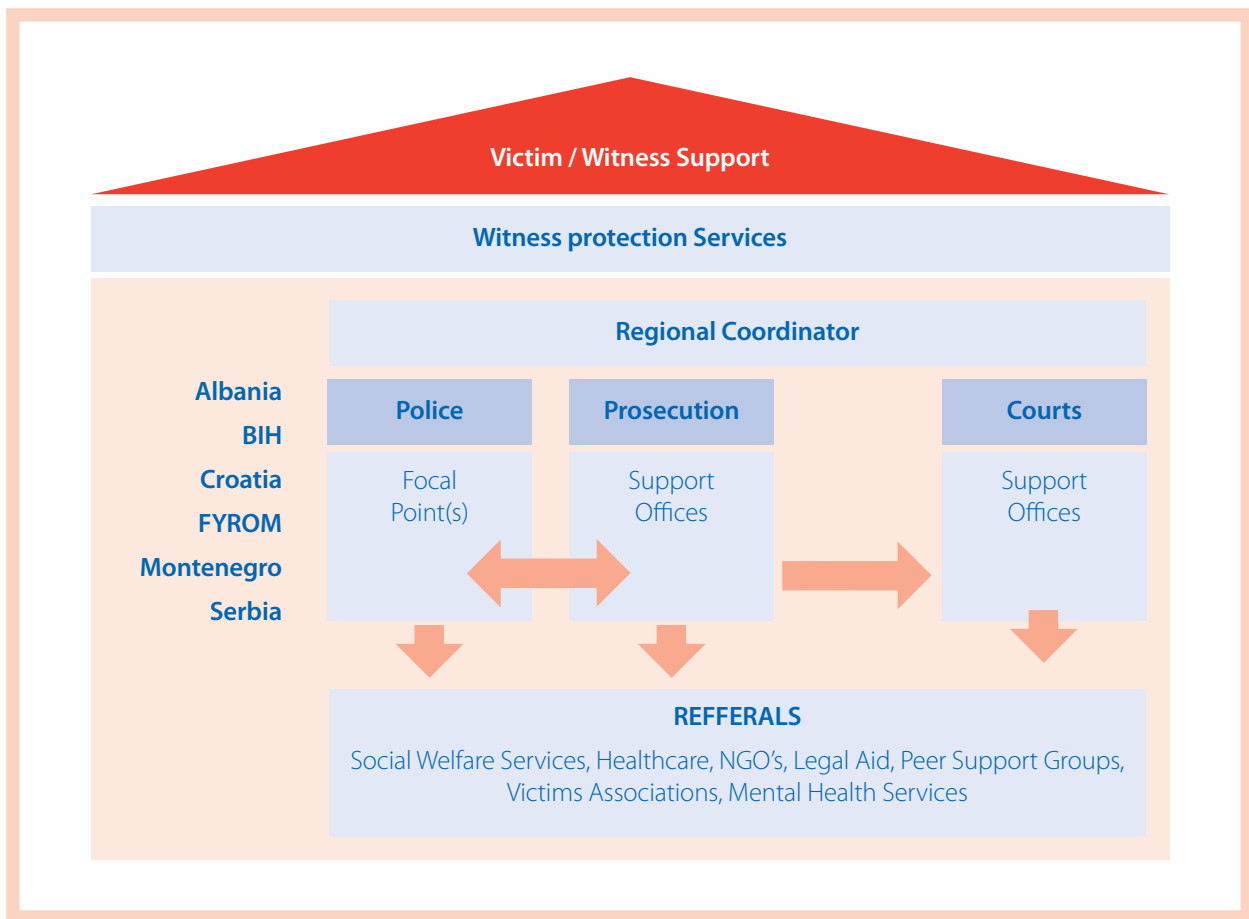
The project supported establishment of the Witness and Victim Support (WVS) offices in several county courts in Croatia with the following purpose:

- Provision of emotional support prior, during and after the trial;
- Provision of practical information – logistic support;
- Standardisation of the procedures;
- Selection, education and coordination of volunteers;
- Cooperation with civil society and NGOs;
- Cooperation with Support services in the Region.

UNDP also initiated and supported the establishment and capacity building of the Governmental Committee for Monitoring and Improvement of Witness and Victim Support System. The Committee is responsible for strategic development of the system. UNDP supports the development of National WVS

<sup>20</sup> Data from September 2011





Source: Presentation by Thomas Osorio, Chief Technical Advisor in Justice and Security Cluster, UNDP Bosnia and Herzegovina

Strategy in terms of sharing expertise, experience and best practice. Furthermore the new Directorate for Probation and Victim and Witness Support was established in the Ministry of Justice clearly indicating Government's commitment to adequately address the needs of witnesses and victims within the Croatian justice system.

#### **Achievements of the project in a broader context:**

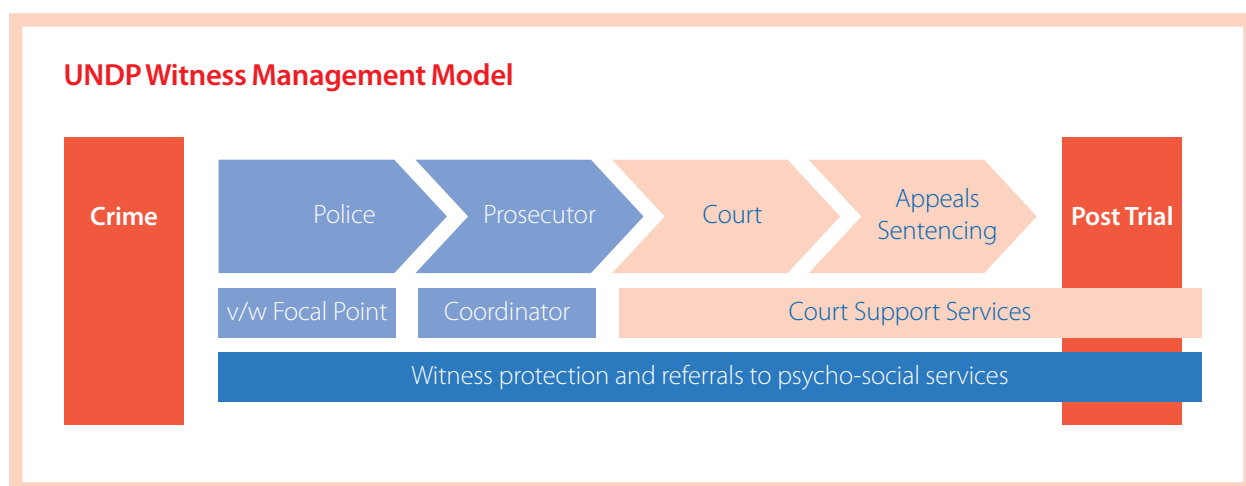
- The project has been recently recognised as highly successful as on 26 January 2011

Council of Europe Parliamentary Assembly adopted Resolution 1784 (2011)<sup>21</sup>: The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans, and Recommendation 1952 (2011);

- The creation of what is now a nationwide network of seven support offices, and establishment of the National Committee to coordinate further expansion of witness and victim support, have made Croatia a regional leader in this vital area of the justice system. The model developed in Croatia has been recognized internationally as a success story and a model for other countries.

21 RESOLUTION 1784 (2011): "...The Assembly further acknowledges the work of the United Nations Development Programme in Croatia in establishing witness support programmes which provide support and advice for witnesses in four pilot courts. It welcomes the fact that the Croatian authorities have taken over responsibility for these programmes. It regrets, however, that these kinds of programmes have not yet been institutionalised in the majority of courts in the region and encourages the authorities of the countries concerned to extend these programmes to all courts trying serious crimes....The Assembly therefore calls on: ... the competent authorities in the states and territories concerned to... provide funding for and establish witness support programmes, using those that have been set up by the United Nations Development Programme in Croatia as a model, in all courts dealing with witnesses in serious crimes;





Source: Presentation by Thomas Osorio, Chief Technical Advisor in Justice and Security Cluster, UNDP Bosnia and Herzegovina

### ***Regional Initiative: Victim and Witness Care in the Western Balkans in light of UNDP-EU partnership and Possible Replication in other Sub-regions?***

Even though criminal procedures are led by legal professionals (judges, prosecutors and attorneys) its effectiveness significantly depends on the timely and fair participation of citizens, especially witnesses and victims. Despite the fact that some protective measures have already been established, the criminal justice systems in the Balkan region provide insufficient support to witnesses, victims or other participants in the criminal procedure.

It is therefore critical to provide support and technical assistance to already existing initiatives in order to enhance their effectiveness. Taking into account similarities in the cultural background and legal tradition, witness support system in Croatia, Bosnia and Herzegovina, FYROM, Montenegro and Serbia can only be organized through state owned programmes and in collaboration with civil society.

At the same time, it is necessary to diversify and strengthen the development of a new system of support to witnesses and victims in the criminal procedure, and to support governments in their development of a clear policy promoting high standards of protection of human rights. Institutionalized witness support can significantly

speed up trials, contribute to the reduction of case backlogs and, therefore, increase the institutional capacity of the judiciary as well as raise the level of human rights protection. The witness of a crime is invariably at the centre of the investigation and trial. Therefore, it is of the greatest importance to assure the highest standards of witness and victim support across the region.

The regional initiative is about replicating the horizontal communication not only to have the representation at the level of the court and the appeals sentencing but to bring it back to the beginning and develop horizontal communication from the police through the prosecutor services to the courts and post-trial. Support provided for witnesses in the region has often neglected post-testimony period. Yet this is precisely where the risk of secondary victimization is most prevalent and witnesses are often left feeling (re)exploited, which can have the effect of discouraging other potential witnesses. The region is characterised by the lack of, at least, awareness and knowledge about referral mechanisms that are in place and at disposal of victims and witnesses. Furthermore, these services often lack money, capacity and strategic approach and need to be supported in that sense.

Support to victims and witnesses needs a holistic approach. It is about ensuring that support services exist in each stage of the process, through the focal points, coordinators and the court

support services, and equally as important are the referrals: social welfare, healthcare and NGOs.

The process itself will take a lot of encouragement and procedures, having in mind specificities of legal frameworks of different countries in the region. However, there are a number of great examples in Bosnia and Herzegovina and in Croatia and this is where the communication will have a great role. In order to ensure sustainability and inclusion this message needs to be passed onto both professionals and practitioners in the support chain.

## Conclusions

It is necessary that the court in every moment is able not only to protect the rights of all citizens through objectivity, impartiality and professionalism, but also to demonstrate this attitude through the work of every judge and every court official. The projects presented have helped practitioners to recognise the necessity of supporting victims and witnesses but at the same time of granting protection to the accused person. The sensitive line of respect and protection of the rights of the accused should never be crossed and the presumption of innocence should never be forgotten. All the steps undertaken in connection to victim and witness support must respect at the same time the rights granted to the accused in the criminal proceedings.

There is a greater understanding nowadays of the critical nature of ensuring that victims and witnesses have access to justice, protection, links to social inclusion, to social programming and social services in general. However, these are not easy issues to address. On one side there is a soft component of this issue, which is how to ensure the services are provided and that the attention is paid and that the justice system is responsive to the needs of victims and witnesses. There is also a hard side to the equation which is about actually protecting victims and witnesses from retribution, which can be technically demanding – cross border organization and cooperation can be quite difficult in many of the societies in the region. However, it should also be clear that the

two work together: protection and support build the system. One should not be supplanted for the other. Protection and support are very important elements to overall system and sometimes, although not always, if the soft side exists, if the support and the referral to the appropriate services and the guidance throughout the process are in place, it can be less likely to need the hard protection side. If there is a programme in the country that is looking into harder forms of protection there should also be a simultaneous initiative to provide softer and referral sides of victim support and victim advocacy. There is always a balancing act that has to be made in all justice processes between the role of the prosecution and the role of the justice system to enforce the law on one side, and the individuals involved in that process and their desires on the other side, and that balancing act and the choices that are made are ones of law and policy which the state makes.

