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INDEPENDENT TERMINAL EVALUATION MISSION REPORT

UNDP PROJECT ERI/97/002
" Capacity Development in the Eritrean Ministry of Justice"

COMPLIANCE TABLE

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May 29, 20_01, .

.. Asmara, Eritrea

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Evaluation Team:

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ABBREVIATIONS

ADR	Alternative Dispute Resolution
CCA	Common Country Assessment
CV	Curriculum Vitae
DANIDA	Danish International Development Agency
ET	Evaluation Team
IT	Information Technology
GOE	Government of Eritrea
HRD	Human Resource Development
LIT	Legal Information Technology
LLB	Bachelor of Law
LLM	Master of Law
MIS	Management Information System
MOJ	Ministry of Justice
NGO	Non-Governmental Organization
TOR	Terms of Reference
TPR	Tripartite Project Review
UNDP	United Nations Development Programme

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EXECUTIVE SUMMARY

1. SUMMARY

This Project, which was originally initiated by the Ministry of Justice, has been uniquely placed to assist Eritrea's initial efforts to establish a legal system that will facilitate its economic and social goals. UNDP's involvement with the Project coincided with the ratification of the country's rule of law-oriented constitution in 1997, and the Project offered needed resources to assist in the practical implementation of that well-crafted document. The MOJ's use of Project resources has been energetically and sensibly pursued, and has prepared a sound foundation for future action. The majority of Outputs and Activities originally anticipated in the

Project documentation, as amended, have either been met or acted on. While the reporting of Project activities, as well as the scheduling of implementation has been delayed or otherwise adversely affected by the border conflict and harsh circumstances of the past three years, the Evaluation Team has made a careful review of results and impacts and has found very little to criticize and much to commend. It is noteworthy that the MOJ had not previously worked with a donor-funded development project. Moreover, -disruptions of staff and dislocations caused by the conflict interfered with systematic guidance on, e.g., reporting formats and schedules, from--a continuing, experienced UNDP' Project Officer. The MOJ's implementation of the Project has nevertheless produced remarkable results. The close cooperation and frequency of high-level contact between UNDP and the MOJ with respect to the substantive progress of the Project, and the close cooperation of UNDP technical staff, have made a significant contribution to these results.

There are two important features that have marked this Project: (1) the close attention and use of Project resources by the highest levels of the Eritrean legal and judicial community; and (2) the wide range of Project activities, going from capacity development at a basic community level to sophisticated legal drafting efforts by internationally-recognized specialists. This range has assured that the results of the Project will be felt by both members of the Asmara business and legal community as well as local communities throughout Eritrea.

It is the Evaluation Team's considered opinion that the objectives set forth in the project document of ERI/97/002; as amended; were substantially achieved. • In most cases, the project managed to overcome the extraordinary circumstances in which the country was operating and produced significant work that is critical at this point in Eritrea's young history.

In sum, the Evaluation Mission finds that the Project has had a beneficial impact upon Eritrea's movement toward the rule of law, and the institutional development of the MOJ.

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It has also contributed significantly to the strengthening of MOJ's professional and management capacity.

2. KEY RESULTS AND

FINDINGS 2.1. Project

Objectives and Outputs:

2.1. Draft Codes (Objective No-1, Output No. 1):

RESULTS:

- 1. Three draft codes (Commercial, Penal and Criminal Procedure) are now available in final form in English; two draft codes (Civil and**

Civil Procedure) are available in English and are being given their **final review** by the drafting committee; translations are available of two draft codes (Penal and Commercial) in two local languages; translations of the draft Civil Code and Criminal Procedure Code are to be completed by end 2001; translation of the draft Civil Procedure Code has been initiated.

2. **Lexicons are now prepared for the draft Civil, Civil Procedure, Penal, and Criminal Procedure Codes.**
3. **A Legislative drafting process involving a broad cross-section of the Eritrean legal community and international consultants has been established.**

The Project documents consider assisting the MOJ's ability to produce several major revised codes to be the major objective, with approximately \$1 million of the Project's original \$1.2 million allocated to it. The Evaluation Team **finds** that the nine activities provided for under this Objective and Output will have been substantially achieved by the Project completion date or within a short time thereafter. The Evaluation Team **finds** that the assistance to the MOJ in drafting the new codes was correctly designed to produce draft legislation that is both of international quality and is integrated with Eritrean conditions and aspirations. The draft codes are massive, comprehensive and will be a sound foundation for Eritrea's legal system. The Evaluation Team further **finds** that the translations of the revised draft codes into two local languages is likely to have one of the most positive impacts of the Project, as, for the first time, the written law will be presented to the majority of the people in a language they are able to understand.

There appear to be no problems relating to the Project's external consultants. Interviews conducted by the Evaluation Team with MOJ staff and others, including the Chief Justice and the Attorney General, as well as practicing lawyers and Eritrean law professors who had participated in the Project's code drafting activities indicate a high degree of satisfaction with the results. The national co-operation and co-ordination record in the area of drafting of the draft codes has been strong. The team **finds** that full implementation of the codes, especially the Commercial Code, will require the issuance of detailed regulations.

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2. 1. 2. MOJ Capacity for Planning and Court Administration Strengthened (Objective No.2, Output No.1):

RESULTS:

1. **A group of Eritrean judges, prosecutors and other law-oriented officials have been trained in, and are implementing, methods for the improved administration of the courts.**

The Evaluation Team **finds** that there has been action on most of the six activities set forth under this Output: a training needs assessment report has been prepared,

nationals have been identified for training, a rough timetable for training has been established for both in-country and overseas training, and training sessions have been conducted using Project resources. The Team also **finds** that the in- country training course provided by the MOJ to approximately 40 judges, prosecutors and MOJ staff, and the overseas training of key MOJ officials have significantly increased the capacity of the MOJ in this subject area. We also **find** that the English language training program, the computer training, the four month introduction to law program, the Certificate. in Law program.. have also improved the skills of judges, prosecutors, clerks, registrars and others in making courts more efficient.

2. 1. 3 MOJ'In-House. Capacity for Training Strengthened (Objective No.2: Output' No. 2)

RESULTS:

- 1. The HRD Department of the MOJ, established as the unit responsible for inhouse training, has a strategic plan for training and is carrying it out.**
- 2. There have been a number of persons provided with both short-term workshops and an introductory law course in a local language and are better able to perform their duties within the justice system as a result of this training.**

The Evaluation Team **finds** that the Project's Output of assisting the MOJ build an inhouse training capacity may have been stated 'in too conclusory a manner ("An in-House training capacity established"). While significant progress has been achieved, especially in the design and planning areas, and with action on all four of the activities provided for under this, Oulput,_capacity for, sustained, o4-goiig, trajnung,remaifs problematic...,

The Courts and other law-related officials will require appropriate and well-tailored human resource development, advanced technology and material resources to be able to cope with the increasing demands of the emerging legal system. Legislation has been both adopted and proposed (in the draft codes) in the areas of dispute resolution, commercial activity, administration of lands, administrative reform, and foreign

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investment. It is obvious that the courts are being asked to take on increased responsibility for the resolution of disputes and claims under Eritrea's new legal order.

The Evaluation Team **finds** that the training plan of the MOJ is based on sound proposals in reports on the judicial education function prepared under the Project. The Team further **finds** that much of the proposals in these reports will assist the MOJ in its efforts to increase the capacity of judges, prosecutors and other law-related officials. The Team also

The Evaluation Team **finds** that the MIS efforts of the Project have resulted in an operating pilot project that includes approximately 9 workstations at the six benches of the High Court. The Evaluation Team **finds** that the MIS is operating efficiently, and that the persons operating it have been well-trained. The MIS case management system has made the operations of the High Court more efficient, and enables the judges and the parties to have faster access to information about their cases.

2.1.6. Organizational, Management and Procedural Innovations for Improved Court Administration (Objective No. 2, Output No. 5):

RESULTS:

- 1. Statistics are available on an expedited basis because of the new case management system, and these statistics are enabling the High Court to improve court performance.**
- 2. 362 mediators have been selected in the region of Anseba, and they are being prepared to implement an ADR pilot project resulting from the assessment report carried out under the Project.**
- 3. The pilot project for case management system at the High Court has been established -as the model for. a national case management system, which will be implemented as necessary infrastructure and human resources are developed.**

The Evaluation Team has been informed that several of **the eight** activities under this Output have been acted on. These include (i) an assessment of both the organization and administration of the courts and the need for procedural **and** other reforms in the court system, (ii) the formulation of a strategic plan for the courts, (iii) the establishment of court performance standards and (iv) the establishment of a case management system. The Evaluation Team **finds** that the pilot case management system described under Output 5 is the same as the system to be developed under this output, except that it will

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be adapted to suit both regional and sub regional courts. The Team further **finds** that the assessment report was delivered as a product under Project ERI/94/006(PSMP), but was prepared in coordination with this Project. The Evaluation Team also **finds** that the ADR pilot project has been initiated with the selection of 362 mediators in Zoba Anseba,' but that mediators do not yet have a formal statement of their jurisdiction and are only now beginning to resolve disputes under the pilot project. The Team **finds** that this initiative by the MOJ may improve access to justice by recognizing and supporting traditional dispute resolution methods instead of seeking to suppress them in favor of official court proceedings.

