23

**UNDP/ GOVERNMENT OF THE GAMBIA**

**TERMINAL EVALUATION OF THE ACCESS TO JUSTICE AND THE SUPPORT TO THE JUDICIARY PROJECTS**

2012

Janet R Sallah-Njie

4/23/2012

**TABLE OF CONTENTS Page**

1. List of Acronyms……………………………………………………………………………………4
2. Acknowledgments………………………………………………………………………………....5
3. Executive Summary………………………………………………………………………………..6
4. Context………………………………………………………………………………………………10
   1. General legal framework for access to Justice ……………………………………………….10
   2. **The Ministry of Justice…………………………………………………………………………….11**
   3. The Judiciary……………………………………………………………………………………….12
   4. Legal Sector Strategy…………………………………………………………........................12
   5. The Gambia Bar Association……..……………………………………………………………………....13
5. Description Of The Project……………………………………………………........................14
   1. Access To Justice…………………………………………………………………………………14
   2. National Agency For Legal Aid………………………………………………………………….14
   3. Alternative Dispute Resolution Secretariat……………………………………………………..14
   4. Support To The Judiciary…………………………………………………………………………14
6. Implementation……………………………………………………………………………………..15

3.1 Monitoring……………………………………………………………………………………………15

4. Methodology Of The Evaluation………………………..………………………………………..16

5. Success Of The Project In Achieving Its Objectives………………………………………….16

5.1 Objectives And Activities Access To Justice…………………………………………………..16

5.2 Component I ADRS…………………………………………………………………………………16

* + 1. Were The Planned Overall Objectives Achieved……………………………………………...17
    2. Recommendations………………………………………………………………………………….18
    3. Component II Nala *…………………………………………………………………………………19*
    4. *Were The Planned Overall Objectives Achieved………………………….……………………19*
    5. Recommendations……………………………………………..…………………………………..21
    6. Objectives And Activities- Support To The Judiciary…………………………………………21
    7. *Were The Planned Overall Objectives Achieved……………………………........................22*
    8. Recommendations……………………………………………………………….......................24
  1. The Gambia Bar Association……………………………………………………………………..24
     1. Recommendation…………………………………………………………………………………..25