From the gender equality perspective, many states nowadays make the choice that domestic violence should be prosecuted regardless of a victim saying they no longer want that prosecution, often because of societal pressure, or a fear of retribution, or a lack of knowledge about the potential to live free of violence, particularly when it comes to women who are victims of domestic violence. This policy reflects the experience that many societies now recognize that women who are victims of domestic violence have very little opportunity to be free of that violence and that they will often be coerced and subject to societal pressure not to pursue a case. These kinds of projects for women and other victims – with an independent individual from whom they can get the information and the support needed to better understand legal process, their rights, what they can access in terms of social services and support – help to facilitate the State in addressing the cases in an appropriate manner, in a way that victims and witnesses achieve justice either through the system or through other means. The above said, together with the catalytic, innovative and quick-impact nature of these projects should be taken into account in future programming.

# 4

## Legal Empowerment from the Regional Perspective

### Connecting the Dots: Promoting Social Inclusion through Legal Empowerment

In July 2011, UNDP BRC sponsored the Regional Policy Dialogue on Legal Empowerment to explore legal empowerment policy options, programming challenges and opportunities for the ECIS Region. This was the first UNDP Community of Practice event organized together with the Open Society Institute (OSI) and the Renaissance Foundation in the region. It was a very successful joint initiative which attracted a lot of interest and a big number of participants. During the discussions, some interesting examples and experiences were shared that illustrated UNDP's approaches to social exclusion through legal empowerment, either through existing projects (Montenegro, Serbia, Turkey and Ukraine) or through planned initiatives (Kosovo, Kyrgyzstan, Macedonia, Montenegro, Serbia, and Ukraine). On the key question of how to turn social exclusion into social inclusion there was a clear recommendation from many participants that given that legal empowerment is such a broad concept it has to be carefully defined and more cross-practice linkages with other thematic teams should be built. One of the expectations is a joint leadership of poverty and governance teams, working alongside other practices: gender and capacity development in particular.

In terms of partnership and broadening knowledge base there was a strong recommendation that UNDP should not only look at cross-practice and cross-cluster work but also at inter-agency work. There are other UN

agencies that are doing similar work: UNHCR, UNICEF, UN Women, UNODC, etc. Furthermore, in addition to the reference for partnership with CSOs and NGOs, UNDP has successfully partnered with OSI in Ukraine, but there are other organizations as well, ILD and IDLO for example. On the other hand, organizations and institutions such as World Bank and DFID have a long standing involvement in both thematic and geographical areas, but also others, such as Asian Development Bank, and UNDP could benefit greatly from their experience, knowledge and expertise.

### *Local context: Ukraine*

The presentation focused on a few concrete examples how the recommendations from the Regional Policy Dialogue on Legal Empowerment, held on 21-22 July 2011 in Kyiv, were taken forward by the UNDP Ukraine.

The discussion during the event resulted in interesting suggestions on how to strengthen the collaboration with CSOs. It was made very clear that UNDP and CSOs have to work together especially on the subjects such as legal empowerment that require close cooperation with all stakeholders.

In that respect, UNDP Ukraine has had very constructive discussion with the International Renaissance Foundation, which has an ongoing project on legal aid. It has been decided to harmonize the work on the newly started Legal Empowerment project with the work of the Foundation in at least one out of three

regions covered by the project. There is a scope for working together, not just in terms of information sharing but on identifying concrete actions and concrete deliverables that could be agreed together, and to join resources and efforts towards the achievement of these deliverables. There is also scope for the advocacy work because it has to be recognised that the International Renaissance Foundation has established a very constructive dialogue with the Ukrainian Ministry of Justice and this is very good in terms of using already existing avenues to reach the decision makers – through the partners instead of always being the ones to break the ice with the government structures. Finally, this cooperation will clearly result in joint ownership.

There have also been some developments with regards to recommendation related to building more cross-practice linkages. UNDP Sub-office in Crimea for instance has a very robust Local Governance portfolio which works across the Country in all 25 regions, and has physical presence of UNDP staff in those regions. This provides excellent opportunity not only to utilize existing infrastructure, networks and knowledge and to work through them but also to integrate legal empowerment dimension into the existing work. Furthermore, dimensions of the rule of law and access to justice are equally applicable.

Also, with regards to building on the networks and information that was exchanged, UNDP Ukraine is now very keen to partner with UNDP Montenegro on the project which focuses on illegal settlements and illegal constructions, and also to see how energy and environment component could be worked into these projects.

Lastly, there was a clear call to senior managers from the Country Offices, during the Kyiv event, to come up with concrete actions for the next months and with concrete recommendations how UNDP could utilize the knowledge and

expertise that exist in this region, and possibly form a working group or an expert group that Country Offices within the region could call upon, and that could provide peer-to-peer support among practitioners. Clearly, the expertise exists at the country level and by forming a regional expert group UNDP could better use existing knowledge and support Country Offices in doing so.

### **Local context: Albania**

National Human Development Report (NHDR) that UNDP Albania produced in late 2010 is exclusively dedicated to capacity development for European integration, and one of its chapters is dealing with social inclusion. With regard to social inclusion, apart from a system-wide approach to capacity development within the public administration and civil service in Albania, NHDR emphasized the need to go beyond basic income and consumption poverty when confronting social exclusion, and address broader issues of discrimination, stigma, lack of access to basic services and lack of full participation in social life, and access to justice.

According to NHDR, capacities required are related to policy cycle function and skills in social policies, and involve the following<sup>22</sup>:

- Building capacities in line ministries to analyze social exclusion, identify key challenges, and review the existing policies;
- Promoting more cooperation at the inter-ministerial level and broader understanding among government departments;
- Data and evidenced policy making, and monitoring and evaluation;
- Practice competence in social inclusion is a problem because Albania lacks tradition in social work and social administration, and administration of social affairs – this is the new area that was born after democratic changes in 1990.

22 Presentation by Arben Rama, Cluster Manager, UNDP Albania

With regard to **Legal support and Legal Empowerment for Social Inclusion**, UNDP Albania has focused its work on the following:

**(i) Gender equality and domestic violence** – the progress in this area includes:

- Drafting of laws, such as the Law on Protection from Discrimination, or the Gender Equality Law, which provides for 30% quota; the establishment of a national gender machinery, definitions and sanctions for sex and gender-based discrimination and harassment, equality in labour relations and education, etc.;
- Reviewing the existing legislation from the gender equality perspective making amendments to align it better with the gender equality requirements of CEDAW, European *acquis* and the Gender Equality Law, etc;
- Specific emphasis was put on policy documents, such as the National Strategy on Gender Equality and Domestic Violence;
- Amendments to the Domestic Violence Law, establishment of a public shelter for violence survivors, domestic violence workers/advocates respecting victim's confidentiality, court emergency protection for minors and empowered teachers and caretakers;
- Training sessions for professionals: police, teachers, doctors, social service providers, civil servants at central and local level, judges and prosecutors, bailiffs, lawyers and medico-legal specialists.

**(ii) Support to minority communities** with special emphasis to Roma and Egyptians – which includes:

- Facilitating access of vulnerable Roma and Egyptian (children and adults) to basic social services by supporting their civil registration;
- Providing legal/administrative/technical assistance to register, as well as raising

awareness of both communities and public officials. This brings positive effects in registration at the employment offices, economic assistance offices, public health providers, etc.

The other aspect which UNDP Albania is dealing with is **Legal Empowerment of the Poor (LEP)**.

Key issues:

- Thousands of people are excluded from the rule of law. Their lives are guided by informal systems that do not allow them to utilize legal frameworks to protect their assets, homes or businesses or benefit from labour standards, property rights and land tenure systems;
- They do not have the same access to social protection and other opportunities to improve their quality of life by leveraging legal frameworks and institutions that fortify society.

Legal Empowerment of the Poor with its emphasis on social justice and equality is considered central in addressing structural causes of poverty and exclusion. UNDP Albania, therefore, started the Legal Empowerment of the Poor intervention with the very successful project – tripartite partnership between the Government, UNDP and the Institute of Liberty and Democracy (ILD). The initiative aimed to generate greater awareness, knowledge and understanding about obstacles and costs that prevent people and the state to achieve better socio-economic development.

A detailed diagnostic report was prepared for that purpose. After two years of working in the field, the report has revealed that Albania's existing legal framework contains regulatory bottlenecks, unpredictable norms and rules, and inadequate laws which force the majority of people to operate outside the legal framework in the informal sector. Most Albanians cannot buy, sell, or mortgage their property without

going through extensive procedures or without having to request expensive legal assistance to resolve their problems. Experts and users consulted agreed that it is necessary to hire surveyors to measure rural parcels and correct the register title before purchasing real estate, because in most cases the dimensions shown in the “kartelas” do not reflect the reality. In urban areas, for example, although registration is legally mandatory, the diagnosis report found out that the records – even in the most developed areas – do not square with the facts on the ground.

The report findings led to concrete policy recommendations and institutional reforms to provide a greater legal protection and recognition of people’s assets.

With the most up-to-date and accurate picture of the pluses and minuses of the Country’s legal system and with awareness of the current efforts to reform it in hand, with a group of talented and well-trained Albanian professionals already in place, the Country is now ready for the next step: working on the solutions to push forward the current reform efforts and implement them. Taking into account the progress made by the Government following the findings of the report, especially in the field of business formalization and the outstanding challenges in the property sector, a second phase of this project can specifically look into the property issues with regard to the illegal construction, restitution, and compensation issues of the property to and from the original owners.

### However...

UNDP Albania is currently in the negotiations stage with the Government and donors for the second phase of the project. This is due to the fact that \$1.5 million was spent on the production of the diagnostic report in the first phase, and it is highly likely that significant funding will be needed for the second phase as well.

## Conclusions

Several points emerged from the discussion as to the UNDP approach to legal empowerment in the region and the UNDP contribution to this process which involves many actors:

- More inclusion of civil society into UNDP work – in the context of legal empowerment, civil society organizations often serve as the catalyst, the bridges between the poor on the demand side, and the governments and international organizations on the supply side. In terms of assessing the countries and their needs for legal empowerment, a lot of work has already been done and the great deal of it has been done by NGOs as they are becoming more and more specialized in different issues, like evaluation, assessment, statistics, etc. Using their experience and expertise is one of the things that should be taken into account in the future work.
- Measuring legal empowerment is important but as equally important are monitoring and evaluating legal empowerment initiatives on the ground.
- Universities and scientific society have also developed evaluation tools and research methodologies, which are often being used by NGOs and other stakeholders to study the legal needs of the country. In this respect it would be useful for UNDP to think about being a facilitator of this process in the countries, in order to promote the use of these already developed research and evaluation tools to study the needs in the justice sector including the legal aid needs both internally, meaning capacitating the government institutions and ministries of justice, and externally – working with the civil society organizations to use the already existing tools, in order to ensure sustainability to it.
- On the question of who will do it to make it more sustainable, it is important to build the structure of doing analysis and evaluation on a permanent basis and this can be done by introducing and integrating above-

mentioned mechanisms and tools within the government structures, the ministry of justice for instance, or the court system, and developing their evaluation and statistical research and analysis to the advanced levels of this sphere. The UNDP should facilitate this process. The support should also be provided to NGOs, both those NGOs that are doing analysis and evaluation work, and those that are working on the delivery side of helping to improve human rights of individuals.