3. Special Issues

3.1. Project Coordination and Service

It bears noting that the Project has been implemented by a Ministry previously uninvolved with development projects and during times of extreme national crisis. The Evaluation Team **finds** that increased efforts to assist Project management in, e.g. national execution policies and procedures, including regularly scheduled preparation of reports, and. the holding of formal tripartite reviews might have had positive results in terms of a greater internal capacity to coordinate activities and to report on what has been an efficient use of international resources. The Evaluation Team **finds** that the high-level attention devoted to Project objectives, the close working relationship of UNDP and the MOJ., 'and the * substantive results of project' activities, have, however, more than compensated for this.

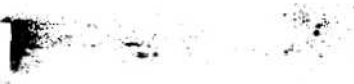
3.2. Gender

The ET **finds** that the Project has promoted a great awareness of the legal rights of women, including, e.g., training of women in basic legal concepts, and seeking specific input from the national women's organization on those provisions of the revised codes that have particular impact on women.

KEY RECOMMENDATION.

While the Evaluation Team has attempted to be more specific in Part IV of the Report, its basic recommendation is that the MOJ should continue doing in the future what it has done so effectively during the Project: the Evaluation Team endorses its high-level attention to efforts to deliver the draft codes and to develop the human resources of the justice system.

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INTRODUCTION

The evaluation of UNDP Project ERI/97/002 was carried out during May 1- 29, 2001 by the following members of a two-person evaluation mission (the "Evaluation Team"):

- Mr. Theodore Parnall, JD, Professor Emeritus, University of New Mexico School of law (Team leader).
- Mr. Yohannes Gebremedhin, Legal Consultant, Research Fellow, University of

Wisconsin-Madison.

The terms of reference ("TOR") of the Evaluation Team are attached as Annex A. The decision to evaluate the Project was made by UNDP in late 2000, but was delayed due to the conflicting schedules of the team members. Its purpose is to ascertain whether:

- the Project was implemented as designed;
- the benefits envisaged by the Project have been realized; and
- the funds allocated by UNDP were properly used and handled.

In addition, the Evaluation Team was asked to assess the relevance, performance and success of each component of the Project.

The products of the evaluation are this report together with its presentation at meetings with concerned stakeholders. The report will set forth:

1. A statement of findings and conclusions as to relevant Project activities; 2.

Conclusions as to the relevance, performance and success of the Project;

-Recommendations for any appropriate future action, particularly with respect to the sustainability of Project objectives and activities; and

4. Lessons learned from the experience of the Project.

to be taken
five outputs,

The key issues addressed by the Evaluation Mission were the following:

1. Did the Project achieve satisfactory progress in terms of its immediate objectives and outputs?
2. Were Project resources effectively put to use?
3. Were Project contributions of a consistently high quality?

The methodology used by the Evaluation Team was a combination of desk review of documents prepared during the course of Project activities, and individual and group interviews with those institutions and persons who have been involved with project implementation. The schedule of persons interviewed by the Evaluation Team is set forth as Annex B. The schedule, prepared by the Evaluation Team itself after its arrival in Asmara with assistance by UNDP and the Project, included meetings with officials of

law-related ministries and agencies, beneficiaries of Project resources, representatives of the legal profession, and representatives of other donor agencies. The Evaluation Team did not utilize empirical assessment in preparing this report. The impact of English language training, for instance, might have been empirically assessed by TOEFL scores achieved, but in the opinion of the Team, such gauges would not accurately reflect the longer run impact of the various activities. We have therefore tried to find a balance between loose, general predictions and numerically precise measurements of results. We have relied, wherever possible, on concrete anecdotal examples given during interviews held by the

Evaluation Team as support for our more general conclusions.

The structure of this report (the "Report") is organized in the following parts:

Part I: The Project and its Development Context Part II: Findings and
Conclusions

Part III: Lessons Learned

Part IV: Recommendations

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Part I: The Project and its development context

A. General

Soon after Eritrea achieved its de facto independence in 1991, the transitional government of the day found it expedient to adapt the laws of the defunct Ethiopian administrations. In adapting the laws, the Ministry of Justice effected some important modifications, albeit in a very selective fashion. The legal framework inherited, with slight modification, from the pre-independence period served as an interim solution in maintaining public order, social harmony, and stability.

The transitional laws adapted as transitional Eritrean laws include: the Civil Code of 1960, the Civil Procedure code of 1965, the Penal Code of 1957, the Criminal Procedure code of 1960, the Maritime Code of 1960, and the Commercial Code of 1960. In spite of the modifications made to the codes, these laws still contain provisions that do not reflect the realities and policies of the country. Moreover, the outdated judicial processes and structure of the court system inherited from the pre-independence period have contributed to delays : and -inefficiency. The .. fhortage of adequately. trained legal personnel at the judiciary has also been a major contributory cause for inefficiency and inherent flaws in the judicial system.

Thus, the process of constitutional transformation and economic liberalization that has been taking place in Eritrea brought about the need to reform the outdated legal system inherited at independence. Specifically, the adoption of a macro-policy aimed at encouraging private investment and accelerating economic growth as well as the adoption of a rights oriented constitution demanded fundamental changes in the legal framework.

Consequently, the Ministry of Justice (MOJ) launched its capacity development project (UNDP Project No. ERI/97/002/A01/99) in 1997. This Project has been uniquely placed to assist Eritrea's initial efforts to establish a legal system that will facilitate its economic and social goals. The initiation of the Project coincided with the ratification of the country's rule of law-oriented constitution in 1997, and offered needed resources to assist in the practical implementation of that well-crafted document. The project, which is the first

MOJ/UNDP project in the area of law development, was originally signed on May 31 1997 and, its implementation started, in June 1997. Originally the Project was conceived and agreed as having a two-year duration. It was, however, subsequently agreed to extend the duration of the Project up to June 2001. The original project document, with accompanying budget revisions, was up-dated several times to increase the original IJNDP contribution, extend the project period, and add outputs and activities to the project (See Annex C for the most recent listing of all Project outputs and activities)

B. Problems

The two problems that are addressed by the project are the following:

1. The need for drafting new laws that reflect the culture, values, public policies, and realities of the country;
2. The need for laying foundation for the development of legal infrastructure required to achieve an efficient and proper administration of justice.

C. Objectives

The Development and Immediate Objectives of the Project are set forth

below: **Development Objective:**

The development objective of the UNDP/MOJ Project was to promote the development of a legal and regulatory framework, which is based on values, objectives, policies, and strategies of the Government of Eritrea. At the political and social levels, the new system is expected to have a legal framework which safeguards human rights and spells out the duties and responsibilities of civil society in the development and promotion of a democratic and participatory society for good governance.

At the economic level, the objective of the project is to foster an enhanced environment conducive to sustainable development which is dynamic, internationally competitive and which guarantees access to gainful employment and securing of a livelihood. The achievement of these objectives requires a trained human resource base as well as a strong institutional framework for the Ministry of Justice.

Immediate Objective 1:

Strengthen the Ministry of Justice's operational capacity by developing a codified system of laws that reflect the Eritrean realities and public policies and by promoting awareness of the new laws.

• Immediate Objective 2:

Enhance the Ministry of Justice's capacity in planning, administration, and management of the justice system.

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D. Stakeholders

The main stakeholders of the Project, or the direct beneficiaries of the capacity building activities of the Project are officials and staff of the Ministry of Justice, including those working in the judiciary and the Attorney General's office, other law-related officials working in various public agencies, private legal practitioners, the business community and, (to the extent they will benefit from an improved economy and an improved justice system) the general public.

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Part II: Findings and Conclusions

The majority of Outputs and Activities originally anticipated in the Project documentation, as amended, have either been met or acted on. While the reporting of Project activities, as well as the scheduling of implementation has been delayed or otherwise adversely affected by the border conflict and harsh circumstances of the past three years, the Evaluation Team has made a careful review of results and impacts and has found very little to criticize and much to commend. We have set forth our findings and conclusions in this Part II, together with a statement as to results, relevance, success and performance.

