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## **Enhancing Access to Justice through Institutional Reform Project, 2018 – 2020 (A2J Project)**



**2018-2020**

# United Nations Development Programme Nepal

## Project Document

**Project Title:** **Enhancing Access to Justice through Institutional Reform Project (2018-2020)**

**Expected UNDAF and CPD Outcomes:** By 2022, inclusive, democratic, accountable and transparent institutions are further strengthened towards ensuring rule of law, social justice and human rights for all particularly for vulnerable people.

**Expected CPAP Outputs:**

1. National level executive and legislative branches of the Government and commissions have the capacities and tools to implement the Constitution, including peaceful transition to federal structure;
4. Justice sector institutions strengthened in accordance with the Constitution and human rights standards to ensure greater access to justice.

**Project Outputs:**

1. National Legal Aid system strengthened;
2. Capacity of Judicial Committees at the Local Level to deliver justice developed;
3. National capacity for drafting and implementation of laws strengthened;
4. Justice Sector Strengthened for inclusive economic development

**Lead Implementing Partner:** Ministry of Law, Justice and Parliamentary Affairs

**Implementing Partners:** Office of the Attorney General, Nepal Bar Association

<b>Total resources required:</b> US\$ <b>4,600,000</b>	<b>Project Period</b> : 30 Months (2018-2020)
<b>Government</b> : -----	<b>Key Result Area (Strategic Plan):</b> Governance and Rule of Law
<b>UNDP (Regular)</b> : <b>USD 650,000</b>	<b>Atlas Award ID</b> :
<b>UNDP Funding window</b> : <b>USD 350,000</b>	<b>Start Date</b> : June 2018
<b>Donors</b> : <b>USD 3,600,000</b>	<b>End Date</b> : December 2020
	<b>PAC Meeting Date</b> :
	<b>Management Arrangement</b> : NIM

Agreed by: (MoLJPA)

Date:

Agreed by: (UNDP Nepal)

Date:

## ABBREVIATIONS

<b>A2JC</b>	:	<b>Access to Justice Commission</b>
<b>CAP</b>	:	Costed Action Plan
<b>CSOs</b>	:	Civil Society Organizations
<b>CPD</b>	:	Country Programme Document
<b>GESI</b>	:	Gender Equality and Social Inclusion
<b>JC</b>	:	Judicial Committees
<b>JMG</b>	:	Joint Monitoring Group
<b>JSCC</b>	:	Justice Sector Coordination Committee
<b>MoLJPA</b>	:	Ministry of Law, Justice, and Parliamentary Affairs
<b>NBA</b>	:	Nepal Bar Association
<b>NDC</b>	:	National Dalit Commission
<b>NHRC</b>	:	National Human Rights Commission
<b>NWC</b>	:	National Women's Commission
<b>OAG</b>	:	Office of Attorney General
<b>PEB</b>	:	Project Executive Board
<b>RoLHR</b>	:	Strengthening the Rule of Law and Human Rights Protection System Programme
<b>SDG</b>	:	Sustainable Development Goals
<b>SGBV</b>	:	Sexual and Gender Based Violence
<b>SLAC</b>	:	Socio-legal Aid Centre
<b>SOP</b>	:	Standard Operating Procedure
<b>UNDAF</b>	:	United Nations Development Assistance Framework for Nepal
<b>UNDP</b>	:	United Nations Development Programme

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## EXECUTIVE SUMMARY

The 'Enhancing Access to Justice through Institutional Reform Project (the Project) builds on the achievements of the Strengthening the Rule of Law and Human Rights protection system in Nepal Programme and continues to focus on the reform of the legal aid system, supporting national efforts of reform and coordination in the justice sector, implementation of constitutional provisions on fundamental rights through legislative reform, implementation of the newly adopted criminal and civil legislations, and in particular on enhancing the access to justice at the local level.

To enable women and vulnerable groups to access justice, the Project will support the Ministry of Law, Justice and Parliamentary Affairs to lead reforms in the legal aid system in Nepal towards the implementation of the Integrated Legal Aid System which aims to coordinate and regulate accessible socio-legal aid service provision throughout Nepal. By further enabling women and vulnerable groups to enjoy their right to legal aid services, the Project will empower them to exercise their rights to poverty-reducing services such as inheritance, education allowances, health and legal services, thereby addressing inequality which is one of the barriers towards their overall well-being.

The Project will work to enhance capacity of Judicial Committees established at the Local Level as an effective mechanism of justice delivery for local community, with the aim to promote the access to justice of women, poor and vulnerable and to facilitate their easier access to justice and approach to legal remedies.

The Project will continue to be engaged in the reform of the criminal and civil justice systems by providing necessary support for the execution of the Costed Action Plan for the implementation of the newly adopted codes. Developing guidelines on implementation of codes and providing specialized trainings to judges, prosecutors, police officers, lawyers and other justice sector officials will be a focus of the Project.

The Project will further work with justice sector actors including the Judiciary with a view to enhance their capacity to address issues that may arise in the course of federalization which itself is a new area requiring specialized knowledge and skills at different levels. .

The Project will continue to provide professional opportunities to women and vulnerable categories of people through its scholarship and internship programs. Linkage of these programmes and support to Judicial Committees and Legal Aid system will be established to institutionalize the pro-bono culture in delivery of legal services in Nepal.

Finally, the Project will explore opportunities to support effective delivery of justice for inclusive economic development through tailored trainings to the concerned stakeholders on conciliation / arbitration / mediation on complex commercial and foreign investment-related disputes.

## 1. SITUATION ANALYSIS

A functioning justice system is key not only to protect and guarantee the human rights of all citizens, resolve disputes at sub-national level and deliver justice to both victims and accused of crimes but also to accelerate economic development which is one of the key goals of the Government of Nepal (hereinafter "the Government"). At this critical juncture of Nepal's development and state building process, it is apparent that justice sector reform is critical to helping to sustain and create an enabling environment for further socio-economic growth.

It is anticipated that with the full-fledged implementation of the Constitution, profound changes will occur in the justice sector. This includes the federalization of the law and order sectors to a new three-tier structure of Government, operationalization of newly created Judicial Committees (JC) at local level, redefining role of the Chief District Officer, and ensuring District Courts become the courts of first level of appeal. In addition, it is expected that there will be significant improvement in the status of marginalized and vulnerable groups with profound changes of the legal framework, including critical legislations expanding human rights guarantees. The implementation of the civil and criminal codes and their procedures are also expected to fundamentally change the way justice services are provided<sup>1</sup>.

Many new actors are taking up their posts at federal, provincial and local government levels. The justice system actors that include the judiciary, Ministry of Law, Justice and Parliamentary Affairs (MoLJPA), Office of the Attorney General (OAG) will take a catalyst role to ensure access to justice and promotion rule of law at federal and sub-national level in the years ahead.

Speedy and accessible justice remains a priority for the justice sector in Nepal, as clearly stated in the Third Five-Year Strategic Plan of the Judiciary (2014-2019). Despite notable progress achieved over the years, limitations in the access to justice persist, especially for women and vulnerable groups, including conflict victims. A 2016 study revealed that 50% of Nepali citizens do not trust the criminal justice system and 87.7% of citizens were not aware of free legal aid services.<sup>2</sup> Limited access to justice and basic services pose risks to social cohesion across Nepal. Justice sector reform requires extensive resources and policy changes. In this context, it is necessary for Judiciary to receive adequate means and resources for more effective and efficient justice delivery.

The Constitution has significantly expanded the catalogue of fundamental rights<sup>3</sup>, however, efforts to fulfill the right to social justice and other fundamental rights of marginalized groups

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<sup>1</sup> Review of Justice Sector Reform in Nepal, 2017

<sup>2</sup> Baseline Study of Crime in Nepal, Ministry of Law and Justice, 2016, page 196, point 11.

<sup>3</sup> Right to live with dignity, right to freedoms, right to equality, right to communication, right to justice, right to victim of crime, right against torture, right against preventive detention, right against untouchability and discriminations, right to property, right to religious freedoms, right to information, right to privacy, right against exploitation, right regarding clean environment, right to education, Right to language and culture,

depend on enactment and effective enforcement of appropriate legislations. As the Constitution has very innovatively recognized many economic, social and cultural rights (ESCRs) as fundamental rights along with collective rights of weaker sections of society, that requires laws and policies for enforcement. Even the Constitution has clearly mentioned under Article 47 to pass the laws for the implementation of those rights within three years from its commencement. Given the nature of these rights, all three tiers of government- central, provincial and local- will have important roles and responsibilities in the enforcement of those rights. The Constitution has clearly demarcated the powers and responsibilities among the three tiers of government, including for law making in their respective jurisdictions.

To ensure the alignment with the Constitution, the legal and policy framework still needs to undergo significant revisions. In 2016, the Parliament passed around 30 bills, including the Supreme Court Act (2016), and the Judicial Council Act (2016). In addition, the Acts establishing constitutional status of the Nation Dalit Commission (NDC) and National Women Commission (NWC) were also passed whereas, the existing Caste Based Discrimination and Untouchability (Offence and Punishment) Act was reviewed for its compliance with the new Constitution and international standards.<sup>4</sup> Moreover, in 2017, the Parliament enacted a new Criminal Code, Criminal Procedure Code, Civil Code, Civil Procedure Code, and the Sentencing Act. These new legislations will introduce significant changes in the civil and criminal justice system in the country and require extensive efforts for public legal awareness and training in all relevant institutions. The adequate understanding and implementation of the new legislations will profoundly impact the lives of all citizens, especially the most vulnerable who will require specific support to receive legal aid and access to justice.

The Constitution envisages seven provinces with significant decentralization of powers to the provincial and local levels. Under the new Constitution, provincial governments are given significant powers and they can play an important role in the delivery of justice. During 2017, three tier elections, federal, provincial and local, were conducted resulting in creation of local government institutions that will have significant role in addressing disputes through JC at local level with competencies on mediation and administrative procedures. Significant support will be needed to enhance the capacities of JC members, chaired mainly by women, and ensure coordination with justice sector institutions, quasi-judicial bodies and other relevant stakeholders. As the JCs are informal in nature and responsible to resolve the local disputes, they can help in localizing the justice system and more importantly promote access to justice of poor and vulnerable in an amicable way. For example, if Judicial Committees were trained in mediation and empowered to adjudicate civil labour grievances, this could

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right to employment, right regarding labour, right to health care, right to food, right to housing, right of women, right of children, right of Dalits, right of senior citizens, right to social justice, right to social security, right to consumers, right against exile, right to remedy.

<sup>4</sup> MoLIPA has identified the need to have 41 areas of laws to be enacted for the federalization, numbers of laws for the fundamental rights and about 300 laws for the amendment in line with the new Constitution.

positively extend the reach of the existing only 10 labour offices across Nepal and vastly improve victims' access to justice.<sup>5</sup>

This is of importance as a large majority of the Nepali population (around 90%)<sup>6</sup> use informal justice mechanisms that offer greater accessibility and speed. Mediation has played an important role in ensuring a basic level of access to justice for marginalized groups with a resolution rate of almost 90%.<sup>7</sup> In addition to State-led mediation, there are currently more than 12 mediation structures in place by CSOs, religious and community leaders. However, the remaining challenge is to ensure that mediation does not contribute to impunity in serious cases such as murder or rape for the sake of preserving harmony in the communities and also harm the human rights-based approach while resolving disputes.

Within the context of federalization, justice sector coordination mechanisms need to be strengthened as the Supreme Court, High Courts and District Courts will play key role in ensuring application of constitutional provisions referring to federal, provincial and local powers. Implementation of the justice sector coordination strategy together with the strengthening capacity of judiciary in resolving disputes arising out in the course of federalization is highly required so that smooth functioning of the three tiers of government could be ensured.

Likewise, to institutionalize the federal form of governance, ordinary and extraordinary jurisdictions of the Judiciary can contribute a lot. The effective and efficient use of these jurisdictions can promote human rights of people on one hand, while extending support for operation of federal structures on the other. Hence, necessary technical support for better operation of these processes can help institutionalize the federal structure and promote rule of law.

Regarding the justice sector coordination, given the breadth and complexity of justice reform and the large number of related agencies and actors, effective coordination across the security and justice sector is required to ensure complementarity of efforts to tackle the vast array of obstacles in accessing justice. While numerous initiatives to improve sectoral coordination have been introduced in recent years, there remain important shortcomings in the coordination mechanisms at both strategic and operational levels. The emphasis on improving coordination has been to develop structures to facilitate regular dialogue and exchange of views between these actors<sup>8</sup>. Since the common justice sector strategy as a framework is already in place, continued support is important to address the institutional barriers to coordination which are often related to capacity and institutional culture.