- Universities and academia are not the only source of current, up-to-date advanced methodologies and very useful research tools. Some international organizations have also developed special tools for the for the civil society and NGOs to study, for example, the perception of justice and specific legal needs in the country, independent from the evaluation conducted by the government. This should also be taken into account within the framework of building partnerships and broadening knowledge.



# 5

## The Role of the CSOs in Strengthening A2J by the Disadvantaged Groups and Marginalized Communities – Road Map For The Future

UNDP supports countries and governments to develop strategies for making legal and justice services more available and accessible to the disadvantaged groups and marginalised communities. In setting strategies to strengthen access to justice, cooperation with civil society organizations may play a critical role as they can be effective in targeting and reaching disadvantaged groups, especially when working at the grassroots level.

Specific objective of this session was to bring together UNDP practitioners, government counterparts and CSO representatives in order to explore and further promote participatory approach to development of strategies which engage civil society actors in identifying and defining problems.

### Access to Justice and CSOs: Regional Issues, Programming Opportunities and Functional Strategies – findings and recommendations from the Thematic Working Groups sessions

#### *Thematic Working Group on Minorities*

##### Issues identified:

- UN definition covers: ethnic, religious, national, linguistic and indigenous minorities. However, there is still a problem of non-existing universally acknowledged binding definition of national minorities.
- Group members have identified two major issues related to minorities in their own countries:
  - a) Recognition of the minority
  - b) Most problems are associated with linguistic issues
- Minorities oriented NGOs/CSOs may be present in some countries but their credibility can be seriously undermined because of the strictly grant-oriented and politically charged activities, weak capacities, non-independence, and GONGOs.
- State often does not want to work with NGOs/CSOs on minority issues. In Uzbekistan, for example, civil society is very weak and the registration of NGOs is very difficult especially when it comes to those engaged with protection and promotion of minority rights.
- However, some good examples were presented from Kyrgyzstan (Youth of Osh association), which has a very strong and active civil society. Also, in Georgia there is a credible minorities-oriented NGO “For a Multinational Georgia”.

##### Recommendations:

- Civil society organizations can be used as intermediates for solving language issues and translating key documents. Any relevant information on access to justice could be shared through them.
- Support to engagement of civil society organizations with the international and regional mechanisms.
- For Central Asia – explore partnering with “makhallyas” (administrative-territorial units) in promotion and protection of human rights as a way to reach out to the minorities.
- Educate and raise awareness of minorities on their rights and freedoms through civil society.



- Train civil society organizations on how to include minorities and minority rights' issues in the shadow reports and similar tools.

### ***Thematic Working Group on People Living with or Affected by HIV/AIDS***

#### **Issues and recommendations:**

- Although eradication of the HIV/AIDS falls under one of the MDGs, the response towards HIV/AIDS lies within the countries' mandate. UNDP has to continue to strengthen its efforts and work with countries to understand and respond to the development dimensions of HIV and health, recognizing that action outside the health sector can contribute significantly to better health outcomes. HIV/AIDS is not only a health problem, but implies a large range of the human rights issues. People living with HIV/AIDS face discrimination, stigmatization, and social exclusion.
- Country response and UNDP interventions should be tailored based on data gathered through assessments of the level of protection of the rights of people living with HIV/AIDS in a concrete country.
- Governments, NGOs, and other UN agencies must continue their work, although there are comprehensive programmes of the Global Fund, UNAIDS, UNFPA, and local HIV/AIDS Centres.
- Interventions must not only concentrate on the capital cities of the countries, but should also be carried out more widely, and at a grassroots level, targeting specific groups (MSM, migrants, youth, women).
- Although HIV alerts do not yet exist in Kosovo and Croatia there are still cases reported in the media concerning discrimination of persons living with HIV, children living with HIV, and unwillingness of persons to undergo HIV test due to the fear of being excluded from the community. This may be happening due to discriminatory legal provisions towards people living with HIV/AIDS, negative practice towards them, intolerance,

stigma and discrimination towards people living with HIV/AIDS.

- Within the projects some actions should include working with the media, as it is an important power within the society in the area of prevention, non-discrimination, and raising the level of tolerance towards marginalized groups.

### ***Thematic Working Group on Gender Issues***

#### **Issues and recommendations:**

There are numerous examples in the region of involving CSOs in improving access of women to justice and in achieving gender equality.

- In Ukraine there was an example of a successful gender project using social media, where students made short video clips which were then broadcasted on public TV. The clips were very successful example featuring stories on equal opportunities of women in different professional and university positions and life situations, as well as relating to conflict resolution.
- In Montenegro, the Law on Free Legal Aid facilitated a debate on the Law and involvement of civil society. Round tables were organized in partnership with the CSO that had experience in provision of legal aid.
- In Poland, UNDP Country Office has created a Forum to facilitate discussion on gender equality between parliamentarians, governments, etc.
- The trend in Montenegro at the moment is to involve the CSOs from the beginning of the process, and this trend was initiated by the Government and motivated by a desire to avoid possible criticism as was shown by lessons learned in the past.
- A remark was made that sometimes UNDP has a patronizing attitude towards CSOs, which is reflected in capacity development efforts, for example. However, women movements in the former Yugoslavia are among the oldest in Europe, so they should be given a more prominent voice and should

be engaged more actively in service provision, research, and campaigns.

- Involvement of CSOs in the process of UNDAF and Country Programme Document creation should be ensured. This also goes for other national counterparts which are often neglected in this process.
- Serbian example with the regional policing initiative illustrated that it is important to adopt strategic approach when involving the

CSOs. Some areas, such as security, are of a sensitive nature, hence UNDP should be tactful in order to prevent creation of unnecessary issues that would impede project implementation.

- The support to women's legal organizations is necessary in order to make the difference but it is equally important to support the watch-dog organizations i.e. organizations that monitor, for example, the implementation of CEDAW.

# 6

## ANNEX I: DGTTF Peer Review report: Advancing Rights and Justice through innovative and catalytic projects

### Introduction

Democratic Governance Trust Fund (DGTTF) was established in 2001 to provide Country Offices with discretionary funds to explore innovative approaches in democratic governance in politically sensitive environments and within the areas of inclusive participation, responsive institutions or international principles.

The DGTTF has approved since its inception, approximately USD 102 million across 726 country projects<sup>23</sup> through the annual competitive call for proposals to UNDP Country Offices. Through strong support to projects in least developed countries, and in particular through the call for proposals for the 2010 and 2011 tranches which placed priority on projects with a focus on MDG acceleration, the DGTTF has helped position UNDP at the forefront of strengthening the links among democratic governance, poverty reduction and achievement of the MDGs.

In addition to CO projects, the Thematic Trust Fund supports the overall DG global architecture including Oslo Governance Centre, Regional Service Centres, Global Programmes, and thematic service areas. However, 70% is allocated to countries and regional activities, and no more than 30% is allocated to global activities.

Each of the activities supported under the TTF supports at least one of the DG key result areas of the UNDP strategic plan, with the following three pillars:

- Fostering Inclusive Participation
  - Electoral Cycle Support
  - Parliamentary Strengthening
  - Access to information and ICT
  - Civic engagement
- Strengthening Responsive Institutions
  - Public Administration Reform
  - Local Governance and Decentralisation
  - Access to Justice / Rule of Law
- Grounding in International Principles
  - Gender and Women's Empowerment
  - Anti-Corruption
  - Human Rights

In 2007 an evaluation was undertaken of the TTF, and the report was published in 2008.

Main recommendations of the evaluation and the follow-up were:

- Proactive assembly, analysis and dissemination of project experiences – for that reason Lesson Learned Series were initiated in 2009
- Every project should be independently evaluated upon completion – this provision was included in the 2009 edition guidelines
- Increased engagement of regional policy staff in order to support project development and implementation
- Support true innovation – more rigorous scoring system was implemented for 2011 edition
- Fully engage governance partner institutions at early stages of project development

<sup>23</sup> Data from September 2011

Challenges and opportunities for the future:

- Bringing lessons learned to a new stage and increasing regional exchange
- Reporting on results instead of reporting on activities
- Reporting to donors on project success stories – to clearly show “before and after” and how the project has really transformed the situation
- Ongoing resource mobilization efforts to secure long term partner agreements
- Making the DGTTF more user-friendly for Country Offices

### Peer Review of the ongoing DGTTF projects in the region

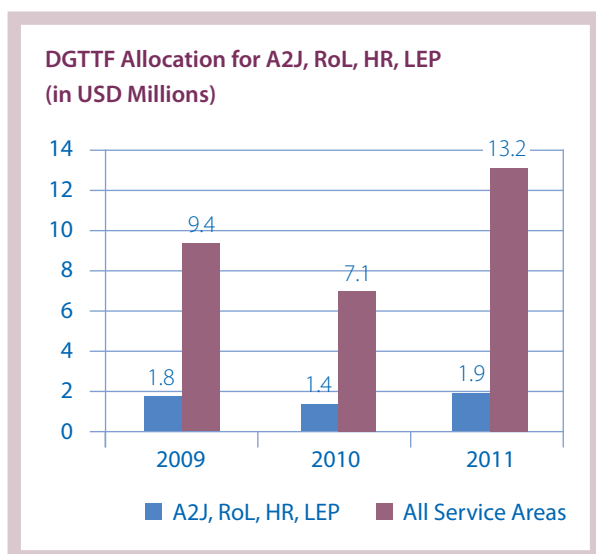
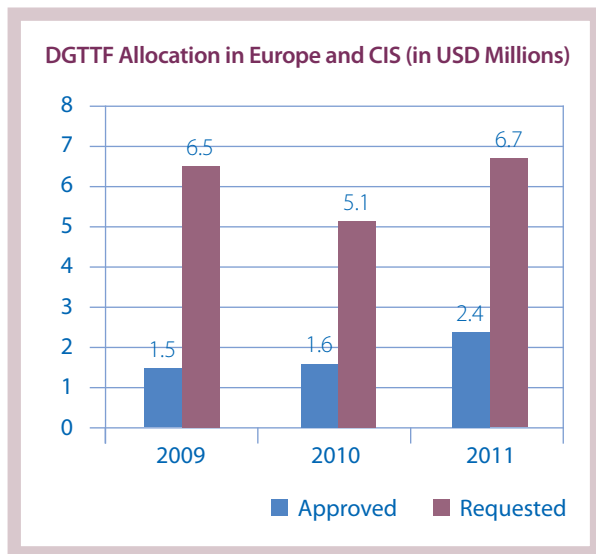
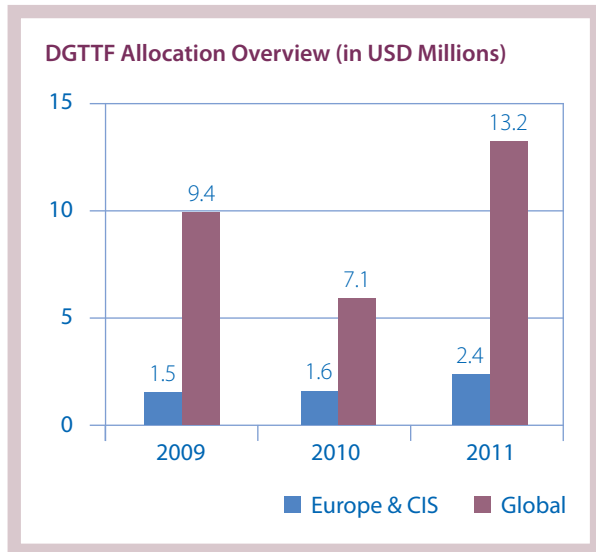
DGTTF projects involve high-risk activities by nature, but are at the same time innovative and catalytic and as such have a strong potential to make a change. This section will explore how UNDP advanced human rights and access to justice in ECIS region through the DGTTF, what were the main challenges that were encountered, and what can be learned from that.