A. General

1. Project Concept and Design

- a. The two immediate objectives set forth in the Project Document, as amended, are relevant and are among the highest priorities of those responsible for Eritrea's legal system.
- b. The original premises and objectives of the Project Document. remain valid and appropriate as the foundation for Prbject activities:
- c. The Evaluation Team has relied on the following Project Documents:
 - I . The original Project Document for Project ERI/97/002 is that document attached to the letter, dated May 21, 1997, of the UNDP Resident Representative to the MOJ. (An earlier draft, attached to a UNDP letter dated 15 May, 1997, was replaced by the version attached to the May 21, 1997 letter and signed by UNDP on May 26, 1997) The **original UNDP contribution** was US \$1,200,000, but this was **increased** by US \$123,000 pursuant to a Project Revision signed by UNDP on January 13, 1998.
 2. The Project was amended in May 1999, and the definitive version of this amendment is attached to the letter, dated May 7, 1999, of the MOJ to UNDP. This amendment extended the Project to April 2000 and

increased the UNDP contribution by US \$500,000 from' US \$1,323,000 to* \$1,823,000. This amendment also added: (i) several activities to Output No.1, Objective No.1 (Revised Legal Codes), (ii) the development of an overall training strategy,
~~and~~-(iii). **a new =Output _calling •for -4how-installation -of. a-management..** information system (MIS) at the MOJ.

3. The final Project Amendment and extension was formally ratified in April, 2001; the definitive version of this amendment, which added **an additional US \$300,000 of UNDP contribution**, is set forth as an attachment to a letter from the MOJ to UNDP, stamped received on April 30, 2001. This amendment reflects an additional output to Objective No. 2: " 130 women trained in basic education, the basics of law and formalities in the operations

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of courts and the MOJ". This Output is conceptually distinguishable from the original Project Outputs, and could be viewed almost as a separate project. Its community outreach characteristics, however, are important elements in the MOD's efforts to assure that the law development gains of the Project are spread throughout Eritrea, and not localized to the major cities.

4. The most recent and most comprehensive statement of the Immediate Objectives, Outputs and Activities of Project ERI/97/002 is attached to this Report as Annex C and is set forth in the Project Amendment referred to under item 3 above. There are, **in total, 2 Immediate Objectives, 6 Outputs, and 39 separate activities established for the Project.**
- d. This number of activities has resulted in an ambitious schedule that has put pressure on Project staff resources. Nevertheless, with exceptions noted, it represents an achievable program that was carried out without this pressure, or the extraordinary events affecting Eritrea during the years since the initiation of the Project, negatively affecting quality.
- e. While the Evaluation Team stresses that neither the Results or the impacts were adversely affected, the Project Document in certain respects lacks specificity in the description of outputs and activities: e.g. Output No. 1, is to "Revise Legal Codes", and the enumerated activities under the Output are conclusory. in nature (" Activity 6: ".Revise initial drafts") although an earlier draft-of theproject document more carefully described the individual steps to be taken in the drafting process. Another example of this lack of specificity is Objective No.2, Output 2 ("An in-house training capacity established"); while the MOJ has certainly taken action in this area, a more detailed set of activities could have offered more guidance in moving toward the ultimate goal. Moreover, the Project Document did not specify " Risks", which is unusual in a law-related project. Even the most carefully prepared drafts are subject to the necessary uncertainties of the law-making

process. In addition, the amendment to the Project Document that added the Output relating to the Mekerka Women's Training Center sets forth activities that do not clearly correspond to the budget items, which creates some potential ambiguity as to when various aspects of the output are expected to be achieved. The Evaluation Team finds, however, that these considerations as to the design of the Project Documents did not create significant obstacles to the Project's implementation, and in operation, the flexibility of this manner of project design may have even contributed to its overall success.

- f. The amended Project document carefully draws attention to gender issues with
 :. respect to. Project activities, by. adding a, **specific.vutput.**, for law-related.trainiug4or - - - - -
 women.). Moreover, dissemination of legal documents to women is a subject of both
 specific research and workshops:
- g. The Project Documents do not either require, nor do they reflect, the high-level management structure that the MOJ adopted to implement the Project. Because of the nature and effectiveness of this structure, the Project's resources were directed to activities that had immediate positive impacts on Eritrea's justice system.
- h. Issues of economic development and administration of justice are a major substantive focus of the Project, and the development of a revised Commercial Code was given

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implementation:

- k. The Project beneficiaries participated very closely in designing the Project. Indeed, it was the MOJ itself that initiated the Project and brought it to the attention of UNDP. This participation was both at the general level, in selecting the immediate objectives, necessary amendments, selection of external experts, as well as in discussing the need for specific project activities with UNDP. The close cooperation between UNDP and the MOJ in Project design was the foundation for the exceptional "ownership" of the Project by Eritrea's key law-related officials and the active participation of the legal community in Project activities.
- 1. The Project Document's enumeration of over thirty nine (39) individual activities reflects a fundamental reality of projects dealing with law development and reform: the impacts or results of such projects are measurable in decades, not the months or years available under the duration of most projects. Setting out an ambitious program of activities, which were to a substantial degree suggested by the national counterparts, is sometimes preferable to setting out fewer activities and relying on the **-achievement of quantifiable results to measure the ultimate success-of-the Project:** In - the case of Project ERI/97/002, the activities were well conceived and will promote progress in achieving the overall development objective.
- m. Eritrea has embarked upon a significant effort at law development, the majority of which is funded by its own resources and the (volunteered) time of many members of the legal community. Discrete, sharply-focused programs of support by the donor community may at this moment in Eritrea's young history achieve positive results, especially in view of the recent date of the ratification of the Constitution. the highest priority of all the codes. This high priority resulted from the Government's

interest in improving Eritrea's business climate.

- i. The two immediate objectives of the Project, together with outputs and activities, are inter-linked. There is, for example, a clear understanding that Objective No. 1 (Revised Legal Codes) will only be meaningful to the extent that Objective No. 2 is achieved by strengthening the capacity of the MOJ to effectively implement the administration of justice. Moreover, within Objective No. 2, several outputs are interlinked both in the Project Documents as well as in implementation: i.e., the MIS system at the High Court (Output No. 4) benefitted directly from the training activities of Output No. 1, as well as the MOJ in-house training capacity of Output No.2.
- j. The Project was designed to take maximum advantage of UNDP's comparative advantage in the legal area. UNDP's experience in working with the MOJ in Eritrea goes back to its experiences with Projects such as ERI /94/006 (Public Sector Management) and it has a well-developed relationship with, as well as the confidence of, key actors in the legal area. The initial assistance by UNDP to the process of developing the 1997 Constitution was also a relevant experience to Project ERI/97/002's development of fundamental legislation. The good working relationship between the Project managers at the MOJ and UNDP was referred to by several persons interviewed as one, of the critical reasons for efficient and effective Project.

2. Implementation and Management Arrangements

- a. Key to the Project's success has been the commitment of substantial leadership resources by the Ministry of Justice. Policy guidance and direction was provided by a high-level Project Steering Committee. This Committee consisted of: The Minister of Justice as Chair, the President of the High Court, the Attorney General, The Chief Legal Advisor of the MOJ, The Director-General of the MOJ's Department of, Research and HRD, and Mr. Michael Ghebrenegus, Project Coordinator. This Committee was established to manage the Project's drafting activities, with other activities managed by a Project Coordinator under the supervision of the Minister. Following the recommendation of the auditor, a professional accountant was engaged in 2000. Significantly, the Project has benefited substantially by the contribution of time and energy by the Minister of Justice herself. The Minister has exercised effective day-to-day supervision of the Project Staff and operations and has consistently been available when needed for decisions and support. Clear, prompt and effective decisions by the MOJ have been the most important elements in the effective mobilization of Project Inputs and realization of Project Outputs.
- b. The Project staff, and Government counterparts, have demonstrated commitment and productivity. The high quality of national Project staff and the high-level interest and direction of activities have been significant [factors.in](#) meeting the Project's ambitious schedule.
- c. Without the close working relationship among UNDP, the Project and

the related agencies, it is unlikely that the Project schedule of activities could have been met. Arranging hard currency payment of external consultants when necessary, assisting in logistical support, and arranging flexible extensions resulting from the force majeure events of the recent conflict, has been shared by UNDP and Project staff. The timely completion of the arrangements has been a key factor in the timely availability of Project resources.

2. Financial Issues

- a. The Evaluation Team has relied on the audit reports for its review of potential financial issues. The audit reports by Audit Services Corporation ("ASC"), dated 22 December 1999, and 31 October, **2000**, ***provided that Project funds-received and*** expenditures incurred on behalf of the Project for the period May, 1997 to December 31, 1998, and the year ended December 31, 1999, were reflected on the Project's financial statements in accordance with International Standards on Auditing and UNDP Guidelines. The audit for FY 2000 is still in the process of being prepared, but neither the UNDP Senior Project Assistant or the Project Coordinator at the MOJ is aware of any issues.
 - b. The Audit report for FY 2000 was not available to the Team at the time of the evaluation.
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- c. The recommendations indicated by ASC in its audit report for FY 1999 have been explained to the satisfaction of the Evaluation Team.
 - d. The most recent budget revision for the Project (Budget Revision "H") made available to the Evaluation Team, is dated April 17, 2001.
 - e. According to the UNDP finance office, the Project will have disbursed substantially all of the available funds by June 2001, and therefore no rescheduling of activities or funds is required.