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<sup>5</sup> The International Security Sector Advisory Team, The Geneva Centre for the Democratic Control of Armed Forces: Nepal Justice Sector Assessment Report, October 2017, page 50.

<sup>6</sup> Ibid, page 176, table 5.57.

<sup>7</sup> Ibid, page 176, table 5.56.

<sup>8</sup> Review of Justice Sector Reform in Nepal, 2017



There are few joint cross sector policies related to the justice system. The risk of operating in the absence of a common policy framework is a lack of coherence between the various reforms across the institutions.

For the latter, strengthening of the Access to Justice Commission (A2JC) under the Supreme Court will offer important avenues for expanding access to justice in the district courts. No doubt, the federalization process is likely to entail a significant additional burden to government resources that risk diverting priority from the justice sector, which needs to be given a central place to ensure social justice and human rights in line with the Constitution.

The Constitution has included free legal aid as one of the fundamental rights. For this right to be fully implemented, the legal aid system needs a substantial overhaul. The basis for the restructuring of the legal aid delivery system has been enumerated within the draft National Legal Aid Policy and its adoption will pave the way for reforming laws and procedures related to legal aid. Inclusion of the socio-legal aid approach and increased coordination between and monitoring of legal aid providers are some of the key features of the policy. The Government should play the lead role for reforming the legal aid related laws and capacity development of the socio-legal aid providers with the support from the civil society and international development partners.

In the context of federalization, it is expected that there will be a growing number of disputes related to the ownership over, and benefits arising out from utilization of, natural resources across all tiers of government and within the same spheres of governance, where indigenous people and local communities are most likely to be affected. Since the level of investment in the mobilization of natural resources is increasing through big investment projects, this has the potential for more tensions of this nature. Such tensions put at risk the local peace and harmony as well as effective functioning of the federal system. Hence, there is a growing need for more specialized areas of law and justice, which includes complex cases related, amongst other, to environmental law and distribution of natural resources.

## 2. KEY ACHIEVEMENTS OF RoLHR

The Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme (the Programme/RoLHR) commenced in 2013 and concluded in December 2017 and was nationally implemented (NIM modality) by the MoLJPA.

The Programme created a basis for transformative change in the justice sector, especially in strengthening access to justice (e.g. establishment of Access to Justice Commission, simplification of court procedures, establishment of help and information desks, introduction of socio-legal aid approach, capacity enhancement of national partners on the issues of rule of law, human rights and legal system so as to deliver services to the vulnerable communities, and creation of professional opportunities for young lawyers from women and other vulnerable groups.

The Programme has achieved results at the district and national levels in both policy and programmatic areas, with different intensity depending on the nature of partnerships. This impact required consistent support and affirmative action, especially regarding the inclusion of the most marginalized population in line with the constitutional mandate.

Improved collaboration and coordination with and between justice sectors actors was one of the major objectives of the Programme. It has also become crucial to ensure sustainability of actions beyond the Programme duration. These activities contributed directly to realization of targets of Sustainable Development Goals (SDGs), mainly Goals 16, 10, and 5.

The Programme interventions brought much improvement in various areas of justice sector. For example, the national baseline perception survey (2014) revealed that only around 5% people were satisfied from court services and only 26.7% people felt prosecutors were responsive to their needs which have been improved to 38.1% and 47.1% respectively.

According to the baseline survey conducted in 2014, only 6% victims of sexual and gender-based violence (SGBV) felt confident to seek legal aid which during the Programme life cycle was improved to 53.54%. Through its "Socio-legal Aid Centers" the Programme provided preventive and remedial legal aid services to 110,458 persons, of which 55% were women.

Judgement execution was one of the major strategies to end impunity and increase trust and confidence in the justice system of the country. In 2014, the Programme has supported the "Campaign for Judgement Execution" which has resulted in 8% increment in execution of judgments in civil cases and 11% increment in criminal cases. By the end of the year 2017, there has been 12.5 % increment in fines recovery (2011 – 15% & in 2017 – 27.50%), 7.01 % increment in execution of prison sentences (2011 – 16% & in 2017 – 23.01%) and 5.36 % increment in execution of other court judgements (2011 – 53%, 2017 - 58.36%).

The Programme was instrumental in developing procedural guidelines for continuous hearing and standard operating procedures (SOP) for in-camera hearings. Massive orientations were also conducted to officials of courts and other justice sector institutions to build their capacity and strengthen coordination for its implementation. Subsequently, these legal provisions are now practiced in all district courts and more effectively in the 23 Programme District Courts. The Programme has had demonstrable impact on the supply side interventions such as information desks in courts, case management reforms through case calendaring, TIPOT (case note-taking) and video conferencing facilities for sensitive cases. It is expected that these initiatives will be scaled up and replicated in other districts of Nepal.

One of the most notable results of the Programme achieved in collaboration with the Legislative Committee of Parliament was the drafting and adoption of the new Criminal Code, Criminal Procedure Code, Civil Code, Civil Procedure Code and the Sentencing Act, which together introduce major changes in the 170 years old legal system of Nepal.

The effective implementation of these codes will ensure that Nepali legal system is compliant with international standards and thereby enhance the administration of justice. In addition, the Programme has prepared a detailed Costed Action Plan for the implementation of these new codes. The plan details out all the necessary activities that need to be undertaken for the effective implementation of these codes, such as training requirements, financial and human resource needs and, guidelines/manuals to be developed.

In relation to the law-making process, the Programme developed a law review strategy in partnership with the Nepal Law Commission. It has contained basically the key fundamentals in terms of content and procedure while drafting the laws. The aim of this tool is to standardize the law-making process with participatory approach in applying relevant international standards as well.

Piloting of the socio-legal aid approach through establishment of 10 Socio-legal Aid Centers (SLACs) and development of referral networks contributed to enhanced coordination between various legal aid and social services providers. The SLACs have contributed to coordination through regular dialogues among various actors, and by promoting a referral culture at the local level. In 2017, SLACs provided preventive and remedial legal aid services to 26,234 persons, out of which 15,467 were women, and dealt with 1,100 court cases on behalf of the service users. Additionally, SLACs have conducted legal awareness and legal mobile clinics in remote villages. Added value of this approach was that SLACs served as one-stop crisis service center which ultimately increased access to justice of women, poor and vulnerable. The success and the importance of SLACs has now been reflected through inclusion of socio-legal aid approach in the new draft of National Legal Aid Policy.

The Programme assisted the NDC to establish Joint Monitoring Group (JMG)<sup>9</sup> and provided technical support in developing a guideline. The JMG has been effective in strengthening and institutionalizing coordination among National Human Rights Institutions along with relevant government institutions in addressing human rights violations. This has contributed to capacity development of NDC for monitoring and reporting of the caste based discriminatory practices and sensitization of concerned agencies for prompt undertaking of necessary remedial measures. Beside this, the Programme has also supported the NDC to develop a 5-year strategic plan and the induction package for new commissioners and staff deputed in the commission. The Programme has also assisted NDC and NWC to conduct organizational need-assessment, to ascertain their capacity to perform their roles under the new constitutional mandate and provide strategic guidance to make these commissions fully operational.

Adopting best practices from other jurisdictions, the Programme facilitated establishment of A2JC within the Supreme Court of Nepal. The A2JC is chaired by the Chief Justice and comprises of representation from various justice institutions including civil society, which is mandated basically for; conducting public awareness, creating support system, strategic intervention and policy reformation and strengthening coordination for enhancing access to justice for vulnerable groups. Accordingly, the A2JC carried out several initiatives which made justice more easily accessible, with lower cost, time and effort. Notably, for the first time in Nepal, A2JC published court brochures in Braille script and in a local language, Bhojpuri. Beside this, the Programme supported drafting and implementation of the annual work plan of A2JC.

All the Programme activities had a very strong Gender Equality and Social Inclusion (GESI) impact. One of the flagship interventions in this regard was the affirmative legal education which through scholarship, internship and mentoring programs for students and graduates coming from marginalized groups significantly increased representativeness of the most vulnerable in the legal profession and justice institutions. These initiatives were tailored towards increasing the confidence, legal representation and drafting skills of young lawyers, ultimately opening opportunities for them to be established in legal profession. Evaluation of this component showed that more than 70% of the recipients of these programs of mentorship and training are active in the legal practice.

The Programme has also developed resource materials to standardize practices of JC established within local government. This has created a solid foundation to roll-out trainings required for the judicial committee members.

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<sup>9</sup> Joint monitoring group is composed of NDC, NWC, National Human Rights Commission, Office of the Prime Minister and Council of Ministers, Nepal Police

### 3. CHALLENGES AND LESSONS LEARNED FROM ROLHR

The challenges and lessons learned from the Programme were analyzed in detail and used in the design of the current Project in order to avoid pitfalls that have hampered the implementation of the Programme in its first two years.

One of the main challenges identified by the Final Evaluation was that the Programme was large in terms of partners, activities and budget which posed a significant challenge for UNDP, national implementing partners and donors in implementing, coordinating and supporting the Programme. For this purpose, the current Project proposal has limited the number of the partners and has more focused activities which will yield more tangible results during the Project life cycle. Additional challenge was that the Programme was delivered at a time of ongoing political change, including the new Constitution. A continuous succession of Governments was formed during the Programme, and there have been six Chief Justices heading the Judiciary, as the primary counterpart on the Programme. The new Project will be delivered at a time when there is a stable government with an outlook of 5 years tenure thus such political challenges are not expected. In addition, as the MoLJPA is now the main implementing partner of the Project contributes to mitigation of any political challenge.

In terms of management challenges, implementation of the Programme under the NIM modality had placed an administrative burden on some partners, particularly without co-located operational support from the Programme, contributing to delays in procurement and recruitment, and the potential impacts of delayed disbursements upon the scheduling of their activities. The new Project will be delivered under the same NIM modality, however, the newly adopted NIM Guidelines have provided for more streamlined practices that will ensure smooth implementation of the activities.

Staff turnover, and in particular the delay in filling key international technical assistance positions for long periods of the Programme impacted on the capacity of the Programme to undertake quality assurance of technical activities, and to be able to share global best practice and source appropriate short term technical expertise. For the new Project, the core structure, including with international expertise, has been retained and is on board from the initiation stage of the Project which will ensure timely and qualitative implementation of the activities.

More specific lessons learned, as outlined below, were also taken into consideration during the design of the project strategies, approaches and activities.

- **Coordination and communication:** Effective coordination and communication will help the Project for better delivery and in achieving the overall outcome of the Project. Coordination and communication will be twofold: within the Project, implementing

partners and the donor(s) so that issues are resolved in timely manner with no delay in implementation but also externally one of the main objective of the Project is to ensure better coordination of the justice sector actors.

- **Partnership with Civil Society Organizations (CSOs):** Partnership with the civil society was instrumental in maximizing efforts to expand outreach initiatives to address demand side issues such as creating awareness among right holders about existing legal and policy mechanism and to build their capacity to access those mechanisms. This proved crucial in SLAC operations, especially in organizing mobile legal aid camps and establishing the referral mechanism. The same approach will be employed in the current Project.
- **Simplification of Procedures:** The end-line perception survey findings show that much more needs to be done to make justice accessible. One of the main needs is the simplification of court procedures and services. While more than three quarters of non-court users expressed having knowledge about legal aid, only one-third thought that court procedures were simple and accessible for the general people. The Project will continue to work with the judiciary and with the A2JC of the Supreme Court to strengthen access to justice through simpler court procedures.
- **Joint Monitoring Visits:** Joint monitoring is an effective tool to identify the progress, issues and challenges at the field level. In addition, it can also help the implementing partners to increase their ownership and willingness to deliver results. The Project will employ the same modality and organize periodic visits with participation of donor(s) and implementing partners for closer monitoring of the results.
- **Regular analysis of risk and mitigation measures:** The Project has developed its risk log and continued analysis of the work plan focusing on risks and issues will be undertaken frequently. This will be helpful in identifying bottlenecks and mitigation strategy so that the Project can ensure the full delivery of the outcomes and adjust to the changing political and legal context of Nepal.
- **Proper reporting and sharing of outcomes:** The Programme was unable to demonstrate its achieved results. Particularly communications between the Programme and stakeholders was insufficient. The current Project will thus develop better reporting protocols including increased presence in social media and a wider dissemination of products and reports.
- **Focusing on local level:** The localized interventions focusing at the community is an important lesson considered in design of the Project. The changes in the political context opened new avenues to work with local government institutions that will contribute to a greater focus on justice and human rights. With the newly elected JC chairs (majority

of them women) and members in place, the Programme has provided with unique opportunity to build their mediation and administrative capacity for playing critical role in addressing local disputes as well as to coordinate with district level justice institutions. This is one of the main outputs of the current Project.