The objective of the peer review was to provide a forum for the members of the Regional Community of Practice (CoP) to meet and discuss the specific challenges, issues and lessons learned in designing and implementing DGTTF projects to better inform future initiatives.

The projects were reviewed using the two simple tools. The first one concerns the logic of the ‘development story’, resembling the logical framework and results framework (Figure 1).

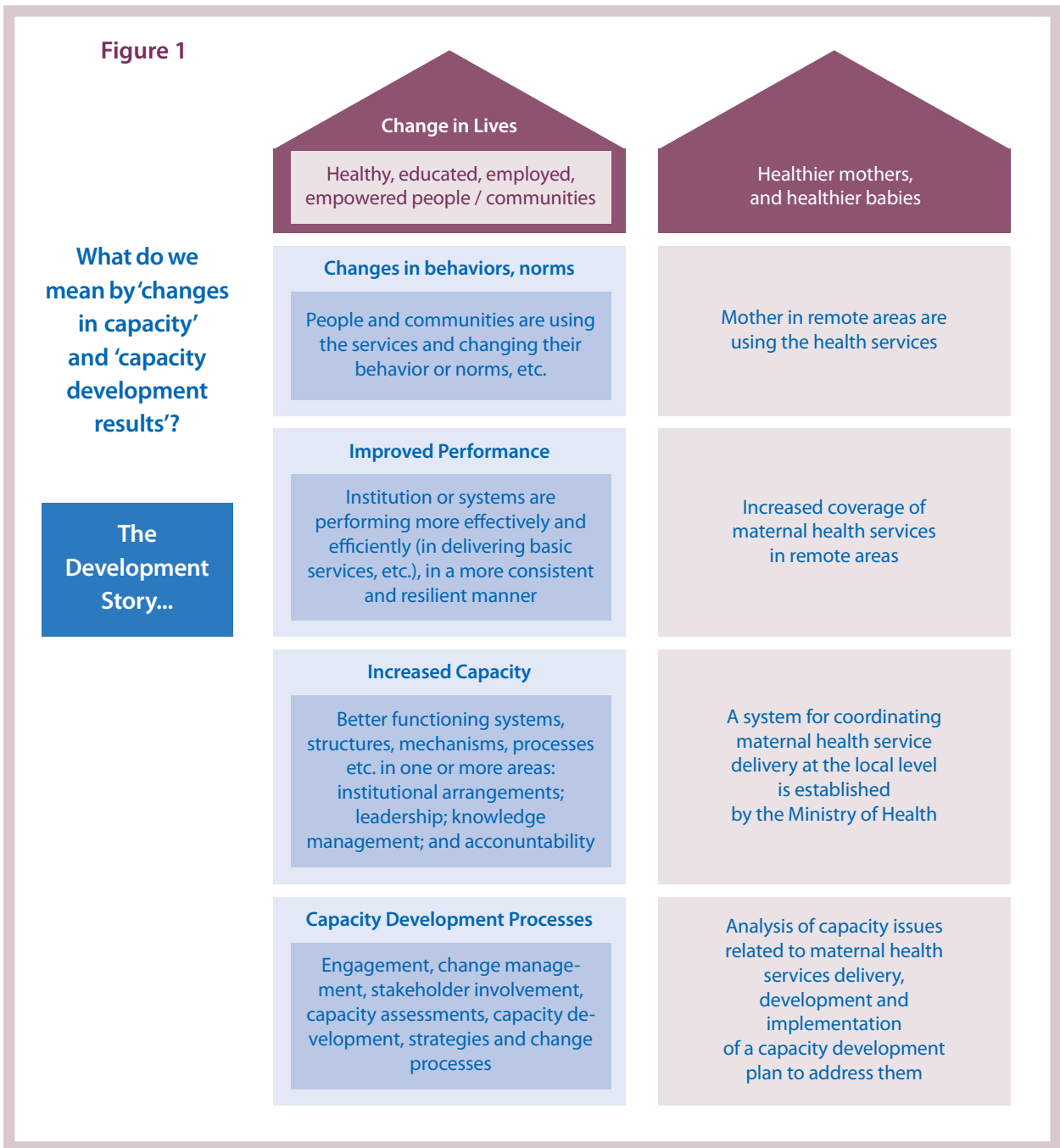
The second tool concerns the attention paid to the different levels of capacity development as depicted in Figure 2.

### DGTTF in numbers<sup>24</sup>:



24 Data source: presentation by Margaret Chi, DGTTF Coordinator, DGG/BDP, UNDP

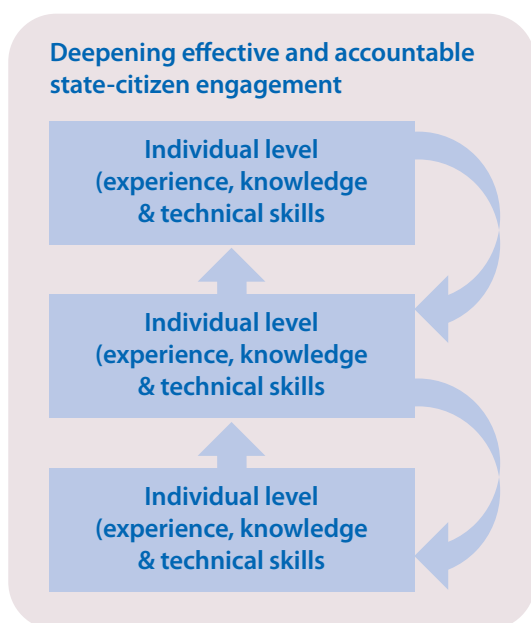
Figure 1



**Bosnia and Herzegovina: Empowering Marginalised Groups in eGovernance**

The purpose of the project is to increase the level and quality of use of internet based public services (eServices and eGovernment) by people with disability and marginalised groups and communities. This should generate social and economic benefits and lead to significant convergence with the EU *acquis* and implementation of obligations under the UN Convention on the Rights of People with Disabilities.

The project aims at, firstly, **improving experience of people with disabilities** through enhancing Government commitment and supporting eAccessibility activities with regards to the ongoing commitment by each SEE country to an Action Plan for eAccessibility, and with regards to deepening the commitment in the eSEE Agenda+ in line with the UN Convention and EU Disability Action Plan and a Digital Agenda for Europe. This will include clear outcomes and targets for eAccessibility, especially in eServices, as well as significant civil society participation. (Indicator: Action Plan for

**Figure 2****A Systems Approach: The Three Levels of Capacity Development**

*Successful capacity development requires not only skills & organizational procedures, but also incentives & good governance*

eAccessibility, or its equivalent, in each country). Practical assistance will be developed to facilitate eAccessibility, such as a database of localised assistive technologies, pilot implementation of low-cost assistive technologies, and a Toolkit in local language for Website developers. The project would also facilitate a region wide assessment of levels of eAccessibility in eServices, and contribute towards a benchmarking exercise in line with EU standards.

Secondly, the project aims at **improving access to eServices and public services for poor and marginalised communities** through encouraging recognition at SEE Ministry level that certain marginalised groups require additional attention if they are to avoid further marginalisation in the context of the implementation of ICT and eServices. For that purpose, specific policies/actions will be drafted that respond to the above recognition. Pilot projects will be launched in several SEE countries, embodying exchanges of experiences

between these countries, and replicating such experience. Toolkit to address eExclusion from eServices will be consolidated.

Thirdly, the project aims at **integrating eAccessibility within the wider eSEE Initiative** and supporting regional agenda through the eSEE Secretariat. Important for regional ownership will be formal adoption of this project within the Framework of the eSEE Initiative, integration of the goals of the project within the overall eSEE Initiative Matrix, and continuation of a highly respected, efficient and effective eSEE Secretariat to purpose the overall goals of the eSEE Agenda+.

### Challenges

The main challenge of the project is presented by the mismatch between the actual needs and the currently available resources. There is a great demand for designing a portfolio of projects that deal with this topic both in the wider region and at the national and local levels.

### Opportunities

The existing partnerships and networks created within the eSEE Initiative and close cooperation with the RCC have been the main success factor of the project. An ongoing commitment from SEE states, along with its dedicated network of eLeaders as experienced high-level public sector policy makers and advisors, positioned the project to act as a catalyst, and lever a much wider impact from the available funds: it builds freely on the ready-made, fully operational regional eSEE Initiative platform of 900+ top ICT professionals, without incurring any costs or causing delays.

Moreover, the UN Convention and EU policy orientation create political atmosphere and operational environment that will support the mainstreaming of the work carried out within the framework of this project. The legal obligations under the Convention require action in these areas; the extension of the *acquis* in these domains offers a practical dimension and



Source: Presentation by Nera Nazečić, eLead Programme Manager/Head of eSEE Secretariat, UNDP Bosnia and Herzegovina

such mainstreaming will contribute to the wider goals of European accession in a manner that is both cost effective and desirable.

Finally, the realisation of this project will, both technically and financially strengthen the ongoing regional eGovernance actions in South Eastern Europe.

#### *Gender mainstreaming*

Statistics<sup>25</sup> are showing that men with disabilities are almost twice more likely to have jobs than women with disabilities. Also, women with

disabilities are five times more likely than women without disabilities to have less than eight years of formal education. Hence, gender equality is being mainstreamed throughout the programming activities, based on the CEDAW recommendations. Sex disaggregated data is being collected throughout the process of project implementation, and corrective measures have already been taken by the project in order to prevent double exclusion of women based on their disability. A Toolkit on How to Mainstream Gender Equality into Information Society has been prepared and presented at the training to an audience of 200+ participants region wide.

25 Almost 42% of men with disabilities are in the labor force compared to 24% of women. In addition, while more than 30% of men with disabilities work full-time jobs, only 12% of women with disabilities have full time employment. Women with disabilities are also significantly poorer than men with disabilities, partly due to the fact that they are more likely to be unemployed and partly due to the fact that when they work they receive considerably lower wages than men with disabilities. Women with disabilities who work full-time earn only 56% of what full-time employed men with disabilities do. When it comes to education, women with disabilities are five times as likely as women without disabilities to have less than eight years of formal education; 17.4% of all women with disabilities have less than 8 years of formal education as compared to 3.5% of non-disabled women. Only 16% of all women with disabilities are likely to have any college education compared to 31% of non-disabled women and 28% of men with disabilities

*Work undertaken so far*

The project started in spring 2011 and so far the workshops were organized in three beneficiary countries, as well as consultations with over 70 key institutions in five countries. Furthermore, a Situation Overview and Analysis as well as Guidelines for Inclusion of Persons with Disabilities in Information Society were completed. Key stakeholders in line ministries, NGOs and academia were identified, consulted and made aware about their commitments in terms of the UN Convention.

**Reviewers' feedback and comments:**

The project addresses an underserved population, developing sensitivity and support where it was absent. It stands to have vast implications for disabled and handicapped individuals across the region, establishing a cooperative network across countries of the region. It is both challenging and risky, given the current discrepancy between the need, and resources. And, it introduces real solutions in the new region.