4. NEX Execution

- a. With the exception of preparing regular quarterly and annual performance reports for formal review at scheduled Tripartite Review meetings, the Project has undertaken its activities substantially in strict compliance with NEX procedures, including preparation of terms of reference, drafting specifications for bids and advertising for both consultants and bids, review of bid documents, and cvs, etc.
- b. It is especially significant to note the process pursuant to which the Project engaged its external consultants: The Minister of Justice assembled a screening committee consisting of herself, The President of the High Court, and Dr. Gebre Hiwet Tesfagiorgis, 'assisted 'by Mr Martin' GanzgIass; and Ms" Doris Martin, who' had' been selected by the Screening Committee as the external coordinator of non-Eritrea-based resources. The group developed terms of reference, reviewed

cvs, caused solicitations to be placed with various embassies and media, and interviewed a number of candidates for the various consultancies under the Project, including the persons who would assist in drafting the revised codes. An important positive feature of this process was that each of the drafting consultants was individually chosen by Eritrea's legal leadership, and this helped assure that the resultant work product would receive close, high-level attention rather than merely ending up on a shelf in a lower-level official's office.

5. Donor Coordination

The Evaluation Team met with representatives, of the Royal Danish Embassy and the Netherlands Embassy and discussed law-related activities both being implemented and planned. The Team found no cases of duplication with the activities of the Project: The Netherlands currently focuses on criminal justice, but may be interested in other

TT -opportunities to cooperate, through NDP, with the MOJ on Project-related activities: The larger (25 million kroner) Danish Project, that has recently (May 2001) received all Danish approvals, was in several respects designed to follow on from, and build upon, the foundation activities initiated by the Project. The Danish Project, which will develop a detailed schedule in concert with the MOJ, has the following Outputs: (i) Training, (ii) Court Administration, (iii) Alternative Dispute Resolution, (iv) Law Development, and (v) Research. The Danish support will enable the MOJ to carry on with many of the recommendations set forth in this Report, some of which have already been incorporated into the MOJ's future plans.

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B. By Immediate Objective and Output

1. Immediate Objective No. 1, Output No. 1: THE DRAFT

CODES RESULTS:

1. Three draft codes (Commercial, Penal and Criminal Procedure) are now available in final form in English; two draft codes (Civil and Civil Procedure) are available in English for the final review of the drafting committee; translations are available of two draft codes (Penal and Commercial) in two local languages; translations of the draft Civil Code and Criminal Procedure Code are to be completed by end 2001; translation of the draft Civil Procedure Code has been initiated.

3. Lexicons are now prepared for the draft Civil, Civil Procedure, Penal, and Criminal Procedure Codes.

4. A Legislative drafting process involving a broad cross-section of the Eritrean legal community and international consultants has been established.

5. There is increased awareness of the content of the draft codes by key members of the public and private sectors, e.g., police, banks, the national insurance company, mass organizations, business enterprises and various ministries.

RELEVANCE: This Output is directly related to the GOE's goal of improving the business climate in Eritrea, and providing a legal framework for economic activity. The Criminal Procedure and Penal Codes are directly related to the GOE's goal of assuring equity and a means of practical implementation of the 1997 Constitution. The Project's actions in supporting translations of the draft codes is directly in pursuance of the GOE's goal of assuring that every national has equal access to the law.

SUCCESS: This Output has had the impacts listed below. In terms of sustainability, the preparation of the draft codes is fully integrated into the Eritrean legal community,

which appears to be intent on advocating the ultimate adoption of the drafts into positive law. The process of preparing the drafts, consisting of both broad national consultation by key officials as well as representatives of the private sector, is also now accepted as a good means of arriving at sensible legislation.

PERFORMANCE: Of the nine activities that were to be undertaken under this Output (See Annex C) all have been substantially achieved, as described in the findings below:

a. General

1. The MOJ has made effective use of the Project's resources for preparing five draft codes: Civil, Civil Procedure, Commercial, Penal and Criminal Procedure. Primary

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responsibility for a sixth code, on maritime law, was transferred to the Ministry of Transportation, with the MOJ playing an advisory role in lieu of the leading role it has played with the five other codes. The status of the drafts is as follows: There are Tigrinya, Arabic and English language versions of the Commercial Code, Penal Code, and Criminal Procedure Code. (The Tigrinya and Arabic versions have not yet been approved by the committee). The Civil and the Civil Procedure Codes are in the final stages of preparation, but the final versions have not yet been approved by the Committee, and there will be a need for additional editing work before the final draft will be finished. The translations for these latter two drafts have been substantially completed, but have not yet been approved by the drafting committee. The work of the Committee has been carefully documented by the Project, and there are several volumes of minutes, comments, questions and reports that make a substantial written history for the draft codes. Moreover, the Project has over 100 hours of videotapes of the workshop proceedings, which add another significant item of potential legal history.

2. The Drafting Committee for all of the draft codes consisted of those local experts listed in Annex D. The foreign consultants for each of the draft codes are also set forth in Annex 'D.

The pace at which the MOJ has been operating during the years since the initiation of the Project has required close coordination of efforts in order to assure the timeliness of the technical assistance from both local and external specialists. It is especially important to note that the continuing efforts of the local specialists have been a key factor in enabling the MOJ to meet its very ambitious schedule. Moreover, by arranging for external consultants to work with the local drafting committees, it has been possible to raise the purely international aspects of the various drafts with the MOJ for its consideration. Any technical input by the local and external specialists, such as draft codes, background reports, and discussions with MOJ representatives, has itself become an important outcome of the Project. As such, any of the draft codes that are ultimately adopted by the National Assembly will be the result of the MOD's enhanced capacity to organize and implement a deliberative process in which both local and external specialists play their appropriate roles.

With the Project's assistance in preparing and translating the drafts, the MOJ is now prepared to submit the draft to the Government upon the completion of the Tigrinya and Arabic versions, anticipated to be by the close of 2001. It is anticipated that the proposed Codes will then go to the National Assembly for legislative review.

3. There are many areas in the draft codes that anticipate that regulations will be required

for full implementation. The drafting of these regulations was beyond the scope of the project.

4. While the Evaluation Team has reviewed the five draft codes, it was not within its Terms of Reference to provide a critique of all the proposed provisions. The Team did not view its role as "approving" or "disapproving" of specific draft provisions, but limited its review to the comprehensiveness of the overall process pursuant to which the

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drafts were prepared and the general positive effect of the drafts. The Team has made more extensive findings on the draft Commercial Code than on the other drafts because (i) it is a GOE priority and (ii) there is no attached commentary to the code, although there are extensive comments and reports available.

b. Impacts

1. The major impact of the Project on the process of revising the codes was, according to the President of the High Court as well as several other members of the drafting committee, that it served as a catalyst in the reform process. The Project enabled the Eritrean law leadership to compress what would have taken decades into a significantly shorter time. Further, with the Project's resources, the comparative perspectives contributed by the external drafters were able to be systematically made.

2. Improved public access to national legislation in the form of up-dated and translated draft codes;

3. A greater public awareness of and access to the law-drafting activities of the MOJ through the broad-based Drafting Committee;

4. The clear prospect of new legislation which will convey to Eritreans practical implementation of the rights set forth in the 1997 Constitution.

5.. , The overall impacts off the process facilitated by the Project, in terms of the draft commercial, penal and civil procedure codes, for example, will (if adopted) include (i) a lessening of the tendency to criminalize business activities; (ii) a simplification of registration, organizational and other formal requirements; (iii) a corresponding reduction in formal regulatory barriers resulting from (i) and (ii), (iv) a practicality in the kinds of information in the registry that will be available to the business community, and (v) a more efficient procedure for the resolution of disputes.

6. Business law reform can never be said to be truly "completed," as witnessed by the continuing efforts in the U.S., Western Europe and other countries with well-developed legal systems. The work of the Project in assisting the MOJ, accordingly, reflects a focus on substantive laws that strengthen four general elements of a market-oriented legal framework:

- I. Business Entry (laws that provide for easier organization, management, transfer and capitalization of enterprises);

II. Business Exit (laws that provide for the orderly termination of unsuccessful enterprises).

III. Improved Access to Credit (laws that provide for increased security for creditors, resulting in increased credit opportunities);

IV. Improved Enforcement of Contracts (laws providing for fairer and more efficient means for resolution of those

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disputes that inevitably increase as economic transactions increase).

7. A workable Civil Procedure Code, as a means of assuring both dispute resolution and the effectiveness of any of the substantive laws, is also a critical component of the legal framework for business activity. The above four elements, however, have been viewed by many as the fundamental "Block" of business-related laws that are of the highest priority. In effect these laws: (1) CREATE the enterprise, (2) provide it with ACCESS TO CREDIT for its operations,, (3) ENFORCE ITS CONTRACTS when disputes arise, and (4) TERMINATE it with as little damage as possible to others when and if it fails.