## 4. PROJECT STRATEGY AND APPROACHES

### 4.1 Project Strategy

In the new programming framework, the Project on Access to Justice will contribute to implementation of the United Nations Development Assistance Framework (UNDAF) 2018-2022, which includes Governance and Rule of Law as one of its Priority Areas (Priority Area 4): *By 2022, inclusive, democratic, accountable and transparent institutions are further strengthened towards ensuring rule of law, social justice and human rights for all, particularly for vulnerable people.*

In addition, the Governments' Fourteenth Plan envisages the establishment of a welfare State based on social justice. The Plan is aimed at better enhance the access to justice of vulnerable people through judicial reform, integrity, law reform and local legal empowerment. The focus is also given to the mid-term review of the Supreme Court's Strategic Plan and the key priorities of the MoLJPA which has developed a sixteen-point action plan that includes law making, implementation and judicial integrity.

The Project will contribute to attainment of four major targets of the Third Five-Year Strategic Plan of the Judiciary 2014 – 2019: prompt and speedy justice; predictable judicial process; accessible justice system; and enhanced public trust and faith in the judiciary.

The Project will be anchored in one of the outcomes of the UNDP Country Programme Document (CPD): governance, rule of law and human rights. The Project will continue to support the implementation of the Constitution through legislative reform, implementation of the new legislations and institutional strengthening, a comprehensive socio-legal approach to justice delivery with special attention to improving coordination in the justice sector and making it inclusive. In addition, through strengthening the justice delivery mechanism under the new federal set up, the Project will contribute in resolving the issues related to intergovernmental jurisdictions. Engagement in global processes and ratification of and reporting on international treaties and conventions – such as the Universal Periodic Review – will also be powerful catalysts for change.

The Project will be aligned with the core principle of the SDGs: “leaving no one behind”. As the Government has stated in the Voluntary National Report, 2017, all SDGs are interlinked. The Government has committed to promote rule of law and ensure access to justice for all.<sup>10</sup> Strengthening rule of law is a critical factor to eradicate poverty and promote prosperity in Nepal.

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#### Linkages with Key Sustainable Development Goals:

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<sup>10</sup> The specific targets for 2030 include ending death from violent conflict, violence against women, end violence against children, and improve transparency and accountability score from a scale of three at present to five, and good governance scale from –0.83 to 2.0 in a scale of 2.5 to 2.5. - SDG for Nepal Report, 2015, page 10.



SDG 5, *Achieve gender equality and empower all women and girls*  
SDG 10, *Reduce inequality within and among countries*  
SDG 16, *Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*  
SDG 17, *Strengthen the means of implementation and revitalize the global partnership for sustainable development*

## 4.2 Cost Efficiency and Effectiveness

Cost efficiency and effectiveness in the project management will be achieved through adherence to the UNDP Programme and Operations Policies and Procedures and reviewed regularly through the review of UNDAF and CPD<sup>11</sup> and the Project Executive Board. In addition, there are specific measures for ensuring cost-efficient use of resources through using a portfolio management approach.

The Project is designed to deliver maximum results with the available resources through ensuring the design is based on good practices and lessons learned, that activities are specific and clearly linked to the expected outputs, and that there is a sound results management and monitoring framework in place with indicators linked to the Theory of Change. The Project aims to balance cost efficient implementation and best value for money with quality delivery and effectiveness of activities. For its capacity building activities, the project will utilise outside experts as well as in-house experts from within UNDP and other UN agencies, and in-kind contributions from stakeholders.

## 4.3 National Ownership/Sustainability

Over the past 15 years, UNDP has established open lines of communication with national partners (MoLJPA, OAG) that provided the basis for a highly consultative project design process. This Project enjoys a very high level of national ownership because it is based on the needs identified by the institutions themselves. Some of the agencies have begun to address their needs with their own resources and the Project will work to strengthen these efforts.

The new plan and policies of the Government have recognized the importance of legal aid services and access to justice. The law-making is strongly incorporated in the same policy and programme, and is one of the main activities spelled out in the 16 point agenda of the MoLJPA for this year. The implementation of the current strategy of Office of the Attorney General and the formulation of new strategy for the Judiciary are few other that the policy document has mentioned for.

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<sup>11</sup> The UNDAF is to be reviewed every year by the Steering Committee to be headed by the vice chair of the National planning Commission. In addition, there will be an outcome steering committee review the UNDAF outcome four in semi-annual basis. The CPD will be reviewed annually and review will be led by the Ministry of Finance.

The provincial governments are been using the law-making strategy and guideline as an important guiding note while analyzing and drafting laws for the enforcement of the constitution. Building upon the support provided under the Programme in drafting of the integrated legal aid policy, strategic plan and the law-making guideline, the Project will continue to be engaged with the implementing partner in drafting and implementation of the laws.

The Project will be implemented through the National Implementation Modality, thus the MoLJPA and the Supreme Court will be directly responsible for oversight on all the management aspects of the Project and the decision-making. As explained above, the Project is fully aligned with the priorities of the Government and the justice sector and its design has been guided with focus on constitutional requirements, particularly for the legislative reform and access to justice at the local level.

The principle of national ownership guided the selection of the general project areas. Within those areas, the design of project activities emerged from continuous discussion and research on global practices related to legal aid reform and strengthening of the rule of law. Thematic experts at various development partners as well as national and international non-governmental organizations were also consulted in the process of formulating the project.

Furthermore, the Project will focus on the sustainability and national ownership by developing the exit strategy in consultation with the implementing partners. The continued discussion will be held with the partners to enhance national ownership over the project. Regular interactions with the implementing partners and beneficiaries will be conducted to analyze the lesson learned and best practices extracted from the project implementation. In addition, the Project will assist the government to integrate these best practices into the Government's strategic plans. The lessons learned, and best practices extracted will also be incorporated into UNDP's global database to facilitate knowledge-sharing. In this regard, as per the recommendations of the final evaluation (Final Evaluation of RoLHR), the Project will work out to ensure that the Government continues to increase budgetary allocations for the areas covered by the Project,<sup>12</sup> align the Project activities more explicitly to targets agreed with the Government and more importantly, gain support for proactive implementation of the project.

Another strong strategy that the Project will adopt is to strengthen the collaborative partnerships between Government and CSOs as it has the greatest potential for the access to justice and judicial reform. The CSOs do have a valid role to play in access to justice and overall agenda of judicial reform. The Project will seek to make greater use of its convening role to

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<sup>12</sup> During the life cycle of RoLHR, the Government has increased the allocation for legal aid from \$ 80,000 (in 2013) to \$ 200,000 (in 2017).

build confidence between justice sector actors and civil society, so that civil society is strengthened to contribute in activities such as outreach and support service.

#### 4.4 Participation of Women and Disadvantaged Groups

Despite significant and targeted reform efforts in the past few years, gender-based violence, especially against women, remains the foremost security and justice challenge in most communities across Nepal. Nepal continues to have a significant gender gap, and currently ranks 115th in the global gender gap rankings. Incidents of gender-based violence are on the rise. It has been reported that significant number of Nepali women experience some form of gender-based violence.

As highlighted in the final evaluation report and based on the Development Partners recent adoption of the Common Framework for Gender Equality and Social Inclusion, the Project will ensure its works in line with the GESI principles and the approach outlined in the Framework and the policies adopted by the Government. There will be three objectives to this work with the justice sector institutions: (i) that the rule of law actors and access to justice agencies are supported in adopting the principles, policies and culture that will promote GESI within the institutions; and (ii) to reflect upon GESI principles in the review of draft laws and the implementations of the laws/policies and; iii) to motive the legal aid providers to develop the system mainstreaming GESI into planning, programming and reporting.

The Project will work on the premise that a two-pronged approach to GESI will be required. First, the achievement of gender equality and social inclusion will be mainstreamed through all outputs and activities to ensure participation in each activity of women and disadvantaged groups.

Specific consideration must be given to how the project will ensure gender and social inclusion perspectives are fully considered and reflected in the work of the project. This will be achieved through the following tools:-

- **Analysis and Planning:** During all planning exercises, from annual work plans to each specific activity, the project will apply a gender and social inclusion lens to ensure all inputs are reflecting a gender balance and that all perspectives and voices are heard during implementation. Likewise the analysis will be made from conflict sensitivity approach during planning process of AWP.
- **Perspective:** All activities that require participation from beneficiaries will endeavour to have at least 33% participation from each gender and disadvantaged groups wherever possible.

- **Mainstreaming:** Each outputs of the Project will have specific components that relate to promoting and institutionalising GESI, whether that be in legal frameworks or parliamentary policies.
- **GESI-specific Activities:** The Project will develop specific interventions for women and disadvantaged beneficiaries. The GESI strategy which developed by ROLHR will be considered as the fundamental guiding document in formulating the activities and preparing M and E framework.
- **Monitoring & Evaluation:** The project will collect gender and other disaggregated data to ensure the impact of the project's work can be measured effectively for each gender and ethnic groups.

GESI aspects will be integrated into all the outputs of the project and the implementation. For example, this aspect will be considered while providing support to prepare amendment proposal of the legal aid act, rules and regulations as per the integrated legal aid policy and its implementation. The empowerment of JC is more focused on GESI and will be ensured while developing necessary guidelines, operational tool kits and knowledge products. The law reform is the key part of the third outputs and GESI part will be taken into consideration while identifying the thematic areas for necessary studies and research for law making. The Project will also support to the implementing partners to enhance the participation of women, poor and vulnerable during the discussions, consultations and workshops on the draft legislations. In the implementation of the codes, the Project will encourage to have more officials from women, vulnerable for the training and inductions on the codes (civil code, civil procedure, penal code, criminal procedures and sentencing act).

#### 4.5 Capacity Development

The Project emphasizes strengthening national institutions' capacity, reforming policy frameworks, building the capacity of women and other vulnerable groups, as well as civil society, legal aid providers, with the overall goal of promoting access to justice of women, poor and vulnerable as per the national and international human rights commitments.

The Project will build upon the lessons learned from UNDP and other agencies' previous projects. Capacity development and ownership of national development strategies are essential for achieving development goals. Based on the reports on the issues of access to justice produced by the previous Programme, the Project will work on developing the capacity and to impart skills, competencies, experience and awareness to people, both those who claim rights and those whose obligation it is to fulfil them. Likewise, the Project also builds the institutional capacity of government institutions to address issues relating to policy, procedures, and frameworks that allow organizations to deliver on their mandate of providing quality public services. By building capacity among citizenry and institutions, the Project will contribute to its goal of increasing citizens' confidence in the justice sector.

#### 4.6 Human Rights Based Approach

Human Rights-based Approach provides a necessary framework for actions on human development. The access to justice is one of the human rights enshrined in the Constitution. Therefore, the Project will focus on human right-based approach that will help to bring two important values to development works; firstly, it will provide necessary framework and secondly, enhancing capacity needed to the poor to overcome poverty.

The Project will focus on the well-being of all persons including those who are disadvantaged, and/or are excluded from participating in the development process and will empower them to claim and obtain justice remedies, whenever conflicts of interests or grievances put their well-being at risk.

The Project will work together with the Strategic Plan Support Project of the National Human Rights Commission (NHRC). As they have the good experience of conducting the human rights based approach training and orientation, the Project will work closely work with them to conduct the orientations to the project staff and all stakeholders on this approach in close technical guidance and support of the NHRC.

#### 4.7 Project approaches

There are mainly three approaches that the Project will undertake to achieve the stipulated outcomes.

- **Bottom-up' approach:** The Project will increase its focus on the demand side of justice, by incorporating a legal empowerment/pro-poor agenda in all its access to justice programming. In the implementation of the activities, the Project will ensure bottom up approach promoting women, poor and vulnerable. The province and local government will be consulted during the implementation of the Project activities. Furthermore, while implementing the awareness activities for newly adopted codes, JC and law-making process, the Project will work closely with the province and local Government to ensure the participation of the poor, women and vulnerable. The Project will also provide support to mapping out the project locations at the local level and while doing so, GESI aspects will be taken as one of the key criteria. As indicated in the CPD, the province no 2, 6 and 7 will be focused for the local level interventions.

The Project will also enhance the partnership with the CSOs to implement the empowerment related activities at different level. In particular, awareness activities related to legal aid, role of JC and rights stemming from the newly adopted

legislation on fundamental rights and criminal and civil coded will be the focus of cooperation with the CSOs.

- **Focused interventions aiming at system-wide and comprehensive changes:** Rather than thinly spread its resources, the Project should focus its interventions on a few strategic areas where it can generate sustainable, systemic changes.
- **Strengthen inter-area synergies:** To generate synergies, the Project should coordinate internally, and explore new-partnerships. As the predecessor was focused on justice sector coordination and collaboration with like-minded institutions of rule of law and access to justice, the Project should continue to enhance it. In this regard, the Project will work in a coordinated manner with all the concerned stakeholders and contributed to promote access to justice of poor and vulnerable. The Project will conduct continue dialogue and sharing meeting on the pertinent issues among the stakeholders at the commission and outside level. The Project will also work together with the relevant projects of UNDP namely Supporting to the National Human Rights Commission for the Protection of Human Rights Project (SNPP) , Parliamentary Support Project (PSP), and other projects working in the field of accountability and service delivery. The collaboration will be enhanced with SNPP and PSP in the implementation of the activities regarding law reform, enforcement of laws and coordination.