An interesting element of the training programme is the emphasis on sensitising and educating partners about social inclusion, impliedly transferring to stakeholders the motivation to address the issues, rather than rote knowledge of the ICT.

The project's focus is more technical and training-oriented than one would typically associate with "innovation"; but its potential to catalyse change is substantial.

**Croatia: Capacity building of the Croatian People's Ombudsman Office (CPO)**

The importance of NHRIs has been recognized not only in OHCHR's Plans of Actions and Policy Committee decisions, but also in the annual reports of the SG as well as a recent resolution of the UN General Assembly. In all of these documents the UNCT's, and UNDP specifically,

have been highlighted as crucial players in supporting the establishment and strengthening of NHRIs, while the role of NHRIs in post-conflict societies is deemed to be of special importance, especially in Croatia where UNDP remains the key promoter of dialogue, cooperation, and transparency in promoting and protecting human rights. This project, developed in cooperation with the CPO, builds upon findings and recommendations arising from the UNDP BRC capacity assessment mission to Croatia, carried out in light of the two recent events: introduction of the Anti-discrimination Act which expanded CPOs mandate to act as a Central Equality Body; and ICC accrediting Status A NHRI to CPO under the terms of the Paris Principles.

The Parliament and the Government of Croatia, through recent legislative changes, underlined the need for strengthening capacities of the CPO to perform newly assumed roles, better coordination of work among existing institutions, and building more efficient human rights protection system that is currently comprised of numerous institutions with similar missions.

*Challenges*

Prior to the project there was no regular and formalized cross-sector dialogue in support of the new policy implementation. The 2009 European Commission Progress Report for Croatia stated that the level of protection against discrimination in practice was not in line with EU standards. This issue was tackled by introducing a model of consultative cross-sector dialogue at all levels and creating a common anti-discrimination strategy.

The project initiated an in-depth analysis of all human rights institutions financed by the State to explore and recommend to the Government modalities of rationalization/integration that would contribute to a greater effectiveness and coordination of the entire human rights protection system by using existing, compatible resources. Such initiative was never



attempted before in Croatia due to its sensitivity in terms of both substance and potential implications. However, knowledge gained during this process was expected to provide an incentive for further activity to advance the human rights system in Croatia and create a model of intervention for UNDP's future work with NHRIs in the region.

### *Opportunities*

- Excellent co-operation between the UNDP and the CPO office in previous years: BRC capacity assessment mission, launch of the new Anti-discrimination Act, BRC/OHCHR UPR workshop, and the Rationalization of the Croatian Human Rights Protection System exercise have fostered establishment of the close working relations with the CPO and other national partners involved.
- Rationalization of Croatian HR system initiative was warmly welcomed and supported by the Vice Prime Minister for Human Rights and by the Governmental Office for Human Rights, and UNDP was recognized as a crucial player in the field of promotion and protection of human rights in Croatia.
- UNDP Croatia has been recognized for its mediation role between the Government and civil society and its continued advocacy in respect to human rights. Therefore, UNDP is in advantaged position when organizing cooperation through CPO at a multi-sector level to foster implementation of various anti-discrimination measures.
- Significant developments that took place a year before – the CPO being accredited Status A national human rights institution by the ICC NHRI, under the terms of the Paris Principles, and the Anti-Discrimination Act entering into force in January 2009, assigning a new role and powers to the CPO as equality body – provided the momentum and the basis for the project to be on top of the CPO agenda. This was later even further prompted when the CPO assumed the role of the National Preventive Mechanism under OPCAT, in early 2011.



CPO visit to the Psychiatric Hospital on the island of Ugljan

### *Work undertaken so far*

Until September 2011, *Policy Analysis (projection) of the Conditional Merger of the Human Rights Centre (HRC) and the Croatian People's Ombudsman's Office* was produced. Field visits that took place to two counties initiated establishment of the consultative cross-sector dialogue at the local level, as a platform to discuss the most efficient approach to implementation of the anti-discrimination policy. Furthermore, during these visits 75 citizens submitted their complaints to the CPO representatives, and 44 new cases were opened and will be acted upon.

Within the framework of the project visits were also organized to 2 prisons, 7 police stations and a psychiatric hospital, in support of the newly assumed role of the CPO as a National Preventive Mechanism under OPCAT.

Furthermore, CPO Strategic Plan containing performance indicators, CPO Communications Plan and a Client Questionnaire were drafted in co-operation with the CPO key staff in May 2011.

The project is, however, slightly below target. The reason for that is that the presentation of the

2009 Report on Implementation of the Anti-discrimination Act to the Parliamentary Committee for Human Rights was scheduled for autumn 2010. However, the exact date and actual discussion kept being postponed until late October which caused a delay in implementing activities related to training of Ombudspersons in reporting to Treaty Bodies, since the CPO had to be on a “stand-by” in the Parliament for that whole period.

### **Reviewers’ feedback and comments:**

The project is practical and follows best practices in capacity building for ombudsman institutions.

As with most capacity building projects, the critical issues for the future involve the institution’s preparedness to replace the UNDP project upon its completion, e.g. is staff trained to design and conduct future trainings?; are all staff and working groups committed and prepared to continue processes that UNDP has facilitated without UNDP’s involvement going forward?

It also may be appropriate to discuss with the Ombudsman office the type of competencies they need/wish to have sustainably available in house, and those competencies that they consider appropriate for hiring on the (consultant) market. This may help to further sharpen the type of assistance that is provided through the project, sharpen the discussions on sustainability and further strengthen the capacities of the Ombudsman for strategic planning.

Lastly, it may be appropriate to discuss not only the need for capacity development advisory services, but also the type of advisory services, like the type of training (teaching, workshops, on-the-job, coaching, mentoring, etc.).

### **Kosovo: Parliamentary Development for Social Policies – PDSP**

The project aims to strengthen the capacities of the Assembly of Kosovo (AoK), MPs, and civil society to monitor and evaluate the Kosovo

Government’s progress towards achieving the MDGs and delivering socially inclusive policies and legislation, specifically focusing on pension schemes, social assistance and access to health, education and employment for the vulnerable groups in Kosovo, including the environment and gender dimensions.

The project seeks to build a platform for evidence-based development of policies and legislation, through integration of MDG and EU Social Inclusion framework. These new and revised policies will target the underdeveloped areas in which communities are lagging behind in specific MDGs. Addressing inequalities in Kosovo society through design and implementation of pro-poor policies will require a collective effort by all relevant institutions and stakeholders. In achieving the set objective, the key intended outputs of the project are planned as follows:

1. Strengthened capacities of AoK for evidence-based formulation of socially inclusive policies and legislation, and establish an oversight mechanism for monitoring the implementation and promotion of dialogue in Kosovo, using tailored indicators to measure the progress, based on MDG and EU social inclusion framework;
2. Strengthened capacities of CSOs, including women NGOs for increased participation in the oversight of socially inclusive related policy and legislation implementation;
3. Improved capacities of AoK for constituency relations and regional/international cooperation.

#### *Work undertaken so far*

Through workshops and meetings the project has facilitated the dialogue among stakeholders, and has engaged civil society organizations in providing inputs for an increased social inclusion in the laws passed by the Parliament. The project organized a conference called “The Impact of Legislation in Economic and Social Development of the Country”. This conference was organized in partnership with the AoK

Committee on Economic Development, Infrastructure, Trade and Industry, which is headed by one of Kosovo policy champion MPs, Mr. Zenun Pajaziti. The goal of the conference was to bring together MPs, relevant Ministers, civil society and international organizations, and engage them in the discussion about the legislation and its impact on economic and social development. This conference collected recommendations from the members of the AoK, civil society, executive branch and international organizations which will be used by MPs when they develop relevant legislation. This ensured a sustainable partnership between MPs, international organizations, specialized agencies, executive branch and CSOs.

The project has built very good relations with MPs and gained their trust. It also supported the creation of the Women Caucus of the Assembly of Kosovo and internal elections, and is facilitating networking of the women MPs with other relevant stakeholders. The process for creating youth caucus has been initiated.

#### ***Reviewers' feedback and comments:***

There are several questions that would require further attention:

- Has the UNDP team obtained a commitment from Parliament for future CSO involvement?
- Has the UNDP team worked (mentored/trained) with CSOs on effective interaction with Parliament?

The project paper neatly describes the project objective. What is missing is why this is done? How would this project contribute to a better life of the Kosovo citizens? One could imagine for instance that stronger inclusive processes would contribute to a more peaceful society, better targeted at the needs of citizens by the policies leading to gradually improving service outreach.

The outputs are formulated as activities, but still give a sense of what the project aims to do:

1. Improve capacities in monitoring and evaluation, as well as capacities for constituency relations and regional/international cooperation of AoK
2. Improve capacities of NGO to participate in oversight mechanisms

Better insight how policies are doing in practice, better coordination and communication mechanisms as well as better capabilities of relevant parties to constructively engage in dialogue indeed could lead to better policies.

#### **Republic of Moldova: MDG Governance in Action: catalyzing human rights in social policies**

The overall objective of the project is to prompt achievement of MDGs in Moldova by mainstreaming human rights in social sectors, particularly in health, education, employment, and social assistance.

Activities planned within the project aim to promote the rights of persons with disabilities, mainstream human rights in social policies and support national authorities and NGOs in human rights review processes.

#### *Opportunities*

Moldova's international and regional commitments, as well as the improving bilateral relations with the EU represent major opportunity for the project. The 2011 Concluding observations of the Committee on Economic Social and Cultural Rights are covering many of the issues which the current project is seeking to address. The 2010 EU-Moldova Visa Liberalization Action Plan provides explicitly for of comprehensive non-discrimination frameworks. The Government programme prioritizes human rights and social policies.

#### *Challenges*

One of the main challenges of the project consists in the reluctance to change and



Anti-discrimination public awareness campaign in Moldova

to reform of some Government bodies which are supposed to be reformed. The inherited Soviet system, lack of sufficient information, lack of qualified personnel and development opportunities hampers the reform process. To address these issues, the project started to raise awareness about discrimination and its impacts, including the one of economic nature, via the launched public awareness campaign. In addition, to address resistance to change the project is also working with the State Chancellery, which is supportive of the reform. The project also brings in international and regional expertise and experience, relying, whenever applicable, on strong evidence from various studies and researches.

Furthermore, the risk of political instability/early parliamentary elections persists. It leads to uncertainty and slows the reform process, because politicians are reluctant to adopt unpopular laws before possible elections. It may also lead to delays in project implementation related to Government reshuffling. To address this issue, the project will work with mid-level staff, since they are most unlikely to be reshuffled.

#### *Work undertaken so far*

The project so far reviewed existing domestic policies and legal framework and formulated policy and regulatory reform measures. A Roadmap on reforming the disability determination system in Moldova, compliant to the UN CRPD and WHO ICF, was developed and broadly consulted with national stakeholders and international experts. The document covers:

- review of labour capacity determination provisions in Lithuania, Romania and Russia;
- proposed model for determination of disability;
- list of laws and regulations which need to be amended in order to implement the proposed reform measures on the determination of disability;
- costs of the reform and an Action Plan for the implementation of the reform according to the elaborated Roadmap.

The paper was recognized as a quality document by the Government and will be taken over by the Government in the reform process. Non-discrimination is an underlining principle of



the intervention, which includes gender-based discrimination. The paper produced considered potential gender disparities as important issues.

With the view to providing platform for inclusive discussions on the rights of persons with disabilities, the project organized a conference with the participation of all relevant stakeholders, including Government, civil society, academia, media, foreign diplomatic missions accredited in Moldova.