8. The Project has focused on BUSINESS ENTRY with Book II of the draft Commercial Code, as well as Book I's articles on The Commercial Registry which are also relevant to the formation of enterprises. These articles will establish a simple means for sole proprietors, partnerships and companies to become a part of the commercial community. The MOJ's efforts in drafting an Insolvency portion of the code (Book VI) and the elimination of the punitive concept of "irregular" (negligent) bankruptcy from the Penal Code, will go a long ways towards improving the economy's ability to deal with business failures and is thus part of the BUSINESS EXIT element, while the draft Civil Procedure Code represents a good advance in IMPROVED ENFORCEMENT OF CONTRACTS. **The draft code also addresses the-area of-IMPROVED ACCESS TO CREDIT with Book V, dealing with Secured Transactions.**

9. The massive program for drafting up-dated codes has assisted the MOJ in developing its drafting capacity through the provision of foreign experience, the exchange of research opinions with expert foreign consultants and exposure to the most advanced concepts from comparative models, while assuring conformity with Eritrean conditions and aspirations.

10. The Project supported the earlier production of the first draft Eritrean codes that will be available in two local languages, thus enabling Eritrea to establish a significant indicia of nationhood at an accelerated pace.

11. The adoption of the draft codes will help ensure that citizens throughout the country have an **equalized ability to** understand and participate in the legal system.

c. Content of the Revised

Codes: 1. The Draft Commercial

Code:

1.1. The external experts' reports on the draft code, and their on-going contributions during the meetings and workshops of the Drafting Committee have helped assure that this major piece of legislation will be a positive step in Eritrea's law reform program. The series of six books that make up the massive 1190 Article Commercial Code deal with key areas of law that are critical to private sector activity. Those books include:

- I. Traders and Businesses;
- II. Business Organizations;
- III. Transportation
- IV. Negotiable Instruments and Banking Transactions;
- V. Secured Transactions
- VI. Insolvency Proceedings.

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1.2. The draft Commercial Code should, if adopted, be of significant assistance to business activity in Eritrea. It represents both an updating of Eritrea's business laws, and an effort to make them available in two of the national languages, without which it would have been unrealistic to expect non-selective enforcement and utilization of legal rules relating to business activity. The former laws and decrees, available for the most part in English and Amharic, had become so far distanced from Eritrean business reality that there was a general sense that unpredictable administrative and regulatory discretion might prevail over out of date laws. Most of Eritrea's laws in fact dated from the 1960s, and were based on Ethiopian laws that had become out of date and inconsistent with Eritrea's aspirations

L3. Book I of Eritrea's draft Commercial Code defines the scope of commercial law, the conditions for entering commercial activity and the legal framework for commercial acts. It provides a body of accepted principles for business activity, - including up-to-date provisions on accounting responsibilities, *with* sensible exemptions for micro *enterprise*

1.4. Book II of the draft Commercial Code defines the rules for assuring public notice of commercial information in the up-dated Commercial and Company registry. Book II contains 405 articles, and deals with business forms such as limited companies and share companies, and general, limited and "silent" partnerships. It also contains material that is left to special securities or capital markets legislation in some jurisdictions.

1.5. The bulk of the draft Book II is concentrated on the two business forms that have traditionally had the greatest value to the business community: the "Limited Liability

Company"(LLC) and the potentially larger "Share Company"(S.C.).

1.6.. The draft Book contains several innovations as-to permissible organizational form: i.e., permitting (with certain somewhat onerous restrictions) the formation of single owner or single shareholder limited companies and share companies; and abolishing minimum capital requirements.

1.7. The Book also provides for protection to minority shareholder interests as well as procedures for mergers and combinations. The draft also anticipates that companies may sell their securities to the public and provides a basic structure for such sales, referring to regulations to be promulgated by the Ministry of Trade and Industry.

1.8. Book III of the draft deals with Transportation by air and land. Its 167 articles are an up date of existing law, and the Book has deleted the existing laws material on

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insurance (leaving this for insertion in the new draft Civil Code at least partially in response to the strong suggestion of representatives of the insurance community).

1.9. Book IV of the draft deals with Negotiable Instruments and Banking Transactions. Its 251 individual articles are, like much of the draft, based on the existing commercial code, but provide important up dates with respect to credit cards, bank transfers and letters of credit.

1.10. Book V of the draft, relating to Secured Transactions, is a totally new series of 98 articles. The Book provides yet another significant reform, as it makes possible a system for increased availability of credit based on non-possessory security interests. Assuming adoption, this part of the draft code may serve to enable far greater credit delivery in a country that is traditionally short on the use or availability of credit.

1.11. Book VI of the draft code deals with Insolvency Proceedings. The importance of the economic basis of the 105 articles on Insolvency should not be overlooked in considering the purely law-oriented issues. The draft articles clearly address economic concerns, rather than being moral or punitive in nature. The support of the Project has therefore helped assure that the law will be practical and business-oriented, and, if adopted, should be valuable in Eritrea's future private sector development.

2. The Draft Penal Code:

2.1. The 363 articles of the draft code consist of Part I, the General Part, and Part II, The Special Part.

2.2. Part I contains the following two separate Books.

- Book I: Offences and the Offender: In this Book there are 8 Chapters and 43 articles. These articles provide a clear and systematic coverage of fundamental penal law principles including the important concepts of "Legality" (e.g. presumption of innocence, prohibition of ex post facto laws, double jeopardy); statutes of limitation, intent and jurisdiction
- Book II: Punishment: In this book there are 4 Chapters and 39 articles. These articles provide the framework for a reasoned system of criminal punishment, including classification of offenses, treatment of child and juvenile offenders.

2.3. Part II of the draft code, The Special Part, consists of 4 separate Books setting forth specific crimes as follows:

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- Book I: Offences against the Interests of the State: There are 12 Chapters with 117 articles dealing with crimes such as espionage, public and private corruption and bribery, violations of duties by state officials, offences against the administration of justice, interference with voting and offenses against public health. Significantly, Article 127 makes it a serious crime (Class 3 serious offence) for any person to "prevent or restrain any duly constituted legislative, executive or judicial authority from exercising its constitutional powers."
- Book II: Offences Against the Person, Public Decency and the Family: There are 5 Chapters with 45 articles dealing with crimes such as e.g. murder, rape, kidnapping, assault, enslavement and child neglect.
- Book III: Offences Against Property: There are 3 Chapters with 48 articles prohibiting, e.g. theft, fraud, Passing bad checks, blackmail, and forgery. Significantly, the draft includes "modern" offences such as computer and electronic data crimes, and credit card fraud. The draft also removes the punitive notion of "irregular" (i.e. negligent) bankruptcy of the existing code, while retaining intentionally fraudulent bankruptcy as an offense.
- Book IV: Offences Involving Drugs: There are 5 Chapters with 20 articles setting forth a system for dealing with what are referred to as "Controlled Substances", with a separate Chapter (articles 362 and 363) for dealing with less serious drug offences.

3. The Draft Criminal Procedure Code

3.1. This is a "rights oriented" law, and represents a very direct means of assuring citizens that the rights provided in the 1997 Constitution will be implemented at the practical level. It represents a major series of reforms when compared to the existing code, with a commentary that explains in some detail how the various provisions should be applied.

3.2. The 407 articles of the draft code (with some articles left blank for future action) are divided into four Books as follows:

- Book I: The Courts and Investigation: There are 4 Titles, with 60 articles dealing with e.g., "General Principles" such as the Duty of all officials to follow the Constitution; prohibition of **-double jeopardy; and the right to interpretation;** • **The Powers and Duties of Courts, Prohibition of Trial other than by courts, right of the accused to be present in court, The right to counsel, powers and duties of prosecutors, and investigations.**
- Book II: Prosecution and Inquiry: There are 25 articles dealing with e.g., procedures after arrest, duty to commence proceedings, pre-trial detention and release, bail, and detention during trial.

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- Book III: Prosecution and Trial: There are 4 Titles, with 68 articles dealing with e.g., charges, the duty to disclose, the conduct of a trial, rules of evidence including exclusion of witnesses, judicial notice, previous convictions, summary procedure for petty offenses, and special procedures for young persons.
- Book IV: Appeal: There are 14 articles dealing with grounds of appeal, stays of execution, new evidence and the powers of the court of appeal.

4. The Draft Civil Code

4.1. While the substance of the draft Civil Code has been completed with respect to the English version, including Title XI of Book III on Literary and Artistic Ownership (Copyright) which was approved by the drafting Committee as recently as early May 2001, there is a need for editing as to the numbering of articles, consistency, etc.).