6. Efficiency And Performance…………………………………………………….......................25

6.1 *Budget, Personnel, Training Process,*

*Relations With The Local Institutions……………………………………………………………..25*

*6.1.2* Training Processes………………………………………………………………......................25

6.2 Logistical Arrangements…………………………………………………..…………………………26

6.3 Relation With Other Key Implementing Agencies………………………………………………….26

6.4 Monitoring And Evaluation…………………………………………………………………………….26

6.5 Recommendations………………………………….………………………………………………....27

7 Impact……………..…………………………………………………………………………………….27

7.1 Positive Impacts Access To Justice………………………………………………..………………27

7.1.2 Alternative Dispute Resolution…………………………………………………………………….27

7.1.3 Legal Aid…………………………………………………………………………………………….28

7.2 Support To The Judiciary………………………………………………………….………………..29

7.3 Negative Impact………………………………………………………………………..…………….29

8. Sustainability………………………………………………………….………………………………...29

8.1 Alternative Dispute Resolution Secretariat…………………………………………………………29

8.2 National Agency For Legal Aid……………………………………………………………...30

8.3 The Judiciary…………………………………………………………….……………………..30

8.4 Gambia Bar Association………………………………………………………………………30

8.4 Commitment And Capacity Of Institutions………………………………………………….30

9. Relevance………………………………...……………………………………………………..31

10. Conclusions And Findings……………………………………………..…………………….32

10.1 Legal Aid………………………………………………………………………………………33

10.2 ADR…………………………………………………………………………………………….33

10.3 The Judiciary………………………………………………………………………………….34

**ANNEXE I Terms of Reference………….………………………………………………………35**

**ANNEXE II List of Persons Interviewed………………………………………………………………40**

**ANNEX III Sample Questionnaire…..………………………………………………………………….41**

1. **LIST OF ACRONYMS**

**ADRS - ALTERNATIVE DISPUTE RESOLUTION SECRETARIAT**

**CPAC - COUNTRY PROGRAMME ACTION PLAN BETWEEN GAMBIA GOVERNMENT AND UNDP**

**CPD - COUNTRY PROGRAMME DOCUMENT**

**CBO - COMMUNITY BASED ORGANISATIONS**

**CSO - CIVIL SOCIETY ORGANISATIONS**

**DFID - DEPARTMENT FOR FOREIGN AND INTERNATIONAL DEVELOPMENT UK**

**EC - EUROPEAN COMMISSION**

**FLAG - FEMALE LAWYER ASSOCIATION-GAMBIA**

**FLARE - FOUNDATION FOR LEGAL AID AND RESEARCH**

**GBA - GAMBIA BAR ASSOCIATION**

**ICT - INFORMATION COMMUNICATION TECHNOLOGY**

**IP - IMPLEMENTING PARTNER**

**LRR - LOWER RIVER REGION**

**LSS - LEGAL SECTOR STATEGY STUDY**

**MOJ - MINISTRY OF JUSTICE**

**NALA - NATIONAL AGENCY FOR LEGAL AID**

**NGO - NON GOVERNMENTAL ORGANISATION**

**PMU - PROJECT MANAGEMENT UNIT**

**PSC - PROJECT STEERING COMMITTEE**

**PRSP III – POVERTY REDUCTION STRATEGY PAPER**

**UNDP - UNITED NATIONS DEVELOPMENT PROGRAMME**

1. **ACKNOWLEDGMENTS**

I would like to express my sincere appreciation to all the Project coordinators under the Access to Justice and Support to the Judiciary Project for granting me interviews despite their busy schedules and filling the questionnaires. This greatly facilitated by work.

Special thanks go to the Programme Analyst and Programme Associate for Governance and Human rights at the UNDP for facilitating my work by providing all the background literature and relevant documentations for carrying out this evaluation. Project Manager at the PMU needs special commendation for providing the necessary logistics support for the field visit to Farrafenni, and organizing all the appointments for interviews.

I would also like to thank the beneficiaries of the project particularly the trained community mediators at Farafenni, staff of the ADR Pilot Centre in Farafenni, and the members of the community at Farenni for sparing time to discuss with me and realing giving me an insight on the impact of the Project in the communities In this respect special commendation also goes to the Chief of ILLiassa for sharing his thoughts on the Project with me.

Finally, I thank the UNDP especially the Programmes Analyst Governance and Human Rights for affording me the opportunity to undertake this evaluation.

Janet R. Sallah-Njie

Consultant

1. **EXECUTIVE SUMMARY**

In line with the CPAP and CPD (2007-2011) and within the framework of a National Governance Programme the UNDP supported the Ministry of Justice to implement two projects, Access to Justice and Support to Judiciary. The intervention made by UNDP was in a large way in response to the Legal Sector Strategy. The main objective of the Legal Sector Strategy is to address the general neglect of the legal sector institutions leading to inordinate delays of court cases, massive build-up of backlog of cases overtime and institutional weaknesses in terms of court rules, its facilities and logistics. According to the Project Initiation Plans, as at July 2009, the number of pending cases rose to one thousand, two hundred, and eighty (1,280) in the High Courts and one thousand three hundred (1,300) in the Magistrates Courts within the Greater Banjul Area. Out of this, 70% of these cases were backlogged. In addition to the problems relating to backlog of cases, the majority of the population is mostly peri-urban and rural-based, poor and vulnerable, with limited access to quick and efficient dispensation of justice and resolution of conflicts within the community.

The ‘Access to Justice’ project sought to provide ready access to justice to the poor and it had two vital components aimed at realizing this objective. Component one sought to facilitate the establishment and operationalisation of the National Agency for Legal Aid as required by its legislative framework, and to commence the process of decentralization of legal aid clinics in line with Governments policy of decentralization. The second component of the project provided support for strengthening and enhancing the capacity of the Alternative Dispute Resolution Secretariat (ADRS), and to raise awareness on the concept of ADR within the judicial system. The “Support to Judiciary of The Gambia project**”** implemented short-term measures aimed at enhancing access to justice, expediting processes within the judicial system, and building the capacity of judicial personnel.