There are numerous current donor initiatives relevant to this project. Every effort will be made to build synergies with these initiatives. The Project aims to explore and build on coordination and partnership opportunities with national and international organizations and other UN agencies working in the area of legal aid, justice sector coordination, and access to justice. Collaboration with NGOs and specialized institutions will also be explored, especially as implementing partners.

#### 4. 8. DO NO Harm / Conflict Sensitivity

As the DO NO Harm helps us get a handle on the complexity of the conflict environments where we work and it helps us see how decisions we make affect intergroup relationships, the Project has to take this approach as an important strategy.

While conducting the mapping of the locations for the implementation of the activities and beneficiaries as well, the Project will adopt the principles and steps of the DO NO Harm framework. The key steps that Project will comply with are; better understanding

of the context; analyzing connectors; analyzing the Assistance Programme; considering (and Generating) programming options etc.

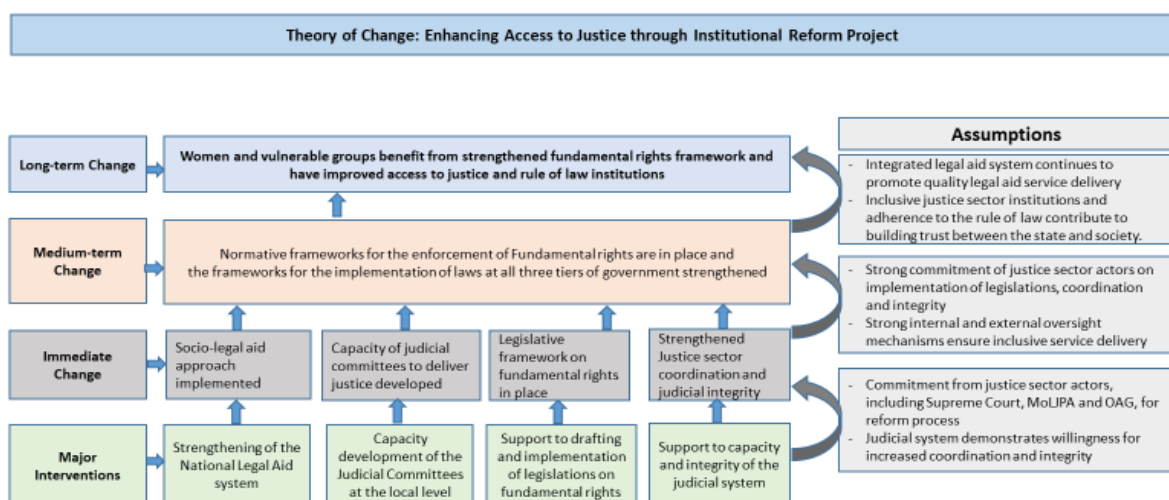
To make these all happen into the implementation of the activities, the project will conduct the orientation and training to the project staff and officials of the implementing partners at different level on conflict sensitivity and DO NO Harm. The conflict sensitivity will be mainstreamed into the planning and the Do No Harm approach will be integrated as an important approach.

#### 4.9. Environment and accountability

In all the Project activities due consideration will be given to the environmental aspect. Some of the environmental challenges that affected the Programme still exist, such as, infrastructural issues of Project partners and focus on recovery in aftermath of the 2015 earthquake. In addition, as recommended by the Programme Final Evaluation, the Project will adopt some 'Green' measures, including limiting the use of colour printing for essential purposes and use of generic free-standing banners with the Project, Government and donor logos, rather than printing canvas banners with specific event details (name of activity and event dates).

The Project will ensure that standards of transparency and accountability are respected in all its activities. Full adherence to NIM and audit guidelines will be observed and validated through regular "spot checks" and annual audit reports.

### 5. THEORY OF CHANGE



The goal of the Project is to increase access to justice for women and vulnerable people through strengthening legislative framework, legal aid system and the justice sector coordination. The expected impact of the Project will be measurable improvements in

legislative framework on fundamental rights and legal aid (supply side), which then increase the access to justice of women and vulnerable groups through improved execution of citizens' fundamental rights (demand side)

As part of the theory of change, national ownership of the process is embedded through the following principles: participation of implementing partners in project design; alignment with the government national plan and strategic plan of the judiciary; ensuring that national stakeholders are not only beneficiaries but play an important role in the reform process; and mutual accountability as a foundation for engagement, coordination and achievement of results.

The overall theory of change of the project is that if there is strong legal framework and sufficient capacity of justice sector authorities to implement it, then access to justice of women and vulnerable groups will improve because mechanisms for enjoyment of fundamental rights will be in place and accessible and the justice sector actors will increasingly be able to demonstrate principles of integrity and transparency and oversight mechanisms.



## 6. AREAS OF STRATEGIC FOCUS

While there are many urgent needs in the justice sector, strategic support of the Project will be prioritized in the light of potential of resources, implementation capacities and specific needs for intervention. The Project will prioritize effective implementation of the Constitution and the fundamental right of access to justice.

### 6.1 Legal aid and affirmative legal education

Main priority area of the Project will be legal aid. Despite the achievements of the Programme in raising awareness of general population about their rights to legal aid, public awareness about the right to legal aid is low. The transition to a federal structure, with substantial powers of provincial and local government bodies, presents opportunities to better respond to this need and strengthen access to justice of the population, particularly women and vulnerable groups. Though legal awareness has been the focus of the government, legal aid organizations and the Nepal Bar Association (NBA), a consistent, systematic and integrated intervention has been lacking. Hence, greater resources and more sustained efforts should be made to raise awareness on important aspects of the legal framework, especially pertaining to new civil and criminal norms and human rights.

Delivery of legal aid in Nepal will be affected by the new policy and law and will require additional efforts through existing mechanisms such as the Central Legal Aid Committee, District Legal Aid Committees and A2J Commission, and the continuous partnership with CSOs. The Project will focus on implementation of the new policy, amendment of the law and supporting the coordination, reporting and monitoring mechanisms. Tailored trainings for socio-legal aid providers with specific focus on category of cases related to specific challenges concerning marginalized and vulnerable groups, including but not limited to SGBV, child marriage, human trafficking, slavery practices, land and property rights violations. These all intervention will contribute in ensuring quality legal aid services to the poor and vulnerable and maximize the access of those to the services.

The Project will continue with its focus on the affirmative legal education. This activity will firstly provide professional opportunities to women and vulnerable categories of people but will also link these opportunities with the delivery of the legal aid through clinical teaching, pro-bono program and even in the implementation of activities related to the judicial committee.

### 6.2 Judicial Committees at the local level

Judicial Committees at the local level are prioritized for support due to their importance for ensuring access to justice closer to the community level and due to having a strong gender component, as most of the Chairs of the Judicial Committees are women. Considering the significant need and importance that newly established JC will have, civil society and donors should consider providing comprehensive support to these institutions. Support should include establishing clear procedures, capacity building, sensitization on gender and

vulnerability, and developing grassroots legal outreach programmes. In parallel, a system of external monitoring and complaints handling dedicated to the work of judicial committees should be developed to ensure effective oversight and accountability.<sup>13</sup>

Capacity development of the Chairs and members of Judicial Committees is of an urgent priority as most of them have not received any legal training despite the fact that they are expected to deal with several legal issues relating to adjudication and mediation both. Considering that appeals can be made to the district courts against the decisions of the JC, a good network and interface needs to be developed in conjunction with the District Justice Sector Coordination Committees (JSCC), which is responsible for undertaking judicial trainings. At the same time, it will be necessary to avoid duplication and overlap in the training of these committees. The Project will therefore ensure coordination between the concerned stakeholders and the Supreme Court (the Central JSCC). The continue coordination will also help institutionalize the interface between formal and informal justice system.

Support to JC will be provided through tailored trainings but also through developing necessary legal frameworks so that they can run effectively and people at the community have better access to justice at their doorsteps.

### 6.3 Legislative reform and implementation of laws

Legislative reform activities will be primarily focused on providing support in conducting research, reviews and assessment to draft laws for the enforcement of the rights enshrined in the fundamental rights chapter of the Constitution. The laws will open the door for the people to claim their rights as per the Constitution. The Constitution has established a federal system of governance, with substantial devolution of functions to provincial and local governments. This entails an ambitious legislative agenda affecting the executive, legislature, and the judiciary, providing an opportunity to improve accountability<sup>14</sup> at all levels.

One of the most notable achievements of the justice sector in Nepal, significantly supported by the Programme, is the reform of the justice system through adoption of the new penal and civil codes. The uniform implementation of these codes will be critical as they introduce changes to century-long legal practices. It is of paramount importance not only for justice sector officials but also for the public to be well informed and prepared on the changes that the codes have brought. It will ensure that the individual human rights are not violated due to improper application of the new legal provisions. Based on the Costed Action Plan (CAP) for implementation of new codes developed through the support of the Programme, key areas of support include legal awareness, communication, training and supporting for developing necessary normative framework, including institutional strengthening.

Considering the significance of the recently enacted laws, especially criminal and civil legislation, it is a matter of urgency to provide capacity development support, facilitate wide

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<sup>13</sup> The International Security Sector Advisory Team, The Geneva Centre for the Democratic Control of Armed Forces: Nepal Justice Sector Assessment Report, October 2017, page 59.

<sup>14</sup> Nepal is ranked 122<sup>nd</sup> out of 180 countries, Transparency International's 2017 Corruption Perception Index.

range stakeholders' consultations and engagement for the effective implementation. A public discussion is needed to define what institutional reforms are needed. Furthermore, the provincial and, to some extent, local government will also require capacity support to carry out their respective functions relating to law making, implementation and enforcement. On the other hand, legislative reform still requires the revision of more than a hundred of laws to ensure coherence with the Constitution and international human rights standards.

#### 6.4 Justice sector for economic development

Under this area, the Project will also identify measures through which the justice sector will contribute to the enabling of a more favourable environment for sustainable economic development and the achievement of the SDGs. The National Development Plan indicates that sustainable economic development will be one of the key priorities for Nepal in the context of investment initiatives and large-scale projects including hydropower plants, construction of roads and other infrastructures planned for the next years. The promotion of foreign investment will create unique opportunities for the country but may also pose challenges for ensuring equality and benefits sharing at the community level.

In the context of decentralization and new federal structures, the justice sector will play a significant role in ensuring compliance with federal policies that contribute to economic growth, social and economic rights and stability. The justice sector needs to offer effectiveness, efficiency and transparency, especially in those cases related to the use of natural resources. Transparent and reliable institutions and regulatory frameworks are key elements that will increase an enabling environment for investments and commercial activities. Especially important are those instruments supported by the justice sector to ensure speedy registration of business entities and resolution of disputes between business entities. Issues related to bankruptcy, liquidation of business entities and protection of their property rights are equally important for sustainable economic growth in Nepal.

### 7. NARRATIVE DESCRIPTION OF OUTPUTS

#### 7.1 Output 1: National Legal Aid system strengthened

The Project will provide support to MoLJPA in the implementation of the National Legal Aid (Integrated) policy which has already been finalized and submitted for the review and approval process. The policy will be instrumental tool to standardize the legal aid services across the country. As such, the Project will support to provide necessary support to develop necessary system to make sure that the policy is implemented in an effective manner.

Key activity results under this output will be as follows:

**Activity Result: 1: Legal framework revised in line with the legal aid policy:** Under this activity, the Project will provide technical support to the MoLJPA to amend the Legal Aid Act in line with the National Legal Aid policy, including also the best international standards and practices as a reference. Inclusion of the socio-legal aid approach in the new Act will be the key focus of the Project during the amendment.

**Activity Result 2: Secretariat of the Legal Aid Council established/strengthened:** The Project will support the MoLJPA to establish and strengthen the Secretariat as per the Integrated Legal Aid Policy by providing technical inputs in drafting of the necessary guidelines and procedures for its operation. The Project will also provide capacity development and logistical support to the officials of the Secretariat.

**Activity Result 3: Coordination, Monitoring and Reporting system developed:**<sup>15</sup> Key focus of the Project under this activity will be supporting the Secretariat to develop coordination, monitoring and reporting guidelines and templates. This will ensure coordination and uniformity in provision of legal aid between federal and sub-national level, contribute to integration of services and ensure that available resources are better utilized and distributed.