4.2. The draft is massive, with well over 1700 articles on all aspects of civil law. It is currently arranged into five Books that are in several separate binders:

- Book I: Persons
 - Title I-Physical Persons
 - Title II-ILLCapacity of Persons
 - Title III-Bodies Corporate and Property with a Specific Destination
- Book II: Family and Successions
 - Title I-Bonds of Relationship by Consanguinity and by Affinity (including all domestic relations law: e.g., marriage, divorce, adoption)
 - Title II--Successions
- Book III: Goods
 - Title VI (here the numbering shifts and is subject to editing)-Goods in General

Possession

Title VII-Individual Ownership

Title VIII-Common Ownership, usufruct, and rights in rem

Title IX-Collective Exploitation of Property

° - - Title--X Literary-and Artistic Ownership•(Copyright)

- Book IV: Obligations (Contracts) Title XII-Contracts in General Title XIII-Extra Contractual Obligations Title XIV-Procurement (Agency)
- Book V: Special Contracts .(Certain of this material, while said to be in final substantive form is awaiting response from the external consultant)

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Title XV-Contracts relating to the assignment of rights

Title ??? Insurance (removed from the Commercial Code and placed here) Title

XVI-Contracts for the performance of services

Title XX-Settlement, Conciliation and Arbitration (This will be coordinated with material in the draft Civil Procedure Code)

5. The Draft Civil Procedure Code

5.1. This draft is in similar condition as the draft Civil Code. That is, all of the draft except Book VII, dealing with Arbitration, is said to have been approved as to substance by the Drafting Committee. Review of Book VII is now underway.

5.2 The draft code consists of seven Books, with more than 800 article (there will need to be renumbering during the editing process, as the article numbers are not yet in order). The content is as follows:

- Book I: Civil Procedure in General Section I-Basic Provisions
- Book II: General Provisions regarding Civil Suits Section I-Service Section II-Pleadings Section III-Evidence
- . Book III: Ordinary Proceedings in First Instance
- Book IV: Special Procedures and Provisional or Interlocutory Measures
- Book V: Appeal, Cassation, Third Party Opposition and Revision
- - Book VI: Attachments and Execution of Decrees
- Book VII: Arbitration

2. Immediate Objective No. 2. Output No. 1: Staff in Ministry of Justice's Capacity in Planning -Administration and- Management -of the-JusticeSystem.

RESULTS:

1. A group of Eritrean judges, prosecutors and other law-oriented officials have been trained in, and are implementing, methods for the improved administration of the courts.
2. Use of computers for administration of the courts has been increased

Section II-Jurisdiction of Courts

Section-.III-Parties and other persons in service of process

3. Training modules were developed and used for workshops and other training sessions.

RELEVANCE: The assessment reports and design of courses have been used by the MOJ to carry forward its efforts to improve court administration, and the judges and other target group members are key persons in the ultimate success of these efforts.

SUCCESS: This Output has had the impacts listed below. In terms of sustainability, the training design and courses have affected the day-to-day operations of the court system, and are serving as a foundation for on-going review and reform.

PERFORMANCE: There has been action on most of the six activities set forth under this Output (See Annex C): a training needs assessment report has been prepared, nationals have been identified for training, a rough timetable for training has been established for both in-country and overseas training, and training sessions have been conducted using Project resources.

a. General

- 1...:The MQJ provided an in- country; training course for approximately 40 judges, prosecutors 'and • MOJ staff. This course was presented by court specialists' from the National Center for State -Courts,. based in the U.S. The course took place- from September 22, 1997- October 2, 1997, in Asmara.
2. There were several training modules used during the course, including those entitled " Human Resources Management" and "Court Administration, Strategic Management Case Management and Delay Reduction".
- 3.. Participants in the courses referred to them as being very helpful, and "high-quality interactive teaching by experts such as Judge Ramsey".
4. Four key MOJ officials received overseas training with a short course in Court administration and organization at the same National Center for State Courts. This course enabled the • MOJ to conduct Asmara-based training on these subjects for a larger number of judges, prosecutors

and other law officials.

5. -The • MOJ organized -an- English language-training program --for 44 -persons,•-
•.The...•, -, = persons interviewed were enthusiastic about the English program, and several judges said that they had used English since taking it. Participants said they require English for reviewing original legal documents drafted in English, and speaking with persons from the diaspora and others that only speak English. The participants interviewed all expressed the desire for additional training, several because legal programs at the national university are offered only in English.

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6. The MOJ has organized courses, including the four-month introduction to law program, and the Certificate in Law program, which have also improved the skills of judges, prosecutors, clerks, registrars and others in making courts more efficient. These courses are not specifically designed to address details of court administration and management. In addition, there does not appear to have been systematized recruitment of human resources development experts for both future training in Court Administration and planning with greater specificity for future actions.

b. Impacts

The Project activities in assessing needs and designing training schedules and plans assisted a pervasive, long-term impact on human resource development in the MOJ and for other actors in the justice system. Successful HRD comes about through the connected impact of training in the English language, Computer technology and the comparative perspectives gained from the experience of drafting the codes.

3. Immediate Objective No. 2, Output No. 2: An In-house Training Capacity Established at the MOJ.

RESULTS:

- 1. The HRD Department of the MOJ, established as the unit responsible ' for inhouse training, has. a strategic plan for training -and is carrying it out.**

2. There have been a number of persons provided with both short term workshops and an introductory law course in a local language and are better able to perform their duties within the justice system as a result of this training

3. The English language training and the computer training (with computers furnished under the Project) have not only increased the capacity of the participants to perform their duties, but have motivated them to seek further opportunities to increase their skills and knowledge.

RELEVANCE: Upgrading the educational and research standards of the judiciary and other law-oriented officials is a most relevant and important contribution to Eritrea's strengthening of its justice system. New responsibilities have been, and will continue to be, placed on the Courts, prosecutors and regulators as the draft

codes and other -up-dated legislation and administrative regulations are adopted.--",-:-,-,

The output's relevance is more pressing than ever, and the MOJ considers human resource development as a high priority.

SUCCESS: This Output has had the impact listed below. In terms of sustainability, while the MOJ intends to continue its progress in training law-related officials, sustainability in the sense of assuring the on-going availability of training staff, and a well-developed series of short, medium and long term programs sustainability is not yet clear. Sustainability in terms of the results of the activities being capable of

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implementation by the MOJ is, however, quite high as they form a part of MOJ plans and strategy.

PERFORMANCE: There has been action on all four of the activities provided for under this Output (See Annex C). A systematic plan and program of training, with a defined curriculum, selection criteria and sequence of courses was not clear to the Team, although the basic report on training has established the main outlines for these items.

a. General

1. The Project's Output of assisting the MOJ build an in-house training capacity may have been overly ambitious. While significant progress has been achieved, most notably in design and planning, capacity for sustained and systematic on-going training remains problematic.

2. The Courts and other law-related officials will require appropriate and well-tailored human resource development, advanced technology and material resources to be able to cope with the increasing demands of the emerging legal system. Legislation has been both adopted and proposed (in the draft codes) in the areas of dispute resolution, commercial activity, administration of lands, administrative reform, and foreign investment. It is obvious that the courts are being asked to take on increased responsibility for the resolution of disputes and claims under Eritrea's new legal order.

3. The training plan of the MOJ is based on sound proposals in reports on the judicial education function prepared under the Project and much of the proposals in these reports will assist the MOJ in its efforts to increase the capacity of judges, prosecutors and other law-related officials.

4. Many of the judges and other officials who are the target for future training are better able to pursue such training if it is made available in local languages as well as in English. Without substantive legal training in local languages, the MOJ will be unlikely to be able to train the numbers of law-oriented officials Eritrea will need in the coming years. There does not appear to be adequate incentive for studies carried out in local languages.

5. The Project's report on judicial education addresses many of the substantive, practical

issues that affect training efforts. The report calls for a series of decisions and actions that the MOJ, with appropriate support, will be able to use in future training. However, if the national law school does not consider practice or community-oriented legal education within its mission, future recruits of the MOJ may lack adequate practical knowledge to perform necessary duties within Eritrea's legal system. A formal Center or Institute on judicial education, suggested by Project reports, could be an effective means of meeting Eritrea's urgent needs in this regard.

6. The development of a stronger English competency for members of the law community has assisted their ability to deal with disputes involving the English language, provided better access to English legal materials, and has made continued formal legal education from "English-only" instruction more of a possibility.

b. Impact

The Project's work in the judicial education function, both in terms of its realistic appraisal of existing need and conditions and in its proposed design for a more institutionalized training center schedules now forms part of the MOJ short, medium and long-term approach to human resource development in the justice system.

4. Immediate Objective No. 2, Output 3: 130 Women trained in Basic Education, the Basics of Law and Formalities in the Operations of Courts and the MOJ.

RESULTS:

- 1. A training center for 88 women from ethnically diverse backgrounds is operational in Mekerka, and is providing a community outreach capacity for Eritrea's various regions.**
- 2. 35 women are receiving both in-service and classroom instruction' in' law by the MOJ in Asmara. They have been provided written legal training materials and are absorbing a significant amount of material dealing with an introduction to law including Eritrea's legal system.**

RELEVANCE: This Output was the most recently added to the Project, and is viewed as separate and distinct from the other Outputs. It arises as an effort of the MOJ to respond to a specific need to address training of ethnic minority women and is directly related to the GOE's policies in this regard. It represents a significant "community outreach" program that will provide a means of bringing a greater number of people into contact with the justice system.