The project supported Ministry of Labour, Social Protection and Family to hold an event for deaf children.

To support social inclusion of Roma, the project began by hiring a national expert. The expert was tasked to perform a research and mapping of law, policy and best practice in this area and provide a model for social inclusion based on the experience in the region and at the international level. In addition, in the context of the National Action Plan for Roma Inclusion, a study on the social inclusion of Roma was developed. The paper assesses various models in the region and provides recommendations for institutional reforms in Moldova. It created preconditions for initiating Roma inclusion reform in Moldova, through institutionalising the position of Roma Mediators. In addition, comprehensive recommendations were provided to the National Action Plan for Roma Inclusion.

The project continued to support the Ministry of Health to adjust the health policies in compliance with the international human rights law. A health and human rights consultant was hired and provided valuable inputs to a series of health laws, including the Law on HIV/AIDS, Law on Tuberculosis Treatment, etc.

With the view to strengthening the capacity of civil society to prevent discrimination a Small Grants Programme was launched. Within the Small Grants Programme, four grants were awarded, covering the rights of persons

with disabilities, LGBT, and Roma. Civil society organizations were enabled to conduct comprehensive non-discrimination campaigns through strategic litigation, testing, advocacy and lobby campaigns. The Small Grants Programme explicitly provides that interventions should seek to ensure equality of opportunities between men and women.

The project assisted the Ministry of Justice, Ministry of Labour, Social Protection and Family, and Ministry of Foreign Affairs and European Integration with drafting reports to the treaty-based and charter-based bodies, including the Universal Periodic Review (UPR) 2011 by offering broad-based consultation, including UPR procedures, guidelines on preparation of the Report, as well as guidance and support in the process of holding inclusive consultations with civil society. The project also provided assistance in translating the UPR report into English and Russian, printing out and dissemination. To raise awareness about UPR, the project realised a video programme, which was broadcasted on the national public TV (Moldova 1).

The project is providing support to the national authorities, the National Human Rights Institution and the civil society organizations in participating at the most important UN human rights sessions.

It assisted the Delegation of the Moldovan Government to participate in the review of the 2nd periodic report of Moldova regarding the implementation of the International Covenant on Economic, Social and Cultural Rights within the 46th session of the Committee on Economic, Social and Cultural Rights, held on 4–5 of May 2011 in Geneva. The delegation consisted of representatives of the Ministry of Labour, Social Protection and Family, Ministry of Health, and Ministry of Education. Civil society organizations were also enabled to participate in the Session. Most of civil society recommendations were taken into consideration by the Committee in its Concluding Observations to the Country.

### Reviewers' feedback and comments:

The reviewers concluded that the project is broad and ambitious. If successful, it would make way for many areas for future activities and partnerships for DGTTF but also for the Country Office. Risk largely arises from the breadth of its scope, as well as from the large number of challenges which, to overcome, require changing attitudes rather than merely articulating dictates of international standards.

#### Suggestions:

- In public relations, awareness and negotiations, emphasize damage resulting from discrimination in human terms.
- Many individuals fail to bring discrimination suits for fear of reprisals and/or ultimate failure. Complement strategic litigation with town meeting format and public dialogue to de-escalate potential hostile responses.
- To prevent opponents of change from undermining progress after completion of the project, incorporate less virulent opponents (but opponents whose views are close to the most strenuous opponents the project might encounter at the end) into the process to identify indicators, recommend remedies, and draft legislation, to ensure that they feel they are authors of the change.

### Ukraine: Legal Empowerment of the Poor (LEP): Fostering Full Enjoyment of Land and Property Rights

The purpose of the project is to enhance land and property rights awareness among the poor population of Ukraine to enable them to enjoy their ownership rights. With this project poor rural population in three pilot regions of Ukraine will be equipped with knowledge and understanding of their property and land rights through provision of legal counselling services in at least 5 "rayons" (sub regions) per region for at least 1.000 rural inhabitants. Also, at least 1.000 rural inhabitants will be covered by legal

literacy campaign on property/land rights, and capacities of at least 20 legal aid centres per region will be developed.

For that purpose it is planned to conduct the capacity review of existing state and non-state legal aid centres, legal needs assessment of the rural population vis-à-vis their property and land, and research on international primary legal aid system (with specific emphasize on land and property rights). These would serve as a basis to develop recommendations for the national partner in strengthening regional legal aid centres of the Ministry of Justice of Ukraine, and to document good practices and lessons learned for further scale-up and feeding into the national policy discourse and UNDP regional LEP strategy. These activities would be supported by a local public awareness campaign on land/property rights.

Gender mainstreaming is an integral part of the project. It is envisaged that the project will benefit single mother and single father families as well as large families and will keep record of disaggregated data on the final beneficiaries of the project.

#### Opportunities

Recently adopted Law on Freed legal Aid in Ukraine was seen as the main opportunity for a more efficient cooperation between state and non-state providers of the legal aid. The project also envisages an opportunity in better donor coordination in the area of legal aid provision.

Furthermore, Community of Practice meeting on Legal Empowerment jointly organized by UNDP BRC and the Open Society Justice Initiative in collaboration with UNDP Ukraine and International Renaissance Foundation was held on 21-22 July 2011 in Kiev. The event was extremely valuable for the future implementation of the LEP project in terms of knowledge sharing and expert discussions pertinent to policy options and programming for legal empowerment.

*Work undertaken so far*

The project started on 20 July 2011, two months prior to the peer review. During that time the proposals as to selection of project regions were prepared, discussed with the national partner and approved by the national partner – the Ministry of Justice of Ukraine. The Ministry also preliminarily approved the plan of further activities (educational seminars in three regions and undergoing work on research on international primary legal aid system with specific emphasize on land and property rights) within the framework of the project.

**Reviewers' feedback and comments:**

The project team stressed that this is a rural outreach and assistance project, tapping into legal aid as a means to reduce rights violations and rural alienation, rather than a legal aid project expanded to provide a new field of legal representation. As such, it would address a recognized critical issue previously neglected, and it would “push the frontier”. At present, the proposed research is not itself “risky”, but the subsequent project, if undertaken, would be large in scope, and potentially establish a precedent applicable throughout the region, if not beyond.

With Government approval coming through only two months before the peer review meeting, it was too early to judge progress. But the project's plan to tap and expand an existing institutional capacity (legal aid offices) to meet an unaddressed need is constructive, innovative, and takes on a major impediment to popular perception of rule of law. As currently planned, the project could substantially improve enforcement of equal rights of the poor and marginalised if:

1. legal aid (LA) centres can staff up and gain expertise in land and property rights (they currently handle only criminal cases); or
2. the project can devise ways to amplify the LA centres' services without draining their capacity to cover their own mandate.

However, legal representation to cover land and property rights is so different from the LA system's current mandate that expanding would fundamentally alter the existing institution. Two ways the project could plug into existing resources, directly serve a population in need, and simultaneously document the extent of need, might be:

- To involve clinical law students in urban centres as mobile LA, fund training and travel to the nearby countryside to interview the population and provide preliminary advice;
- To use the LA system's consultants (who in other SEE and Eurasia legal aid systems provide primary legal aid), as well as law faculty where available, as coaches and mentors to individuals from among the target populations who could liaise with both the LA centres and rural residents, using the LA centres as legal resources and periodic support to local trainees.

Additionally, where the project envisages a public awareness campaign, it might undertake town meeting format seminars for rural populations, followed by consulting on specific legal issues.

The field has potential to be broadly influential in a 2nd or 3rd phase. Should research activities persuade local actors of the existence of an acute need, any piloted system for primary legal aid and enforcement of rural land and property rights would have broad relevance.

**General conclusions**

In reviewing the materials, the assumption was that change is possible, even in some of the most democratically challenging environments. But words from international documents and instructions from foreign perspectives as to what structures to create and what steps to take – are not persuasive. Though many practitioners shy away from broaching ideas and sensitivities that underline the proposals for desirable

improvements (or change), it is an erroneous belief that by avoiding references to ideas or values, we maintain a non-judgmental neutrality, and more successfully engender commitment to change<sup>26</sup>. Lastly, change-oriented projects cannot (and should not) simply impose ideas to partners – but we can engage them in dialogue to identify what it is in the *status quo* that they believe is less than ideal, or that they would like to see change by the time next generations come of age.

There is a theory of change that says that progress toward a goal requires three pre-requisites:

1. Identification of something in the *status quo* that falls short of an ideal the partner can articulate;
2. Conceptualisation of
  - a) a more ideal end point; and
  - b) a space between the *status quo* and that end point, that the partner can articulate; and
3. A concrete sense of steps the partner feels capable of taking, to move in the direction of the improvement they have identified and articulated.

Establishing the pre-requisites entails something closer to facilitation and questioning/interviewing interlocutors about their opinions/beliefs than assertions of what international law requires. For example, if the

partner lacks a personal relationship to the impetus to change, any project will engender, perhaps, superficial support, but progress will rely only on our insistence and strong-arming; when that disappears, so will the partner's commitment to the change<sup>27</sup>.

For this reason, a lot of review comments stressed the importance of conveying and drawing out in partners a belief that something about the *status quo* is unacceptable to them, and putting the partner in the driver's seat for change, rather than following our cues.

### Final comments

There was a general remark that the meeting was very ambitious in scope in terms of fitting what was supposed to be a five-day agenda into two-day event. Inevitably, certain projects got less attention during the review. Additionally, the abbreviated project information that was sent prior to the review gave less information than is likely included in full project documentation.

In future DGTTF project meetings, it might be worth scaling down the ambitions to what can seriously benefit the projects examined. Alternatively, if reviewers can submit comments in advance, they could each split into workshops with individual country teams to analyse and discuss all reviewers' perspectives, in turn, sharing the workshop's conclusions with the plenary.

<sup>26</sup> Comment by Valerie A. Wattenberg, Independent Consultant

<sup>27</sup> Ibid.



# ANNEX II: Annual Rule of Law and Access to Justice Regional CoP Forum 2011 - Evaluation Overview

## Background

The Annual Rule of Law and Access to Justice Regional CoP Forum took place in Izmir, Turkey, from 21 to 22 September 2011 and was attended by 48 participants, including 19 practitioners from 14 UNDP Country Offices in ECIS region, together with representatives from BRC, DGG/BDP and BCPR, and 21 external partners: thematic specialists, government agencies and civil society organizations from Turkey and the ECIS region.

The UNDP (Europe and the CIS) has initiated a number of justice sector projects in various countries in the region; supporting reform processes and finding ways in which the judiciary would be more effective, transparent and responsive in delivering services to people with a special focus on disadvantaged groups.

The events in 2011 – Sub-Regional Training on Strategic Planning and Communication for the NHRIs in South-east Europe/Western Balkans in Zadar (4-6 May 2011), Regional Conference on Human Rights and Social Justice for the Persons with Disabilities in Ashgabat (2-3 June 2011), Regional Policy Dialogue on Legal Empowerment in Kyiv (21-22 July, 2011) – are clear evidence of increasing recognition for the importance of social inclusion within a broader UNDP human rights and justice agenda.

The Community of Practice meeting had the following objectives:

1. Promote policy and programming discussion about challenges faced by disadvantaged groups and marginalised communities, with a special focus on women and minorities in accessing justice system;
2. Present lessons learned and good practices in use of mechanisms for facilitating access to justice for disadvantaged groups and marginalised communities (from the UN programmes, CSOs and government or independent institutions);
3. To provide a forum for the members of the Regional Community of Practice (CoP) to meet and discuss specific challenges, issues and lessons learned in designing and implementing DGTTF projects to better inform future initiatives maximising cross-practice approach, wherever possible.