**Activity Result 4: Pro-bono legal aid system introduced:** Under this activity, the Project will work with the MoLJPA and the NBA to formalize the pro-bono delivery of legal aid as mandatory part of legal profession. The Project will provide necessary technical support to finalize the pro-bono guideline and support its implementation.

**Activity Result 5: Affirmative legal education strengthened:** The Project will continue to support affirmative legal education by providing professional opportunities for women and vulnerable categories. Under this activity, the Project will support establishment of clinical teaching on legal aid within the Nepal Law Campus which together with the internship program of the NBA will be linked with the pro-bono legal aid system. In addition, interns and students will be utilized for support to JC – providing legal advice to the Chair and members of the JC and carrying out outreach activities. The Project will continue to provide internships and mentorship programs in collaboration with the NBA and support specialized trainings for women lawyers coming from marginalized groups.

## 7.2 Output 2: Capacity of Judicial Committees at the local level to deliver justice developed

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<sup>15</sup> Need for a proper coordination, monitoring and reporting system was highlighted in recommendation 10 of the ISSAT report which stated that: “... MoLJ should be supported to strengthen the monitoring and quality control mechanisms over legal aid”. The International Security Sector Advisory Team, The Geneva Centre for the Democratic Control of Armed Forces: Nepal Justice Sector Assessment Report, October 2017, page 64.

As a key part of the federalization agenda, local, provincial and federal elections were held in 2017, resulting, amongst other, in creation of JC, as stipulated by Article 217 of the Constitution, with the mandate to settle disputes in civil, family and specific criminal matters at local level (Village Bodies and Municipalities). This is one of the key mechanism that aims to localize the justice system. In line with outcome 2 of the CPD and SDG Goals no. 5, 10 and 16, the Project envisages to strengthen the capacity of justice sector at sub-national level through providing specialized support in line with the constitutional framework. The Project will focus on the following key activity results:

**Activity Result 1: Necessary rules/regulations, SOPs, code of conduct and knowledge products for the JC are in place:** Given the non-clarity related to the mandates of the JC, the Project will facilitate dialogue with and between concerned stakeholders at sub-national level and provide necessary technical support in drafting rules, regulations, procedures, checklists and SOPs to ensure uniformity during dispute handling process. Key input of the Project will be adoption of human rights-based approach within the framework of the JC and provision of relevant human rights training to the Chair and members of the JC. The Project will support the provincial and local governments in developing basic and advanced orientation courses for JC. Considering the ongoing non-clarity related to the mandate and lack of and uniform approach to the training of JC, the Project will work with National Judicial Academy, Judicial Service Training Center and local government authorities to standardize the training modules and delivery of trainings. This will ensure that a uniform practice is followed in delivery of justice by JC across the country.

**Activity Result 2: System for vertical linkage between district court and JC is in place:** Pursuant to Article 151 (1) of the Constitution, the District Court are mandated to review, as appellate authority, decisions of the JC. This creates the need to develop a good interface between formal court system and informal JC. The Project will provide necessary support to introduce and strengthen linkages between these institutions, by ensuring representation of JC as in the district JSCC.

**Activity Result 3: Women, poor and vulnerable are aware about the roles and responsibilities of JC and feel confident towards it:** As the people are ultimately the beneficiaries of formal and informal mechanisms of justice system, they are to be aware about such recourse. Hence, the Project will work on building awareness among women, poor and vulnerable to make them aware about the Judicial Council as an informal justice system to resolve the local disputes in an amicable way.

### 7.3 Output 3: National capacity for drafting and implementation of laws strengthened

Drafting of the laws that will give effect to the right to social justice and other key fundamental rights related to access to justice as envisaged in the Constitution is a centerpiece of the legislative reform that is currently ongoing as part of the federalization process. In particular, Article 42(1) of the Constitution stipulates that the economically, socially or educationally backward women, *Dalit*, indigenous nationalities, *Madhesi*, *Tharu*, Muslims, backward classes, minorities, marginalized communities, persons with disabilities, gender and sexual minorities, farmers, labors, oppressed or citizens of backward regions and indigent *Khas-arya* shall have the right to participate in the state bodies on the basis of principle of proportional inclusion. In addition, the indigent citizens and citizens of the communities on the verge of extinction shall have the right to get special opportunities and benefits in education, health, housing, employment, food and social security for their protection, up-liftment, empowerment and development.

The Project will support the efforts of the MoLJPA in legislative drafting through the following activities:

**Activity Result 1: Research/studies conducted on the key areas of law-making for the fundamental rights:** The Project will support the MoLJPA in carrying out necessary research and studies related to fundamental rights. Specific emphasis will be provided to gender and social inclusion strategies while drafting legislation. Synergies will be created with other specialized UN Agencies, UNDP funded projects in order to ensure highest level of technical support provided to the MoLJPA, reflecting the best international standards and practices on fundamental rights.

**Activity Result 2: Laws repository system and standardization of law making process introduced:** Three tier elections carried out in 2017 as part of the federalization process have established 761 government units (federal, provincial and local), each one of those having legislative powers under their respective mandate. Considering this huge legislative undertaking, the Project will support the MoLJPA to establish a repository of laws which will house all laws enacted in different jurisdictions. Repository will serve as the gateway for all the laws passed by all levels of the government. And at the same time, the Project will provide support to develop model laws and guidelines to make the laws in terms of content and process in order to ensure the standardization of law making at sub-national and local level.

**Activity Result 3: Support to implementation of Costed Action Plan:** A comprehensive CAP for the implementation of the new penal and civil codes was developed under the Programme. This multi-year action plan will be a guiding document for all justice sector actors in effective implementation of these new codes. The CAP outlines all the resources required for implementation of the new codes including financial, infrastructural and human resources. In addition, a basic training curriculum for judges, court officials and government attorneys were developed.

The Project will support the implementation of the CAP through a series of targeted activities on development of resource materials related to the codes (commentaries and simplified versions), training for judges, government attorneys and lawyers on application of codes and outreach activities for both the justice sector actors and the public. The Project will also provide technical support to develop necessary guidelines, SOPs and rules and regulations for the implementation of these codes.

#### 7.4. Output 4: Justice sector strengthened for inclusive economic development

One of the emerging threats in the justice system relates to natural resources. As land, water and other natural resource scarcity increases over time due to privatization or growing utilization for commercial purposes, communal disputes related to use and access to natural resources are increasing and constituting a threat to local peace and stability. 27 percent of cases in courts relate to land disputes.<sup>16</sup> Some of this can be linked to displacement of groups during and immediately after the civil war. Implementation of the new federal model could lead to conflict between states over these resources or administratively change existing access rights for local communities due to new delineations of jurisdiction.<sup>17</sup>

**Activity Result 1: Effective justice system for inclusive economic development strengthened:** In the context of decentralization and new federal structures, the justice sector will play a significant role in ensuring compliance with federal policies that contribute to economic growth, social and economic rights and stability. For this purpose, the Project will support review of regulatory framework and engage with the judiciary to enhance the capacity of courts to examine commercial cases including those related to foreign investment leading to economic growth and sustainable development.

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<sup>16</sup> The International Security Sector Advisory Team, The Geneva Centre for the Democratic Control of Armed Forces: Nepal Justice Sector Assessment Report, October 2017, page 5.

<sup>17</sup> Ibid, page 19.

## 8. IMPLEMENTATION STRATEGY AND MANAGEMENT ARRANGEMENTS:

### 8.1 Implementation Strategy

**MOLJPA and Supreme Court:** The MOLJPA and Supreme Court will be the implementing partner and responsible to ensure achievement of the project's results as outlined in the project document. The MoLJPA will ensure leadership to the project implementation and management through: a) chairing the Project Executive Board (PEB) and assuming the role of chair of the board. The executive will be supported by a Project Manager and project support team.

**UNDP:** UNDP together with the MoLJPA will ensure management of donor funds and disbursement of funds to the project according to the Harmonized Approach to Cash Transfer (HACT) guidelines agreed with the Government of Nepal. UNDP will provide support in setting up managerial, financial and administrative systems with the MoLJPA by sharing practices and guidelines and providing training, where necessary. UNDP will ensure that this project will be implemented in coordination and cooperation with other UNDP supported projects in areas of relevance through regular exchange of information and by organizing joint activities. The synergy will be created with UNDP's other project for examples; Parliament Support Project (PSP), Supporting the National Human Rights Commission Project for the Protection and Promotion of Human Rights Project (SNPP) and other relevant projects etc.

With the National Human Rights Commission, the Project will closely work with it to internalize human rights based approach and human rights standards on the policy documents, legislations and guidelines that the Project has provisioned as the key targets. The Commission has been actively engaged on the law making and review process and the guideline for the JC from human rights perspective. As such, the Project needs to work closely to make sure that there is a good collaboration. The coordination part requires to be enhanced through continue discussions and dialogues.

**Civil Society Organizations:** CSOs including media have been playing a crucial role in carrying out necessary research and providing legal aid to the poor and vulnerable. They have been the partners of MoLJPA and the Supreme Court in law enforcement and access to justice.

### 8.2 Management Arrangement



The project will follow the National Implementation Modality with MoLJPA as a principle implementing agency and Office of the Attorney General and NBA are the implementing partners.

**Project Executive Board:**

The Project Executive Board (PEB) is the entity responsible for making key decisions on the project implementation, to ensure that the Project remains relevant and responsive through changing circumstances.

The PEB is responsible for:

- directing and guiding the National Project Director;
- reviewing activities and any impending issues;
- approving work-plans, budget, and risk log;
- approving project revisions based on changes in the situation.

The PEB will meet on a quarterly basis. To maximize project impact, the PEB and other stakeholders may jointly agree to review and revise any project, outputs, and activities. Any revisions they undertake will be undertaken in close consultation with all partners and stakeholders.

The PEB will comprise of:

- **The Executive:** representing the implementing partner /agency who will chair the Board. This role will be assumed by a Joint Secretary of MoLJPA. He/she will represent the project ownership to chair the group of the board.

The executive will have roles to; provide overall guidance and direction to the project, ensuring it remains within any specified constraints; address project issues as raised by the project manager; provide guidance on new project risks and agree on possible countermeasures and look after overall management actions to address specific risks on behalf of the implementing partners. Furthermore, the Executive's role is to ensure that the project is focused throughout its life cycle on achieving its objectives and delivering outputs that will contribute to higher level outcomes and he/she has to ensure that the Project gives value for money, ensuring a cost-conscious approach to the project, balancing the demands of beneficiary and supplier.

Specific Responsibilities (as part of the above responsibilities for the Project Board). Other key roles will be to; i) ensure that there is a coherent project organisation structure and logical set of plans; set tolerances in the AWP and other plans as required for the Project Manager; monitor and control the progress of the project at a strategic level; ensure that risks are being tracked and mitigated as effectively as possible; brief Outcome Board and relevant

stakeholders about project progress; and organise and chair Project Board meetings

- **The Senior Supplier:** The Senior Supplier's primary function within the Project Executive Board is to provide overall guidance regarding the technical feasibility of the project.

Likewise, the Supplier's role will be to provide financial support and technical expertise for the smooth implementation of the project. Additional roles will be to; make sure that progress towards the outputs remains consistent from the supplier perspective; promote and maintain focus on the expected project output(s) from the point of view of supplier management; ensure that the supplier resources required for the project are made available; and to contribute supplier opinions on Project Board decisions on whether to implement recommendations on proposed changes. This role will be assumed by the UNDP and donor representatives.

- **The Senior Beneficiaries:** The role of beneficiaries will be assumed by the individuals representing the interest of the those who will ultimately benefit from the project outcomes. This role will be assumed by representatives from the MoLJPA, OAG and NBA.

The primary function of the Senior Beneficiary within the Executive Board is to ensure the realization of project results from the perspective of project beneficiaries.

And additional roles will be to: ensure the expected output(s) and related activities of the project are well defined; make sure that progress towards the outputs required by the beneficiaries remains consistent from the beneficiary perspective; promote and maintain focus on the expected project output(s) and prioritise and contribute beneficiaries' opinions on Project Board decisions on whether to implement recommendations on proposed changes

- **Quality Assurance:** The Quality Assurance role supports the Executive Board and is assumed by the Programme Analyst, UNDP. S/he carries out objective and independent oversight and monitoring functions on behalf of the PEB. This role ensures that appropriate project management milestones are managed and completed.

The Executive Board is the entity responsible for making key decisions on programme implementation, to ensure that the Programme remains relevant and responsive through

changing circumstances. The Executive Board is responsible for: a) directing and guiding the National Project Director; b) reviewing activities and any impending issues; c) approving work-plans, budget, and risk log; d) approving project revisions based on changes in the situation. The Executive Board will meet on a quarterly basis. To maximize programme impact, the Executive Board and other stakeholders may jointly agree to review and revise any project components, outputs, and activities. Any revisions they undertake will be undertaken in close consultation with all partners, advisors, and stakeholders.