SUCCESS: This output has had the impacts listed below. In terms of sustainability, the results of the Output will be directly implemented by the young women being trained. In terms of the sustainability of the Center at Mekerka, this will require on going support following the termination of the Project.

PERFORMANCE: As set forth in the following paragraphs, there has been action on all five of the activities established for this output.

a. General

- 1. The school, located approximately 39 kilometers from Asmara in the village of Mekerka, began its regular classes in January, 2000. There were originally 97 women**

students from several different ethnic groups, from many different regions of the country. 9 students dropped out for "health or social" reasons.

2. The 88 resident students are taught by a staff of 4 teachers, who are teaching from a curriculum developed by the Ministry of Education. The director (one of the 4 teachers) also teaches classes. The women are expected to master English, Tigriya and Arabic, and take these subjects as well as Civics, Math, Geography, History and computer skills.
3. There are 35 additional women now taking classes in law and doing in-service training at the MOJ, and it is expected that the MOJ will teach law classes to the 88 women after they have completed approximately 18 months of basic "pre-law" material. The entire program is for a total of three years, including both basic and law studies.
4. The 88 students are divided into a beginning class (27 women), a middle class (41) and an advanced class (20). All students are expected to be trained to the same level of competence, after which the MOJ will begin training them in law-oriented material and arranging for in-service training positions.
- 5.. The Evaluation-Team, together with the UNDP. Project Officer, meet with two of the three groups for a brief introduction and remarks. The women indicated a sincere interest in both their basic studies and the later possibility of becoming legal professionals. Several indicated, when asked, that they intended to try to become judges.
6. The Center has good relations with the town officials and residents, all of whom are aware of the Center's mission of training women for participation in the legal system. Prior to the establishment of the Center, Mekerka had no regular electric power supply. The Center has a generator and is sharing electricity with the village (and is therefore- an example of "Law bringing the Light to Mekerka").
7. The 35 women in Asmara have been assigned (the Evaluation Team is aware of no particular selection. criteria, other than random selection of women in national service) to positions as MOJ staff, and are working as e.g., law clerks, archivists, and legal assistants. They come from a different background from the 88 women at Mekerka as they are all high school graduates and are for the most part from the *Asmara area*. They have been taking a three month introductory course in law", which covers areas such as: The Meaning and Development of Law, Types of Law (including Private, Public and Constitutional Law), Procedural Law (Criminal and Civil), Evidence, Substantive Eritrean Law, Types and Jurisdiction of Eritrean Courts, and Institutions and Persons involved in the administration of Justice.
8. For most of the women involved either in Mekerka or Asmara, the program is their first contact with the law, and it is regarded as a significant opportunity by the participants to play a more meaningful role in their communities. One young

expressed the attitude of many by remarking that she wants to use her new knowledge to represent others, in either a public or private sector role.

b. Impacts

1. The Mekerka Center is the only such facility in Eritrea, and without it, there would be little opportunity for women from different ethnic groups to study together towards careers in law.
2. The work done by the Project under other Outputs, such as the development of the draft Codes, and the various legal training programs, would be less likely to be broadly known and understood throughout Eritrea without the outreach activities of the Mekerka Center.
3. Developing the law-oriented and computer skills of a group of young women, who will enter into various careers in the legal system, will help sustain the progress being made by the MOJ as to the draft Codes and its other activities.

5. Immediate Obiection (ive Ao.Z. Output 4 . Management Information System MIS) in the Ministry of Justice.

RESULTS:

1. A computerized case management system, originally designed as an experimental pilot project, is now fully operational at the High Court. The system includes 9 workstations, and is being operated as the High Court's principal system by persons who received computer training under the Project.
2. There are approximately 20 additional workstations at the MOJ, the Attorney General's Office and the regional court in Asmara.
3. Copies of case files are now being provided to users with much less delay than before.

RELEVANCE: The relevance and effectiveness of computerization of the case management -system talhe fostering of transpareiwy-of the rule of law 'in Eritrea cannot be overstated. As Eritrea continues to implement its policy of improving the court system, access to judicial opinions and decisions becomes ever more necessary.

SUCCESS: This output has had the impacts listed below. In terms of sustainability, the output has been embraced by the MOJ and the High Court and is being operated by persons trained under the Project. The pilot project was considered to be successful to the point that it is being used as a model for future expansion.

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PERFORMANCE: All 6 of the activities under this output(See Annex C) have been achieved.

a. General

1. The MIS efforts of the Project have resulted in an operating pilot project that includes 9 workstations at the six benches of the High Court.
2. The MIS is operating efficiently, and that the persons operating it have been well trained. A combination of permanent staff and recent law graduates are working together in the initial stages of the pilot project, with the law graduates both learning the system and assisting the permanent staff in operating it. This has provided for good on-going training by persons directly using the new system.
3. The MIS case management system has made the operations of the High Court more efficient, and enables the judges and the parties to have faster access to information about their cases.

b. Impacts

1. • The. **creation** of the. case•.management. system -at.the High Court was -particularly... noteworthy. The development of the pilot project was accompanied by training in the use of computer technology and, as a result of.the success of the pilot project, a significantly improved case management system is being considered for widespread implementation.
2. Specific impacts of the computerized case management system include the greater transparency of law in Eritrea, the greater likelihood of judicial consistency and harmonization, and a potential for growing public access to judicial opinions.

6. Immediate Objective No. 2. Output 5 : Organizational, Management and Procedural Innovations for Court Administration.

RESULTS:

1. Statistics are available on an expedited basis because of the new case management system, and these statistics are enabling the High Court to improve court performance.
2. 362 mediators have been selected in certain localities of Zoba Anseba, and they are being prepared to implement an ADR pilot project resulting from the assessment

report carried out under the Project.

3. The Project has provided research and reports that are the background for the MOJ's draft court performance standards, and strategic plan for court administration and organization.

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4. The pilot project for case management system at the High Court has been established as the model for a national case management system, which will be implemented as necessary infrastructure and human resources are developed.

RELEVANCE: Eritrea has had a significant experience with traditional forms of mediation, and the assessment report and pilot project are efforts to support this tradition. With respect to court administration generally, Eritrea is committed to its continued strengthening.

SUCCESS: This output has had the impacts listed below. **In terms of sustainability, if the pilot project is successful, it may serve as a model for expansion just as has been the case with the case management system.**

PERFORMANCE: Several of the eight activities under this Output (See Annex C) have been acted on. These include (i) an assessment of both the organization and administration of the courts and the need for procedural and other reforms in the court system, (ii) the formulation of a strategic plan for the courts, (iii) the establishment of court performance standards and (iv) the establishment of a case management system.

a. General

1. The pilot case management system being carried out as a pilot project at the High Court under Output 5 above has been identified as the system that will be developed under this output, except that it will be adapted to suit both regional and sub regional courts.

2. The assessment report was delivered as a product under Project ERI/94/006(PSMP), but was prepared in coordination with this Project. The MOJ is at present using the assessment's theoretical foundation for its own practical efforts to improve the courts.

3.: The ADR pilot project has been initiated with the selection of 362 mediators in Zoba Anseba, but the mediators do not yet have a formal statement of their jurisdiction and are only now beginning to resolve disputes under the pilot project.. .

4. This ADR pilot initiative by the MOJ may improve access to justice by recognizing and supporting traditional dispute resolution methods instead of seeking to suppress them ' inTavor ofofftCial court proceedings.

b. Impacts

1. The process for the design of the Project guaranteed the 'ownership' of the Project by the MOJ. The capacity of the MOJ to coordinate international resources has been increased.

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2. A certain "high-level impact factor" must be noted - frequent contact between senior management of UNDP and the MOJ facilitated and supported project coordination and cooperation. The high-level interest and efforts by the MOJ, including the High Court and Attorney General's Office, assured integration of Project resources into Eritrea's legal culture.



Part III: Lessons Learned

1. The procedures developed by the Project to identify, support and use foreign specialists should be provided to other UNDP projects for consideration as an effective model to assure integration of project resources into high decision-making levels. The hallmark of the Project has been the high-level direction of external experts, and the development of a process that assured the involvement of key members of the Eritrean legal, business, financial, and regulatory communities. Building this into other law development/capacity building projects would increase their effective use of international resources.
2. The absence of a long-term resident advisor may be felt in even successful law projects. While an effective non-resident external coordinator may accomplish much in assuring that international resources are brought to bear on national concerns, a resident advisor is in a better position to fill in the inevitable gaps that arise in a lengthy project. Thus a resident advisor can follow through and relay questions and concerns to foreign specialists on an on-going basis, can assist with reporting and management issues, and can also respond immediately to drafting and training questions. Moreover, a resident advisor can also assist in seeking out maximum international resources for, e.g. fellowships; pro bono technical assistance and legal information technology developments.
3. Steps should be taken to assure that UNDP Project Officers are provided with adequate training and time to monitor project reports, track activities and assure regular monitoring of progress in regularly scheduled tripartite reviews.
4. Project Documents for law-related projects that set out an ambitious program of detailed, specific activities, which activities should to a substantial degree be suggested by the national counterparts, is usually preferable to setting out fewer activities as conclusory events. Because Law Development is a very long term process, this type of Project design avoids relying on the achievement of quantifiable results to measure the ultimate success of the Project. In the case of Project ERI/97/002, many of the activities, while certainly desirable and suggested by national counterparts, were conclusory in nature (i.e. "Operationalize training in the Ministry of Justice"; "Establish Court Performance Standards"; "Establish a case management system"). This manner of design creates a risk that even though many valuable actions might be taken in the direction of such an activity, the final product might fall short of its complete realization.