Apart from showcasing the good practices and identifying challenges for UNDP development programming in the region, the Annual Rule of Law and Access to Justice CoP Forum featured presentations from experts in the field of rule of law, access to justice, legal empowerment, gender, minority, and other issues.

The CoP Forum in Izmir was expanded to include peer review of relevant Human Rights and Access to Justice DGTTF Projects from the region, with a view to create further synergies with some of the catalytic initiatives being implemented at the country level.

## Overview of the CoP meeting

Overall the meeting consisted of five main parts:

### 1) *Strengthening Rule of Law and Access to Justice*

UNDP has used many different entry points into access to justice programming in the region. One of UNDP's most visible strengths is identifying gaps/niches in development programming and designing appropriate interventions/projects to address them. The session was designed for the project implementers to present their programmes, including how such projects have worked to strengthen the rule of law. The specific objective was to inform the design of future programmes and to identify replicable/catalytic approaches and/or innovative examples.

Turkish counterparts presented their work related to the ongoing judicial reform, as well as the new developments and latest achievements of the Judicial Academy and the E-justice Programme. This was followed by the country presentations from Kosovo<sup>28</sup> and Tajikistan, and an open forum at the end of Part I.

### 2) *Making Justice Work for the Disadvantaged Groups and Marginalised Communities*

Within the broad context of justice reform, UNDP's specific niche lies in supporting justice and related systems so that they work for those who are poor and disadvantaged. The specific objective was to explore possibilities of strengthening UNDPs comparative advantage with a view to optimise existing resources through cross-practice collaboration within UNDP.

In the 'Women and the Rule of Law' session, the recent UN Women Global Report 2011 – Progress of the World's Women - In Pursuit

of Justice – was discussed taking into account regional aspects and perspective and with the view to explore challenges and opportunities of taking forward the Report's recommendations. The discussion was backed up by the presentation of the SEESAC project "Support for Gender Mainstreaming in Policing Practice in South-East Europe" and the Women Police Officers Network established under the project.

The 'Modernise and Rebalance the Justice System for Victims and Law abiding Majority' session that followed showed the examples of good practice and the success story of victim and witness care in Croatia and the regional VWS initiative in the Western Balkans. One of the presenters in this session was the President of the Supreme Court of the Republic of Croatia.

### 3) *Advancing Rights and Justice through innovative and catalytic projects (Ongoing DGTTF projects in the region) – Peer Review*

The specific objective was to provide a forum for the members of the Regional Community of Practice to meet and discuss the specific challenges, issues and lessons learned in designing and implementing DGTTF projects to better inform future initiatives. DGTTF projects involve high risk by nature, but are at the same time innovative and catalytic and as such have a strong potential to make a change. This session was designed to explore how UNDP advanced human rights and access to justice in ECIS region through the DGTTF, what were the main challenges that were encountered, and what can we learn from that.

Five DGTTF projects from the region were presented: Bosnia and Herzegovina, Croatia, Kosovo, Moldova and Ukraine. The presentations provided the basis for peer-reviewer's feedback and discussions that followed.

28 Hereafter referred to in the context of the UN Security Council Resolution 1244 (1999)

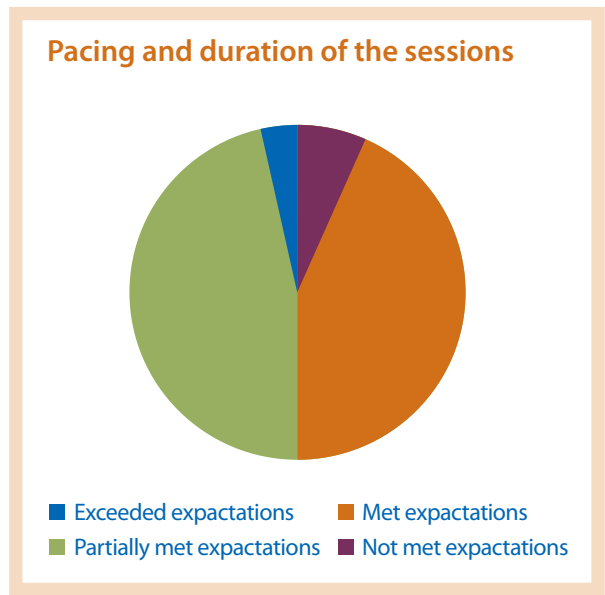
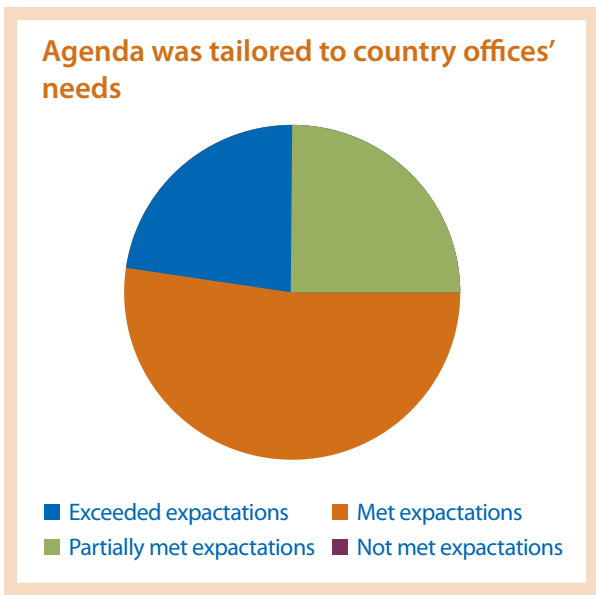
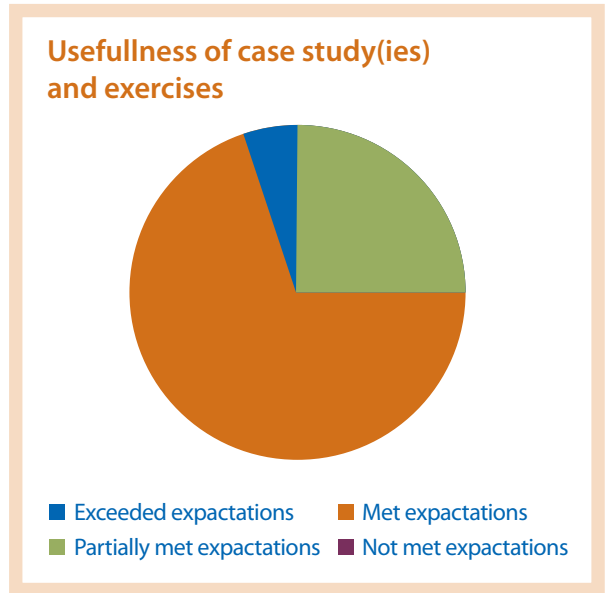
**4) Broadening Access to Justice through Legal Empowerment: Building an Inclusive Cross-Practice Agenda**

The legal empowerment agenda is about addressing informality and exclusion from the rule of law in the areas of access to justice, property, and labour rights. The session was a follow-up to the recently concluded first-ever regional Policy Dialogue on Legal Empowerment held in Kyiv during 21-22 July 2011. It was designed to inform the regional Rule of Law and Access to Justice CoP members of the key findings and outputs of the Regional Policy Dialogue with a view to engage with the CoP members for building a cross-

practice legal empowerment follow-up agenda in light of the Kyiv policy dialogue.

**5) The role of the Civil Society Organizations in Strengthening Access to Justice by the Disadvantaged Groups and Marginalized Communities – Road Map for the Future**

UNDP supports countries and governments to develop strategies for making legal and justice services more available and accessible to the disadvantaged groups and marginalised communities. In setting strategies to strengthen access to justice, cooperation with civil society organizations may play



a critical role as they can be effective in targeting and reaching disadvantaged groups, especially when working at the grassroots level.

This session brought together UNDP practitioners, government counterparts and CSO representatives in order to explore and further promote participatory approach to development of strategies, which engage civil society actors. The participants were divided into three thematic working groups covering gender, national minorities and people living with or affected by HIV. Throughout these sessions, participants came up with some specific lessons learned and recommendations for future work in each of these areas.

#### **6) CoP Follow-up, Evaluation of the CoP Forum and Closing Session**

This session also included the Sub-regional Snapshots from the Western Balkans, Central Asia and Western CIS.

#### **Feedback from the CoP meeting**

Participants were asked to provide immediate feedback on the meeting through a questionnaire.

Overall, participants felt the workshop met their expectations (58%).

The session on **Strengthening Rule of Law and Access to Justice** was particularly highlighted as valuable for the future work by most participants, especially examples of the judicial reform activities in Turkey, as well as the **DGTTF peer-review** session around which best practices and lessons learned were examined.

For the future CoP meetings, participants suggested more discussion on challenges that the COs are facing both in implementation and programming. Participants also expressed their interest in hearing some more of practical examples, best practices and success stories covering not only RoL and A2J but also Legal Empowerment.

Some participants highlighted the need for the hands on training on programming skills.

All participants appreciated the opportunity to learn from other countries' experiences and to exchange ideas and lessons learned that could be followed up/replicated at the country level.

## ANNEX III: CoP AGENDA

### Annual Rule of Law and Access to Justice Regional CoP Forum 2011

#### AGENDA

#### *Day 1: 21 September, 2011*

09:00 – 09:30 **Addresses of Welcome**

**Moderator:** Leyla Şen, Democratic Governance Programme Manager, UNDP Turkey  
**A.H. Monjurul Kabir**, Policy Adviser – Human Rights, Justice & Legal Empowerment, UNDP Bratislava Regional Centre (UNDP BRC)  
 Resident Representative a.i., UNDP Turkey  
**Hüseyin Yıldırım**, President of the Justice Academy, The Republic of Turkey  
**Ahmet Kahraman**, Undersecretary, Ministry of Justice, Government of the Republic of Turkey

09:30 – 09:35 **Presentation of the CoP Forum 2011 Agenda**, Jasmina Mujkanović, Human rights and Justice Programme Analyst, UNDP BRC

09:35 – 10:15 **Introduction of the participants & expectations**, Brief introduction and updates on recent developments related to rule of law and access to justice (Max. 3 min per country)

10:15 – 10:40 **Group Photo and Networking Coffee**

#### **Part I: Strengthening Rule of Law and Access to Justice** *– project implementers present their programmes,* *including how such projects have worked to strengthen the rule of law*

**Moderator:** Martin Gramatikov, Assistant Professor, Tilburg University, Law School Tilburg, Netherlands

10:40 – 11:50 **Country Presentation Turkey**

- Judicial Reform in Turkey
- **Strategy for Judicial Reform**, Alpaslan Azapagasi, Ministry of Justice, Turkey
- **Social Inclusion through Justice Programmes: İŞYURLAR**, Mustafa Onuk, MoJ Turkey

- **Probation Services**, Adem Bayrak, GD of Prisons and Detention Houses-Department of Probation, Turkey

11:50-12:00 Questions and Answers

12:00 – 12:35 **Open Forum on Inclusion and E-participation in Justice**

- **Justice Academy**, Abdullah Yıldırım, Judge, Justice Academy
- **E-Justice (UYAP)**, Fatih Onder, Judge, Turkey
- **Floor Discussion**

12:35 – 13:10 **Rule of Law Presentation Kosovo**, Virgjina Dumnica, Rule of Law Programme Analyst, UNDP Kosovo (15 min presentation + 15 min Q&A session)