In addition to the regular board members, the Technical Advisors of the project will also be invited as required for their specific inputs to the Board. The representatives of other Government stakeholders and development partners will be regularly invited to participate in the Board meetings.

In the absence of the Joint Secretary of MoLJPA, a quarterly PEB meetings will be called by the UNDP and the senior most Government official representing the board will chair that meeting.

#### **Project Implementation Team:**

The Project Implementation Team led by a National Project Director will have overall implementing responsibilities. It will be tasked with delivering on designated objectives of the components, and overall coordination and reporting on the Project delivery to the Project Board. The Project Implementation Team comprises of international and national advisors who will be tasked with providing overall technical support, strategic guidance and delivering on components executed under the project.

- **National Project Director:** The National Project Director from the MoJPA will be responsible for guiding the overall management of project activities, ensuring that the project produces specific results and they are consistent with the signed Project Document. The Director will be accountable to the Executive Board. The Director ensures adherence to all financial management, procurement and recruitment rules and procedures under UNDP NIM modality.
- **National Project Manager:** The National Project Manager will manage the Project on a day-to-day basis on behalf of the Project Executive Board. S/he will assist the Director to ensure that the project produces the results specified in the project document, to the required standard of quality and within the specified time and cost. In addition, his/her role will be to ensure coherence and coordination of all the project partners in accordance with the project strategy and objectives.
- **Access to Justice Specialist (International):** The Specialist will provide strategic guidance and technical support to the implementation of all project activities. The Specialist will also assume an international development partner coordination

role, ensuring that the Project is well coordinated with other justice and legal aid focused project implemented by other donors, UN agencies, and international organizations.

- **Output Leaders:** The Project will have the output leaders responsible to assist the NPM to manage the key outputs of the project. The daily implementation and coordination with the partners for producing necessary deliverables will be the key roles and responsibilities of the leaders.
- **Field Project Coordinator:** The coordinator will basically be responsible to oversee the field level activities implemented at different provinces, and local government level. S/he will assist output leaders and NPM to prepare periodic report along with data and assure quality of programme implementation. In addition, he/she will enhance the coordination and collaboration among all the concerned government partners, stakeholders and CSOs at sub-national level for the interest of the project. In close consultation with UNDP's province level offices, s/he will ensure the synergy and complementarity with all the UNDP led projects.
- **Gender and Social Inclusion Officer:** The Social and Gender Inclusion Officer will be responsible for advising the Project on gender and social inclusion issues and policies, incorporating human rights-based approach in the Project and mainstreaming gender and social inclusion in the Project. In addition, the Officer will also be responsible for working closely with Government counterparts to identify policy options for gender mainstreaming and social inclusion, and to enhance the policy impact of the Project.
- **Monitoring and Evaluation Specialist:** The Monitoring and Evaluation focal person will support to develop and implement their respective M&E plans (as per M&E framework provided). S/he will collate data and programmatic lessons learned. To ensure that all Project implementation decisions, reports and communications are evidence-based, the M&E focal person will share this information with the Executive Board, NPD and NPM. To ensure that the Project contributes to the global knowledge base on how to strengthen the rule of law in conflict-affected contexts, s/he will also prepare regular communiqués for practice networks, corporate knowledge products, and the UNDP Global Programme on the Rule of Law, Justice and Security.
- **Administration and Finance Officer:** Administration and Finance Officer will support disbursement of funding to all partners and manage the fund. S/he will be

responsible for budget planning and reporting to NPM and Country office on periodic basis.

**UNDP Support Services:** As per LOAs with the implementing partners, UNDP support will be required for project implementation in areas such as: a) recruitment of project staff; b) procurement of goods, equipment and services; c) recruitment of national and international consultants; d) planning and implementation of training and workshops; e) mid-term and final evaluation of the Projects and CSO grants-making.

**Cash Transfer Mechanism:** UNDP will transfer the funds allocated for this Project into the Project's account on a quarterly basis. First, based on the approved AWP, a quarterly work plan will be prepared and approved. UNDP will transfer the budget required for the first quarter in the beginning of project implementation. Upon receipt of the signed completion of each quarterly plan including a financial report as well as the next quarterly plan, the funds for the subsequent quarters will be transferred into the Project's account.

Fund request and reporting will be done by implementing partners to UNDP as per Harmonized Approach of Cash Transfer (HACT).

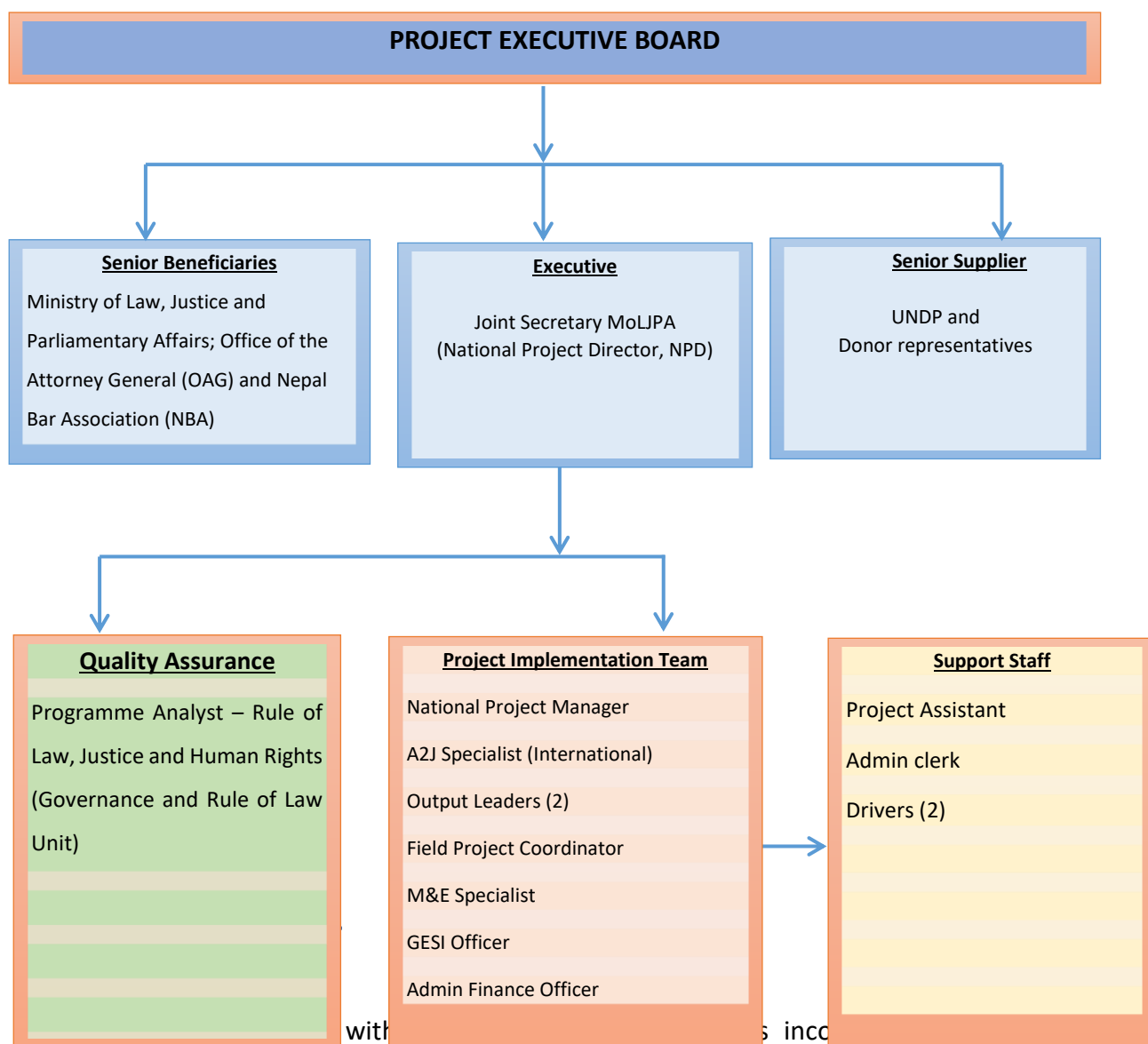
**Direct Payment:** UNDP will make direct payment for the activities to be implemented directly by UNDP. The payment for the activities where UNDP assigned as a responsible party or upon request from implementing partners, can directly be managed by UNDP. As require, MOU can be concluded with other implementing partners for some of the specific activities under the Project.

**Audit Arrangements:** The Project will be audited as per UNDP's audit requirements. The Office of the Auditor General may undertake the audits of the government implementing partners. The audit of the Project will be assigned to the Office of the Auditor General only on the condition that the institution has a demonstrated capacity to carry out the audits. If the Office of the Auditor General chooses not to undertake the audits of the Project to the frequency and scope required by UNDP, UNDP will commission to the audit to be undertaken by private audit firm selected in transparent manner having authority as per Nepali law.

**Review, Revision of the Project, Outputs and Fund Allocation:** With a view to optimizing the benefits of the Project, if MOLPA, Supreme Court, UNDP and donors jointly agree to review and revise any project, outputs, activities along with the allocated funds, they will carry out the review and revision of the project components, outputs, and fund allocations and will keep all the implementation partners informed accordingly.



### 8.3 Project Board and Structure



constitute together a Project Document as referred to in the Standard Basic Assistance Agreement and all CPD provisions apply to this document.

Consistent with Article III of the Standard Basic Assistance Agreement, the responsibility for the safety and security of the implementing partner and its personnel and property, and of UNDP's property in the implementing partner's custody, rests with the implementing partner.

The implementing partner shall:

- a. Put in place an appropriate security plan and maintain the security plan, considering the security situation in the country where the project is being carried.
- b. Assume all risks and liabilities related to the implementing partner's security, and the full implementation of the security plan.

UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this agreement.

The implementing partner agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.html>. This provision must be included in all sub-contracts or sub-agreements entered into under this Project Document.



## 10. MONITORING AND EVALUATION FRAMEWORK

The Project will be monitored against the following M & E framework, derived from the CPAP M&E framework. All of the project interventions will target gender and social inclusion perspective. The framework comprises both quantitative and qualitative indicators; some of which are measured by the 'proxy' indicators provided by UN Perception Survey data which were segregated based on gender and social inclusion. Though not directly attributable to UNDP, UNDP will contribute to them. These results will therefore confirm the relevance and impact of the Project interventions. It is expected that progress against all indicators will be reviewed regularly through the procedures and tools described below, and the gender sensitive M&E framework updated accordingly.

The M & E Officer will have primary responsibility for monitoring and evaluation. S/he will be required to coordinate with partners and other project staff to develop comprehensive human-rights based M&E strategy within the first four months, when it is clearer what data can be obtained through existing data management systems, and where and how these systems could be improved.

### Within the annual project cycle

- **Quality Assessment:** On a quarterly basis, a quality assessment will record progress towards the completion of key results, based on quality criteria and methods captured in the M & E Framework.
- **Issue Log:** An issue log will be activated in Atlas and updated by the Project (working in coordination with other M&E staff) to facilitate tracking and resolution of potential problems or requests for change.
- **Risk log:** Based on the initial risk analysis submitted (see above), a risk log will be activated in Atlas and regularly updated by reviewing the external environment that may affect the project implementation.
- **Quarterly Progress Reports:** Based on the above information recorded in Atlas, Quarterly Progress Reports (QPR) will be submitted by the CTA to the Executive Board through Programme Quality Assurance, using the standard UNDP report format.
- **Lessons Learned Log:** A project lesson learned log will be activated and regularly updated to ensure on-going learning and adaptation within the organization, and to facilitate the preparation of the lessons learned report produced as part of Annual Review Reports.
- **Monitoring Schedule Plan:** A monitoring schedule plan will be activated in Atlas and updated to track key management actions/events.

### Annually

- **Annual Review Report.** An Annual Review Report (APR) will be prepared by the Project and shared with the Executive Board. As a minimum requirement, the APR will consist of the Atlas standard format for the QPR, covering the whole year with updated information for each above element of the QPR as well as a summary of results achieved against pre-defined annual targets at the output level. The M & E Framework and updated Tracking Tool will be annexed to the Annual Review Report. The Annual Review Report will be amended to meet development partners' requirements as necessary.
- **Annual Project Review.** Based on the Annual Review Report, an annual project review will be conducted during the fourth quarter of the year or soon after, to assess the performance of the project and appraise the Annual Work Plan (AWP) for the following year. It will focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes.

### **Mid-term and end of project**

- **Evaluations:**

Evaluation in UNDP will provide an objective assessment of contributions to development results, through assessing its programme and operations, including advocacy, services, technical assistance, coordination partnerships and knowledge management. Evaluation will address what works and why, as well as what doesn't work and unintended outcomes. This will support accountability, inform decision making and allow to better management for development results.