5. Whenever the technology available to UNDP permits (and UNDP/Asmara might push for rapid access), there should be increased use of internet resources, especially for law-related projects, including the development of project web sites to provide information as to project reports and activities similar to the Web Sites developed for

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other UNDP Projects in other countries. The need for frequent and extensive international transmission of drafts and documents produces significant costs that can be dramatically reduced by electronic communication.

6. Legal assistance programs that are concerned with the systemic improvement of a legal system must see beyond the tangible outputs of new laws or regulations. HRD within the leading law-related agencies, while less certain of short-run measurement, is a preferable objective of donor-assisted legal change programs.

7. HRD as the essential objective

While drafting laws and regulations can be an important part of the development of law if it is done with direction and close involvement of the local legal community, it should be noted that the change process can be facilitated and accelerated by the promotion of human resource development (HRD) as the dominant objective of a law oriented capacity-building program: "... legal technical assistance programs that focus primarily on improving the laws on the books frequently have so little impact," per Berkowitz, Pistor & Richard, *Economic Development, Legality and the Transplant Effect* (Nov. 1999).

Paradigm shifts within organizations depend upon leaders, managers and staff working together to move their agencies to new standards of effectiveness under rule-of-law principles. .

In turn, legal assistance programs that are concerned with the systemic improvement of a legal system must see beyond the tangible outputs of new laws. HRD within the leading law-related agency, while less certain of short-run measurement, is a complementary objective of donor-assisted legal change programs.

HRD should be seen in comprehensive and pluralistic terms to include technology, English language, and substantive comparative perspectives. In this way, more staff at the junior and middle levels acquire an awareness of the need for and the potential for institutional advancement, comparative insights and the mastery of new technology within real life 'rule of law' parameters.

The time and effort for "Training of Trainers" in law involves highly discretionary, judgment-based tasks that should not be underestimated. Familiarization and transfer of basic knowledge or skills should not be confused with the long-term, in-depth education of legal professionals necessary to build and maintain a legal system.

8. Law development involves decades, not years. Any progress toward a principled,

transparent and participatory legal process requires changes in the behavioral patterns of hundreds of decision-makers and thousands of citizens. These hundreds and thousands of people must be committed to the idea that Law, not the arbitrary exercise of transitory, de facto power, is a better pathway to a healthy society and economy. Law, and the reality of any legal system, is about who get to make decisions and is therefore just as complex as the existing network of village, city and

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national power centers with the de facto authority to make decisions affecting property, business activity, and personal security.

9. If Law were simply a set of rules which, once adopted, would be applied uniformly, logically and impersonally, law development projects could be more easily measured by the speed with which they facilitate the adoption of the rules. As it is in reality, however, many law development and law capacity building projects are only the initial steps in a process that will, ideally, outlast the lifetimes of their designers. This reality indicates that law project documents should be sufficiently specific in their design (such as the MIS, training, and legal drafting outputs in Project ERI/97/002) to improve various aspects of the legal system simply by virtue of their achievement, yet flexible enough to accommodate a constantly moving political and economic environment.
10. A law project without high-level support at the highest levels of both beneficiary and donor may be of academic interest, but is unlikely to produce broad social or economic gains. High-level support for law-related activities, such as that demonstrated in a remarkable manner by Project ERI/97/002, is a major factor in putting international resources to effective use.

A. General

To UNDP:

a. A careful review of the objectives and results of Project /ERI/97/002 is a prerequisite for future action in related areas. Additional UNDP support for future activities related to those initiated by Project ERI/97/002 is strongly recommended. Such support might be in cooperation with other interested donors such as the Netherlands, and could be discussed with the MOJ relative to activities listed either in "Recommendations" or in Annex F.

b. UNDP should maintain its involvement in the area of law reform or development. As UNDP develops a future programme with the MOJ in connection with the CCA, a series of different modules, based upon the results of discussions between the MOJ and UNDP on matters including the recommendations and in Annex F of this Report, the flexibility and 'practicality OT the approach taken in' the. implerneritation of 'this Projectshould be

'-maintained

to as great a degree as possible.

2. To the Project/MOJ/GOE

The Evaluation Team would like to stress that the MOJ has taken the leadership in the initiation and implementation of this Project. Many of the "recommendations" listed in this report are perhaps more accurately considered as "reaffirmations" or "endorsements" because many arise from the MOD's own awareness of future necessary actions that will make the Project's achievements more sustainable and more capable of full, effective implementation. In fact, several of the recommendations are already planned for or being acted upon by the MOJ either unilaterally, or with its recent bi-lateral cooperation initiative.

Immediate Objective No.1, Output 1: Revised Legal Codes

2. The draft codes, translations, and the lexicons should continue to be distributed to interested parties. Support should be sought to assist the duplication of adequate copies for such distribution.
3. The drafting committee should assure that a final analytical, or coordinating, review of all of the draft codes be performed by either external or national legal consultants as soon as practicable. The drafts are massive, and such a final check may avoid repetition or conflicts in related provisions.

4. The MOJ should continue its efforts, including the final editing of the draft Civil Code and draft Civil Procedure Code, to prepare the drafts for submission for ultimate adoption into positive law as soon as practicable.
5. There will be a need to adopt implementing regulations to bring the draft codes into full effect following adopting. The MOJ should begin planning for the drafting of such regulations even prior to the adoption of the drafts. This will require identifying all of the various regulations needed, which ministries or agencies will be involved, and means to assure that the content of the regulations conforms to the spirit of the drafts.
6. There is no glossary as yet for the Commercial Code, and the Team recommends that one be prepared as soon as possible because there are many new terms in the draft code that will especially benefit from a glossary. The Team thinks that such a glossary will be appropriately completed AFTER the translation of the draft Commercial Code is completed, as that translation will have dealt with assigning translated terms for the new concepts in such draft.
7. Compiling all of the lexicons into a single (carriable) paperback version would be helpful to training efforts. Consideration should also be given to initiating a more comprehensive "Legal Dictionary" project as a means of extending the value of the lexicons.

Immediate Objective No. 2. Output No. 1 (Staff in Ministry trained in basic skills, planning and court administration)

1. There should be greater emphasis on systematized recruitment of human resources development experts to plan for future training in Court Administration and greater specificity in the current plan for future actions.
2. There should be increased efforts to plan and develop training schedules for court administration and organization, which should be coordinated with Output No. 2 of Objective No.2 (In-House Training Capacity established).

Immediate Objective No. 2. Output 2 (An in-house training capacity established)

1. The MOJ should continue to offer, and even increase, substantive legal training in local languages, and seek to assure that some adequate incentive is available for those persons who pursue such training.
2. Training programs should include substantive legal principles, skills, as well as basic computer training for judges, prosecutors and other law-related officials.
3. English language training continue to be provided to law-related officials and staff who intend to pursue those programs that are only offered in English.

4. As a part of any future training, there should be documentation of any selection process used, as well as the preparation of practical selection criteria to assure that training continues

to be directed at those who will be likely to make use of it.

5. There should be consideration of an institutionalized judicial training school or center, with a formal curriculum for short, medium and long-term training, (with practical, problem-oriented teaching materials) as a means of meeting Eritrea's urgent training needs in the justice system.

Immediate Objective No. 2, Output 3 (130 women trained in basic education, the basics of law and formalities in the operations of courts and the Ministry of Justice)

1. The women trained at the Center should be provided with a similar legal training as the 35 women now undergoing training at the MOJ in Asmara, and that the MOJ should seek to assure that the participants continue to be placed in law-oriented positions following their training.

2. The MOJ should consider establishing future entering classes for the Mekerke facility beyond the initial group now being trained.

Immediate Objective No. 2, Output 4.

1. The MIS should be completed at the Asmara regional court and the Attorney General's office.

2. Consideration should be given to extending the new technology to all of Eritrea's regional and sub-regional courts.

3. Means of meeting human resource development needs, in addition to equipment, should be addressed along with equipment and infrastructure needs

4. The MIS should be used to assist the High Court in its efforts to make all judicial opinions available to the public.

Immediate Objective No. 2, Output 5

1. The MOJ should continue its efforts to establish written guidelines for compensation of the mediators and for the jurisdiction of the ADR pilot project.

2. The MOJ should continue its efforts to address the needs identified in the assessment report.