13:10 – 14:15 Lunch Break

14:15 – 14:45 **Country presentation Tajikistan**, Kibriyo Jumaeva, Programme Analyst (15 min presentation + 15 min Q&A session)

14:45 – 15:00 **Open Forum**

## Part II: Making Justice Work for the Disadvantaged Groups and Marginalised Communities

15:00 – 16:10 **Women and the Rule of Law**

**Moderator:** Feride Acar, Professor, Department of Political Science and Public Administration Middle East Technical University, Ankara

15:05 – 15:25 **UN Women Global Report 2011 – Progress of the World’s Women (In Pursuit of Justice) and Regional Challenges: Taking forward the Recommendations – challenges and opportunities:** Sanja Bojanic, UNDP Montenegro

15:25 – 15:45 **SEESAC Support for Gender Mainstreaming in Policing: The Women Police Officers Network in South East Europe (WPON):** Jelena Vasiljevic, President of Women Police Officers Network, Serbia

15:45 – 16:10 **Open Forum:** Discussion, Questions and Answers

16:10 – 16:30 Coffee Break

16:30 – 17:15 **Modernise & Rebalance the Justice System for Victims & Law abiding Majority**

**Moderator:** Shelley Inglis, Policy Adviser, Rule of Law and Justice, Democratic Governance Group, Bureau for Development Policy, New York (Context setting & Global perspective)

16:30 – 16:40 **Regional Initiative: Victim and Witness Care in the Western Balkans in light of UNDP-EU partnership and Possible Replication in other Sub-regions?**  
– Thomas Osorio, Chief Technical Adviser in Justice and Security Cluster, UNDP Bosnia and Herzegovina

16:40 – 16:55 **Rule of law, Justice and Security from gender perspective: Success story: Victim and Witness Support Croatia - supporting victims of domestic violence**  
– Branko Hrvatin, President of the Supreme Court of the Republic of Croatia & Violeta Liovic, Project Associate, UNDP Croatia

16:55 – 17:15 **Open Forum:** Discussion, Questions and Answers

17:15 **Wrap up of day 1**

19:30 **Dinner hosted by the Ministry of Justice, Government of the Republic of Turkey for the Annual Rule of Law and Access to Justice CoP forum participants**

## Day 2: 22 September, 2011

08.45–08.55 **Summary and Key Issues of Day I:** Rustam Pulatov, Policy Analyst, UNDP BRC

08.55–09.05 **Comments/Feedback from the Floor**

### Part III: Advancing Rights and Justice through innovative and catalytic projects (Ongoing DGTTF projects in the region) – Peer Review

**Moderator:** Albert Soer, Capacity Development Team Leader, UNDP BRC

09:05 – 09:20 **Introduction: Role and Nature of the DGTTF,** Margaret Chi, DGTTF Coordinator, DGG/BDP, UNDP New York

09:20 – 11:45 **Presentation of DGTTF Human Rights, Justice & Social Inclusion projects in Europe and CIS by project leaders from respective COs**

(15 min per country followed by 8 minutes Q&A per country, if needed by the panel):

- *Empowering Marginalised Groups in eGovernance - Nera Nazecic, UNDP Bosnia and Herzegovina*
- *Capacity building of the Croatian People's Ombudsman Office (CPO) – Violeta Liovic, UNDP Croatia*
- *Parliamentary development for social policies – Selim Selimi, UNDP Kosovo*
- *MDG Governance in Action: Catalyzing Human Rights Change in Social Policy – Andrei Brighidin, UNDP Moldova*
- *Legal Empowerment of the Poor in Ukraine: Fostering Land and Property Rights – Natalia Stupnytska, UNDP Ukraine*

11:45 – 12:00 **Coffee Break**

12:00 – 12:30 **Peer Review Feedback** – a panel of 4-5 external experts will provide their feedback on the projects based on predetermined criteria;

**Peer Review Panel Members:** Albert Soer (UNDP BRC), Natalia Mardari (Moldovan Institute for Human Rights), Nazgul Yergalieva (Independent Consultant), Valerie A. Wattenberg (Independent Consultant), Martin Gramatikov (Tilburg University; *written comments*)

12:30 – 13:00 **Open Discussion – Questions and Answers:** This session will be designed as a discussion with emphasis on questions and answers. This will provide the participants with the opportunity to ask project leaders probing questions concerning implementation challenges, lessons learned and best practices.

13:00 – 14:00 **Lunch Break**

### Part IV: Broadening Access to Justice through Legal Empowerment: Building an Inclusive Cross-Practice Agenda

14:00 – 14:45 **Plenary Session: Legal Empowerment – Regional Perspective**

**Connecting the Dots: Promoting Social Inclusion through Legal Empowerment:** A.H. Monjurul Kabir, Policy Adviser – Human Rights, Justice, and Legal Empowerment, UNDP BRC)

**Panel Feedback and Local Contexts:** Berdi Berdiyev, Assistant Country Director, UNDP Ukraine; Arben Rama, Cluster Manager, UNDP Albania

**Open Forum:** Comments and Q&A from the Floor

## Part V: The role of the Civil Society Organizations in Strengthening Access to Justice by the Disadvantaged Groups and Marginalized Communities – Road Map for the future

**Moderator:** Neil Clarke, Head of Europe and Central Asia Programmes, Minority Rights Group International (MRG Europe)

14:45 – 15:15 Plenary Session: **Access to Justice and CSOs: Regional Issues, Programming Opportunities and Functional Strategies** – Neil Clarke, MRG Europe, *Aleksandra Solik*, KARAT Coalition; Natalia Mardari, Moldovan Institute for Human Rights (IDOM)

15:15 – 16:00 **3 Thematic Working Groups: Gender, Minorities, Vulnerable Groups (People living with or affected by HIV)**

**Group Facilitators:** Rustam Pulatov (Minorities), Aleksandra Solik (Gender) and Natalia Mardari (People living with or affected by HIV)

16:00 – 16:20 **Presentation from the working groups and plenary discussion**

16:20 – 16:30 **Express Coffee**

## Part VI: CoP Follow-up, Evaluation of the CoP Forum & Closing Session

**Moderator:** **A.H. Monjurul Kabir**, Policy Adviser – Human Rights, Justice & Legal Empowerment, UNDP BRC

16:30 – 16:45 **Sub-regional Snapshots: Western Balkans:** Sanja Bojanic, UNDP Montenegro; **Central Asia:** Akmal Bazarov, UNDP Uzbekistan; **Western CIS,** Valentina Stalyho, UNDP Belarus

16:45-17:00 Open Forum (What can we do together as a team)

17:00 – 17:20 **Annual Forum Evaluation** *Jasmina Mujkanović*, Human Rights and Justice Programme Analyst, UNDP BRC

17:20– 17:30 **Closing Remarks**



## ANNEX IV: List Of Participants

### RULE OF LAW AND ACCESS TO JUSTICE REGIONAL COMMUNITY OF PRACTICE (CoP) Meeting

21 – 22 September 2011, Izmir, Turkey

#### LIST OF PARTICIPANTS

Name	Position	Institution
<b>Albania</b>		
Arben Rama	Cluster Manager	UNDP Albania
<b>Bosnia and Herzegovina</b>		
Thomas Osorio	Chief Technical Adviser in Justice and Security Cluster	UNDP BiH
Nera Nazečić	eLead Programme Manager/Head of eSEE Secretariat	UNDP BiH
<b>Croatia</b>		
Violeta Liović	Project Associate	UNDP Croatia
Branko Hrvatinić	President of the Supreme Court of the Republic of Croatia	Supreme Court of the Republic of Croatia
<b>Georgia</b>		
Nana Mchedlidze	Legal expert	UNDP Georgia
<b>Kazakhstan</b>		
Irina Yurchinskaya	Programme Assistant	UNDP Kazakhstan
Maral Kassenova	Expert in the International Law Department	Ministry of Justice of the Republic of Kazakhstan
<b>Kosovo</b>		
Virgjina Dumnica	Programme Analyst	UNDP Kosovo
Selim Selimi	Project Manager	UNDP Kosovo
Petrit Skenderi	Project Manager	UNDP Kosovo
Vjosa Osmani	MP	Kosovo Parliament
<b>Kyrgyzstan</b>		
Ilima Bokoshova	Programme Associate	UNDP Kyrgyzstan

<b>Moldova</b>		
Andrei Brighidin	Portfolio Manager	UNDP Moldova
<b>Montenegro</b>		
Sanja Bojanic	Team Leader	UNDP Montenegro
<b>Serbia</b>		
Bojana Balon	UNDP/SEESAC Project Officer	UNDP Serbia
Ivan Zverzhanovski	UNDP/SEESAC Deputy Team Leader	UNDP Serbia
<b>Tajikistan</b>		
Kibriyo Jumaeva	Programme Analyst	UNDP Tajikistan
<b>Turkey</b>		
Leyla Sen	DG Practice Manager	UNDP Turkey
Seher Alacaci	Justice and Human Rights Project Associate	UNDP Turkey
Gozde Ata	Democratic Governance Project Associate	UNDP Turkey
Ahmet Kahraman	Undersecretary	Ministry of Justice of the Republic of Turkey
Akın Çakin	Head	Strategy Development Board, Ministry of Justice
Alpaslan Azapağasi	Head of Department	Strategy Development Board, Ministry of Justice
Mustafa Onuk	Head of Department	Ministry of Justice
Fatih Önder	Judge	IT Department, Ministry of Justice
Hacı Ali Açıkgül	Judge	Strategy Development Board, Ministry of Justice
Adem Bayrak	Judge	GD Prisons and Detention Houses-Department of Probation, Ministry of Justice
Hüseyin Yıldırım	President of the Justice Academy	Justice Academy
Ayse Nese Gül	Director of the Education Center	Justice Academy
Abdullah Yıldırım	Judge	Justice Academy
<b>Ukraine</b>		
Berdi Berdiyev	Assistant Country Director	UNDP Ukraine
Natalia Stupnytska	Project Manager	UNDP Ukraine
<b>Uzbekistan</b>		
Akmal Bazarov	Programme Coordinator	UNDP Uzbekistan
<b>Resource persons</b>		
Aleksandra Solik	Programme Manager	KARAT Coalition of women's NGOs in Central and Eastern Europe and Central Asia

Natalia Mardari	Coordinator, Litigation Programme	Moldovan Institute for Human Rights (IDOM)
Jelena Vasiljevic	President of Women Police Officers Network	Women Police Officers Network - WPON
Neil Clarke	Head of Europe and Central Asia Programmes	Minority Rights Group International -MRG
Nazgul Yergalieva	Consultant	
Martin Gramatikov	Assistant Professor	Tilburg University Law School Tilburg
Valerie A. Wattenberg	Independent Consultant	
Feride Acar	Professor	Department of Political Science and Public Administration Middle East Technical University, Ankara
<b>UNDP BRC</b>		
A.H. Monjurul Kabir	Policy Adviser-Human Rights & Justice	UNDP Bratislava Regional Centre
Albert Soer	Capacity Development Team Leader	UNDP Bratislava Regional Centre
Rustam Pulatov	Policy Analyst	UNDP Bratislava Regional Centre
Jasmina Mujkanovic	Programme Analyst	UNDP Bratislava Regional Centre
<b>UNDP New York, DGG/BDP</b>		
Margaret Chi	DGTF Coordinator	DGG/BDP, UNDP New York
Shelley Inglis	Policy Adviser, Rule of Law and Justice	DGG/BDP, UNDP New York



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