The Project will emphasize a country led evaluation both mid-term and final evaluation. A mid-term review evaluation will be conducted in the second year of the Project. A final evaluation will be conducted at the end of the Project. The evaluations will engage national and international partners and stakeholders. The evaluations will focus on project impact, sustainability, and degree of national ownership and lessons learned, best practices extracted and identified areas for improvement will be integrated into regular Project plan review and revision.

Most of the indicators of the Project are drawn from the national system, including surveys and monitoring information system. To the extent possible, data related to the indicators will be disaggregated by gender, vulnerability, geography and any other relevant groupings.

In addition to the evaluation, the Project will also conduct joint monitoring visits to the community to oversee the change made by the project. The monitoring will be conducted jointly with the Project government partners, development agencies and CSOs. The detail monitoring and evaluation framework is attached in the Annex: II.

## 11.RISK LOG

From the outset, risks for the implementation of the Project activities are identified, and a management plan is created to minimize the adverse effects of such risks. In the best-case scenario, because of political stability, there will be social harmony between different communities and rule of law actors that comply with international human rights standards will be established. In this case, the Project will continue to support setting the foundation for the implementation of integrated legal aid policy and will focus on empowering beneficiaries and strengthening the capacity of the established legal aid providers and law implementing agencies for the implementation of newly adopted codes, (Penal Code and Criminal Procedure Code, Civil Code and Civil Procedure Code and Sentencing Act).

In the *status quo* situation, the Project will work with the local and national justice institutions, and local judicial institutions to improve the access to justice and confidence in the judicial sector amongst women and other vulnerable groups in Nepal.

In the worst-case scenario, with the probable change in Government's priority, the Project will aim to strengthen the access to justice mechanisms, rule of law and security institutions to better maintain lawfulness and peace support building confidence and harmony among different groups and strengthen the capacity of national human rights institutions and the Government Attorneys Office to address impunity and provide justice for vulnerable groups in Nepal.

Issues/Risks	Assumptions	Mitigations Measures
<p><b>Risk 1: Delay in drafting of the laws in line with the Constitution</b></p> <p><b>Likelihood: Medium</b></p> <p><b>Potential Impact: Inability to timely implement activities related to legislative drafting.</b></p>	<p>The impact on the implementation is expected to be significant as the MOLJPA will be more focused on drafting of laws and the Project activities will have to directly accelerate this process.</p>	<p>Focus will be on the research component and supporting to national and sub-national level in legislative drafting.</p>
<p><b>Risk 2: Ongoing issues relating to transitional justice</b></p> <p><b>Likelihood: Medium</b></p> <p><b>Potential Impact: Inability to implement activities due to</b></p>	<p>The impact on the implementation is not expected to be significant as the community level legal aid activities and legislative drafting will be implemented by the MOLJPA.</p>	<p>The Project will work with government institutions to activate already established mechanism and will employ "safe spaces and intra group approaches".</p>

<p><b>insecurity and weak law and order situation</b></p>		
<p><b>Risk 3: Delay in the endorsement of integrated legal aid policy and difficulties in implementation due to possible detachment of judiciary from the Project</b></p> <p><b>Likelihood: Medium</b></p> <p><b>Potential Impact: Delay in the enforcement of integrated legal aid policy may affect the activities related integrated legal aid policy.</b></p>	<p>There will be direct impact on the activities related to policy such as drafting laws, policies and procedures. Since enhancing access to justice through provision of legal aid is the priority of the judiciary as well, MoLJPA should make efforts to bring the judiciary on board.</p>	<p>The continued dialogue will be arranged with the concerned stakeholders and Central Legal Aid Committee to finalize it and submit to the cabinet. The project will maintain regular communication and coordination with the judiciary to obtain their full cooperation.</p>
<p><b>Risk 4: Lack of clarity about the roles and responsibilities of Judicial Committee.</b></p> <p><b>Likelihood: Medium</b></p> <p><b>Potential Impact: Training and orientation part for Judicial Committee would be directly affected</b></p>	<p>The ongoing non-clarity and confusions regarding approaches to proceedings of Judicial Committee will affect the training and orientation activities planned for Judicial Committee.</p>	<p>The Project will directly work with MOLJPA and concerned Line Ministry to have dialogues on the clarity of the mandate and developing necessary laws, policies and procedures. The project will also support capacity development activities for Judicial Committees.</p>
<p><b>Risk 5: Lack of adequate preparation of concerned stakeholders for the implementation of codes</b></p> <p><b>Likelihood: Low</b></p> <p><b>Potential impact: Training, orientation on the codes would be directly affected.</b></p>	<p>Timely implementation of the activities i.e. training, orientations related to the implementation of the codes will be affected</p>	<p>The Project will provide technical support to draft policies, procedures and SOP's and will support training/orientation activities for their better preparedness.</p>
<p><b>Risk 6: Uneven media reporting on receiving international assistance</b></p> <p><b>Likelihood: Medium</b></p> <p><b>Potential impact: Create unfavorable environment in</b></p>	<p>The implementing partners are well familiar about UN system and NIM Guideline and will share their understanding among them.</p>	<p>Regular coordination and communication with implementing partners on importance of international technical and other assistances.</p>

<b>implementation of planned activities.</b>		
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## ANNEX I: RESULTS AND RESOURCE FRAMEWORK

### Results and Resources Framework for 2018-2020

ENHANCING ACCESS TO JUSTICE THROUGH INSTITUTIONAL REFORM PROJECT (2018-2020)
<p><b>United Nations Development Assistance Framework/CPD Outcome:</b></p> <p><u>Outcome 2:</u> By 2022, inclusive, democratic, accountable and transparent institutions are further strengthened towards ensuring rule of law, social justice and human rights for all particularly for vulnerable people</p>
<p><b>UNDAF Outputs/ UNDP Country Programme Document Outputs:</b></p> <p><u>Output 2.1.</u> National level executive and legislative branches of the Government and commissions have the capacities and tools to implement the Constitution, including peaceful transition to federal structure</p> <p><u>Output 2.4.</u> Justice sector institutions strengthened in accordance with the Constitution and human rights standards to ensure greater access to justice.</p>

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
<p><b>Output 1: National Legal Aid System strengthened</b></p> <p><b>Indicators</b></p> <p>1.a # Laws, policies and procedures developed on Legal Aid in line with Constitution and Integrated Legal Aid Policy</p> <p>1.b # people benefitted from integrated legal aid service, as</p>	<p>1.1 Legal framework revised in line with the legal aid policy</p>	<p>1.1a Support for drafting Legal Aid bill (Year 1)</p> <p>1.1b Support for adoption of Legal Aid Act (Year 2)</p> <p>1.1c Support for Regulation on Legal Aid (year 2)</p> <p>1.1d Develop Code of Conduct for Legal Aid Providers (Year 2)</p> <p>1.1e Develop Procedure on Legal Aid (Year 3)</p>	63000	105000	70000	<p><b>IP:</b> MoLJPA, UNDP</p> <p><b>RP:</b> NBA, CSOs Local government</p>

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
per integrated legal aid policy (SDG 16.3) 1.c Legal aid council secretariat established and functioning 1.d Code of Conduct for Legal Aid Providers developed 1.e National access to justice strategy developed <b>BASELINE</b> 1.a: 2 (Legal Aid Act, 1996 and Regulation, 1997) 1.b: 26,234 beneficiaries of legal aid (15467 Women) 1.c: 0 1.d: 0 (at present Code of conduct for Lawyers only exists) 1.e: 0	1.2 Secretariat of the Legal Aid Council established/ strengthened	1.2a Develop detailed Terms of Reference for the Legal Aid Council in close consultation with relevant stakeholders (year 1) 1.2b Develop and disseminate knowledge products on legal aid awareness (Year 2) (at least 50% women) 1.2c Develop guidelines for Legal Aid council along with quality assurance (Year 3) 1.2d Develop National Access to Justice Strategy (year 3) 1.2e Develop curricula and materials for Legal aid providers and conduct trainings (Year 3) (at least 1/3 will be women)	35000	12000	5000	
<b>TARGET</b> 1.a: 4 Laws/regulations, policies and procedures developed on Legal Aid in line with Constitution 1.b: 10% increase annually (at least 50% women) 1.c: 1 Legal aid council secretariat established and functioning	1.3 Coordination, Monitoring and Reporting system developed	1.3a Provide trainings for Legal Aid service providers (Year 1) 1.3b Develop "Dos and Don'ts" for the legal aid lawyers (Year 2) 1.3c Conduct Legal awareness (Year 2&3) 1.3d Develop SoPs for referral mechanism to strengthen Referral mechanism (Year 3)	28000	93000	118000	

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
1.d: 1 Code of Conduct for Legal Aid Providers developed 1.e: 1 National access to justice strategy developed	1.4 Pro-bono legal aid system introduced	1.4a Develop gender sensitive Monitoring System for NBA on Pro-bono Legal Aid service (Year 2) 1.4a Develop database for NBA on Pro-bono Legal Aid service (Year 2) 1.4b Disseminate Pro-bono guideline among the lawyers (Year 2)	3000	15000	0	
	1.5 Affirmative legal education strengthened	1.5a Support Internship and scholarship programme (continued in all years) (at least 50% women) 1.5b Conduct Moot-court competition (Year 1 and 2) (at least 1/3 of participants will be women) 1.5c Implement clinical law education for the capacity building of lawyers and legal aid awareness among the people at large (Year 2 and 3)	130000	247000	175415	
			<b>257000</b>	<b>473000</b>	<b>370000</b>	
<b>Output 2: Capacity of Judicial Committees at the Local Level to deliver justice developed</b> <u>Indicators</u> 2.a: # SOPs, rule and regulations developed for the operation of judicial committee 2.b: # Judicial committee members trained on model law	2.1 Necessary rules/regulations, SOPs, code of conduct and knowledge products for the JC are in place	2.1a Develop Resource materials for Judicial Committee (Year 1) 2.1 b Develop SoPs for the better operation of the judicial committees (Year 1&2) 2.1 c Support provided to draft necessary rules and regulations for the committee (year 2) 2.1d Trainings conducted for JC members (Year 1 and 2)	71000	54000	6000	<u>IP</u> MOLJPA  <u>RP</u> MoFAGA District Court Local Government NLC NBA



INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
<p>2.c: # people reached through awareness events conducted by JC</p> <p><b>BASELINE</b></p> <p>2.a: 0</p> <p>2.b: Judicial committee members of eight districts trained</p> <p>2.c: 0</p> <p><b>TARGET</b></p> <p>2.a: 2 SOPs, rule and regulations developed for the operation of judicial committee</p> <p>2.b: Members of 75 Judicial committees Oriented</p> <p>2.c: 50,000 people (50% women) reached through awareness raising events</p>	<p>2.2 Linkage between justice sector actors and JC is in place</p>	<p>2.2a Conduct coordination meetings between Judicial Committee and Justice Sector Actors (Year 1,2 and 3)</p> <p>2.2b Conduct training on mediation (Year 1 and 2)</p>	114000	174000	140000	
	<p>2.3 Women, poor and vulnerable are aware about the roles and responsibilities of JC and feel confident towards it</p>	<p>2.3a Develop and publish Outreach materials on Judicial Committee (Year 2)</p> <p>2.3b Conduct outreach activities on JC (Year1,2 and 3)</p> <p>2.3c Local level campaign conducted in the selected districts about the Judicial committees among the people (Year1,2 and 3)</p>	23000	22000	16000	
			<b>208000</b>	<b>250000</b>	<b>162000</b>	

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
<p><b>Output 3: National capacity for drafting and implementation of laws strengthened</b></p> <p><b>Indicators</b></p> <p>3.a: # Legislation reviewed / drafted in an inclusive and participatory manner to implement fundamental rights</p> <p>3.b: # Judges/ prosecutors/ lawyers/ Police officers trained on new Civil and Penal code</p> <p>3.c: # necessary rules/guidelines developed as the costed plan of action on implementation of codes</p> <p>3.d: Revised/ new policies and legislative reflecting promotion of gender equality and the empowerment in place</p> <p>3.e: # people who participated in awareness events about new codes and procedures</p> <p><b>BASELINE</b></p> <p>3.a: 5 Laws</p> <p>3.b: 300 Judges, 325 prosecutors and 50 lawyers (Trained on Basic level)</p> <p>3.c: 0</p>	<p>3.1 Research/studies conducted on the key areas of laws making for the fundamental rights</p>	<p>3.1a Conduct Research/assessment relating to implementation of selected fundamental rights (Year 1 &amp; 2)</p> <p>3.1b Support for review of Law making Guideline in line the best practices from international experience, including GESI perspective (Year 1)</p>	47,000	162,000	140,000	<p><u>IP</u></p> <p>MoLJPA</p> <p>OAG</p> <p><u>RP</u></p> <p>NBA</p> <p>Police</p>
	<p>3.2 Laws repository system and standardization of law making process introduced</p>	<p>3.2a Support MOLJPA to finalize the inventories of laws to be drafted under fundamental rights (Year 1)</p> <p>3.2b Support on drafting legislations relating to fundamental rights provided based on the of research (Year 1)</p> <p>3.2c Support to develop Software of the laws along with checklist to assess the implementation of the laws (Year 2)</p> <p>3.2d Support to develop Law Repository System compiling all the laws for</p>	75,000	76,000	35,000	

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
3.d : 2 Strategies developed 3.e: 0		the better access to the legal information (Year 2)				
<b>TARGET</b> 3.a 7 Laws reviewed / drafted in an inclusive and participatory manner to implement fundamental rights 3.b 1000 prosecutors/ lawyers/ Police officers trained (at least 100 women) 3.c 3 Guidelines developed on implementation of codes 3.d : 5 policies and legislative reviewed/ developed reflecting promotion of gender equality and the empowerment 3.e: 1,00,000 people reached through awareness programs on new penal and civil codes	3.3 Support to implement Costed Action Plan (CAP)	3.3a Develop simplified version of codes and commentaries (Year 1) 3.3b Develop Advance training module on codes with resource materials (Year 2) 3.3c Trainings provided for, public prosecutors, police, judges and lawyers on new codes (Year 3) 3.3d Support to develop Rules and regulations as per the new codes (Civil, Penal) (Year 3) 3.3e Conduct outreach events to disseminate codes (Year 3) 3.3.f Develop and disseminate FAQs (Frequently Asked Questions) on the key features of the codes (Year 2 – 3)	294,000	112,000	257,000	
			<b>416,000</b>	<b>350,000</b>	<b>432,000</b>	

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
<b>Output 4: Justice sector strengthened for inclusive economic development</b> <u>Indicators</u> 4.a: # interagency dialogues conducted 4.b: # of trainings on ADR for handling commercial cases conducted 4.c: # of researches conducted on laws, policies and practices related to inclusive economic development  <u>BASELINE</u> 4.a: 0 4.b: 0 4.c: 0  <u>TARGET</u> 4.a: 15 dialogues conducted 4.b: 125 ADR practitioners trained on handling commercial cases 4.c: 4 researches conducted		4				<u>IP</u>
	4	4				

INTENDED OUTPUTS	Key Activity Results	INDICATIVE ACTIVITIES	BUDGET (US\$)			Implementing Partner (IP) / Responsible Partners (RP)
			2018	2019	2020	
	4.1 Effective justice sector for inclusive economic development strengthened	4.1a Support to conduct Inter-agency dialogue between investor, interest group and policy makers (Year 1 & 2) 4.1b Support to enhance capacity of stakeholders on handling Commercial cases efficiently (Year 2 & 3). 4.1c Research and review of existing legislation and practices on investment and development (Year 1&2) 4.1d Support to conduct dialogues on development and law (human rights and business and role of law enforcement agencies) (Year 2-3)	43,000	94,000	61,000	
			<b>87,000</b>	<b>240000</b>	<b>170,000</b>	
<b>Operation cost</b>			<b>315,000</b>	<b>425,000</b>	<b>445,000</b>	
<b>Total Cost</b>			<b>1,283,000</b>	<b>1,738,000</b>	<b>1,579,000</b>	<b>4,600,000</b>

## ANNEX 2: MONITORING AND EVALUATION FRAMEWORK

Hierarchy of Objective	Result statement	Result indicator	Baseline	Target	Source/ Means of Verification	Risk and Assumptions
				Total Year (2018-2020)		
Outcome	By 2022, inclusive, democratic, accountable and transparent institutions are further strengthened towards ensuring rule of law, social justice and human rights for all particularly for vulnerable people	# Vulnerable people accessing formal justice system (UN-CPD)	37,694 (37% Female) 2016 UNDP CPD	1,20,000 (33% female)	Annual report Supreme Court	<b>Assumption:</b> Government at all levels are committed to reform institutions as well as legislative framework.  <b>Risk:</b> Government may have reservation in accepting technical assistance for justice sector reform
		Promote and enforce non-discriminatory laws and policies for sustainable development (SDG 16.b)	2 Laws	Enforcement mechanism in place	Project Report	
		% population satisfied with Legal aid services rendered by service provider	46.2% (Perception Survey NIDR – 2017)	10% increase on baseline value	Baseline and end-line Survey	
Output 1	National Legal Aid System strengthened	# Laws, policies and procedures developed on Legal Aid in line with Constitution and Integrated Legal Aid Policy	2 (Legal Aid Act, 1996 and Regulation, 1997)	4 Laws/regulations, policies and procedures developed on Legal Aid in line with Constitution	MoLJPA report/ Law Commission	<b>Assumption:</b> Government has readiness for amendment of the Legal Aid Act and Regulation as per requirement of National Legal Aid policy.  <b>Risk:</b> Adoption of National Legal aid policy may be delayed if government set other activities as priority.
		# people benefitted from integrated legal aid service, as per integrated legal aid policy (SDG 16.3)	26,234 beneficiaries of legal aid (15467 Women) (RoLHR report 2017)	10% increase annually (at least 50% women)	CSO report/ CLAC report	
		Legal aid council secretariat established and functioning	0	1 Legal aid council secretariat established and functioning	MoLJPA / NBA Report	
		Code of Conduct for Legal Aid Providers developed'	0 (Code of conduct for Lawyers' only existing at present)	1 Code of Conduct for Legal Aid Providers developed	MoLJPA Report/ CLAC report	

		National access to justice strategy developed	0	1 National access to justice strategy developed	MoLJPA report	
Output 2	Capacity of Judicial Committees at the Local Level to deliver justice developed	# SOPs, rule and regulations developed for the operation of judicial committee	0	2 SOPs, rule and regulations developed for the operation of judicial committee	MoLJPA/ JC Report	<p><b>Assumption:</b> Judicial committees are committed to perform their obligation as mandated by the Constitution.</p> <p>Government at all levels are committed to reform institutions as well as legislative framework.</p> <p><b>Risk:</b> There might be differences in understanding and approach in handling disputes amongst judicial committees.</p>
		# Judicial committee members trained on model law	8 District's Judicial committee trained (RoLHR Report, 2017)	Members of 75 Judicial committees oriented	Activity log sheet	
		# people reached through awareness events conducted by JC	0	50000 people (50% women)	JC report	
Output 3	National capacity for drafting and implementation of laws strengthened	# Legislation reviewed / drafted in an inclusive and participatory manner to implement fundamental rights (SDG 16.3)	5 Laws (Right to Food/ Privacy/ Senior Citizen/ Education/ Social Justice)	7 Laws reviewed / drafted	MoLJPA report/ Law Commission	<p><b>Assumption:</b> MoLJPA is committed to carry out the legislative reform within the constitutional deadline</p> <p><b>Risk:</b> MoLJPA lacks sufficient staff and technical capacity to draft laws related to fundamental rights within the stipulated constitutional deadline</p>
		# Prosecutors/ lawyers/ Police officers trained on new Civil and penal code	100 Judges and 325 prosecutors and 50 lawyers (Trained on Basic level)	1000 (Prosecutors/ lawyers/ Police officers) trained (at least 100 women)	OAG report/ Project event report	
		# necessary rules/guidelines developed as the costed plan of action on implementation of codes	0	3 Guidelines	Supreme Court report	
		Revised/ new policies and legislative reflecting promotion of gender equality and the empowerment in place	2 Strategies developed	5 policies and legislative reviewed/ developed	MoLJPA report	

		# people who participated in awareness events on new civil codes and procedures	0	100,000	Project Report	
Output 4	Justice sector strengthened for inclusive economic development	Action plan for judicial integrity developed and implemented	0	1 Action plan for judicial integrity developed and implemented	Judicial Council report	<b>Assumption:</b> Common Justice Sector Strategy is endorsed by all actors of justice sectors openly and committed for its implementation.  <b>Risk:</b> MoLJPA and other concerned Ministries may not be equally involved in uniform application of the strategy.  Government, judiciary and private sectors may have differences in handling issues related to economic development.
		Guidelines developed for handling disputes relating to federalization process	0	2 SOP/ guidelines developed	Supreme Court Report	
		# Judges and court officials trained	100	250 Judges and court officials trained on writ jurisdiction	Supreme Court report/ Project report	
		# dialogues conducted based on Common Justice Sector strategy	0 dialogues	15 dialogues conducted based on Common Justice Sector strategy	MoLJPA Report	



### ANNEX 3: MULTI-YEAR WORK PLAN

Key Activity Results	Year			Remarks
	2018	2019	2020	
<b>Output 1: National Legal Aid System strengthened</b>				
1.1 Legal framework revised in line with the legal aid policy	63000	105000	70000	
1.1a Support for drafting Legal Aid bill				
1.1b Support for adoption of Legal Aid Act				
1.1c Support for Regulation on Legal Aid				
1.1d Develop Code of Conduct for Legal Aid Providers				
1.1e Develop Procedure on Legal Aid				
1.2 Secretariat of the Legal Aid Council established/ strengthened	35000	12000	5000	
1.2a Develop detailed Terms of Reference for the Legal Aid Council in close consultation with relevant stakeholders				
1.2b Develop and disseminate knowledge products on legal aid awareness				
1.2c Develop guidelines for Legal Aid council along with quality assurance				
1.2d Develop National Access to Justice Strategy				
1.2e Develop curricula and materials for Legal aid providers and conduct trainings				
1.3 Coordination, Monitoring and Reporting system developed	28000	93000	118000	
1.3a Provide trainings for Legal Aid service providers				
1.3b Develop “Dos and Don’ts” for the legal aid lawyers				
1.3c Conduct Legal awareness				
1.3d Develop SoPs for referral mechanism to strengthen Referral mechanism				
1.4 Pro-bono legal aid system introduced	3000	15000	0	
1.4a Develop Monitoring System for NBA on Pro-bono Legal Aid service				
1.4a Develop database for NBA on Pro-bono Legal Aid service				
1.4b Disseminate Pro-bono guideline among the lawyers				
1.5 Affirmative legal education strengthened	130000	247000	175415	

Key Activity Results	Year			Remarks
	2018	2019	2020	
1.5a Support Internship and scholarship programme				
1.5b Conduct Moot-court competition				
1.5c Implement clinical law education for the capacity building of lawyers and legal aid awareness among the people at large				
<b>Output 2: Capacity of Judicial Committees at the Local Level to deliver justice developed</b>				
2.1 Necessary rules/regulations, SOPs, code of conduct and knowledge products for the JC are in place	71000	54000	6000	
2.1a Develop Resource materials for Judicial Committee				
2.1 b Develop SoPs for the better operation of the judicial committees				
2.1 c Support provided to draft necessary rules and regulations for the committee				
2.1d Trainings conducted for JC members				
2.2 System for vertical linkage between district court and JC is in place	114000	174000	140000	
2.2a Conduct coordination meetings between Judicial Committee and Justice Sector Actors				
2.2b Conduct training on mediation				
2.3 Women, poor and vulnerable are aware about the roles and responsibilities of JC and feel confident towards it	23000	22000	16000	
2.3a Develop and publish Outreach materials on Judicial Committee				
2.3b Conduct outreach activities on JC				
2.3c Local level campaign conducted in the selected districts about the Judicial committees among the people				
<b>Output 3: National capacity for drafting and implementation of laws strengthened</b>				
3.1 Research/studies conducted on the key areas of laws making for the fundamental rights	47000	162000	140000	
3.1a Conduct Research/assessment relating to implementation of selected fundamental rights				
3.1b Support for review of Law making Guideline in line the best practices from international experience				
3.2 Laws repository system and standardization of law making process introduced	75000	76000	35000	
3.2a Support MOLJPA to finalize the inventories of laws to be drafted under fundamental rights				
3.2b Support on drafting legislations relating to fundamental rights provided based on the of research				
3.2c Support to develop Software of the laws along with checklist to assess the implementation of the laws				



Key Activity Results	Year			Remarks
	2018	2019	2020	
4.1 Effective justice system for inclusive economic development strengthened	43000	94000	61000	
4.4a Support to conduct Inter-agency dialogue between investor, interest group and policy makers				
4.4b Develop capacity of stakeholders on handling Commercial cases efficiently				
4.4c Research and review of existing legislations and practices				
4.4d Support to conduct dialogues on development and law (human rights and business and role of law enforcement agencies)				
<b>Total Budget</b>	<b>1283000</b>	<b>1738000</b>	<b>1579000</b>	