Despite the identified constraints in the implementation of the various components of the projects, overall the project was a success.

1. **LEGAL AID**

* All the planned activities under the component of the Project relating to the establishment of the framework of the National Agency for Legal Aid and its full operationalisation and functioning were achieved.
* However, there is a need to continue the decentralization efforts and the community sensitization through the radio and television on a continued and sustained basis so as to raise awareness on the existence of the agency, its role and objective.
* There is a need to extend legal aid to non criminal cases so as to truly realize the objectives of the Act, and maximize its benefits to the poor.
* The staffs trained under the project are serving the Agency and there are budgetary allocation for the payment of their salary and retention.
* The project has significant impact in giving legal assistance to the poor as over 100 people benefitted from legal aid during its duration and the number of request seems to be increasing.
* The study tour to Ghana exposed staff to best practices and experience in operation of legal aid initiatives in Ghana.
* However the component of the Project relating to support and assistance to civil society was not implemented at all, thus a vital opportunity for collaboration with civil society was lost.

1. **ADR**

* Most of the activities under this component were implemented. However the following were not carried out due to lack of proper planning or reallocation of funds at the level of UNDP
  + Training of Arbitrators
  + Viability Study in Foni and LRR. And opening of more pilot Centres
  + Supporting Civil Society Initiatives in implementing ADR
  + Resource mobilization and Communication Strategy
  + ADR week
* Farrafenni and Basse Pilot Centres are success stories. The farafenni Centre registered 57 cases and 40 were successfully mediated, and the Basse Centre registered 107 cases. These two centres have contributed considerable in the resolution of disputes within the community thus taking the burden off both the District Tribunal and the formal court system. This has a very positive impact in the reduction of backlog of cases.
* Despite the successes of the two Centres, there is a need to review the processes and procedure to ensure they provide a cheap and affordable forum for the resolution of disputes. The fees charged for mediation need to be revised and standardized as it would seem that most of the complainants at the Farrafenni Centre have not been able to pay the fees charged. This totally defeats the objective of providing a cheaper forum for resolution of disputes.
* The community sensitization activities were very successful and need to be carried out on a continued and sustained basis. It is recommended that in addition to the meetings and seminars, other media forms like the radio and television should be utilized to gain wider coverage.
* The training of community mediators was a success story, as the skills acquired during the training are being utilized within the community. However, it is important that these mediators are exposed to more in-depth training to ensure that they are better equipped to deal with the challenge of resolving conflicts within the community. The training should also be extended to the chiefs and village heads to ensure maximization of the use of ADR within the communities.
* To harness the gains made in earlier legal capacity building initiatives, it will be useful to utilize the services of the trained and qualified mediators who were trained in Sacramento California.
* The study tour to Ghana also exposed the staff of the ADRS to best practices in the implementation and running of ADR initiatives. It is however important that experiences gathered be implemented so as to improve the efficiency of the Secretariat.
* There is a need for collaboration and support for civil society and community ADR initiatives.
* The capacity assessment study needs to be thoroughly reviewed and implemented, based on the recommendations contained therein.

1. **THE JUDICIARY**

* Most of the activities under the project were implemented. However, concern was expressed on the cut in the budget due to reallocation of funds at the level of the UNDP, and lack of effective communication which led to the non implementation of the following activities;
* Regional training for magistrates on administration of justice, and
* Consultancy on the revision of Muhammedan Marriage and Dissolution Act
* The capacity and skills of the Judiciary staff are enhanced with knowledge and skills in court administration, its processes, Legal Issues and E-filing.
* The following success stories were highlighted in the Project Reports;
  + Refurbishment of Library and cataloguing of law books- “Before lawyers and judges find, it difficult to trace reference materials. After refurbishment and cataloguing of the law books of the library, lawyers and judges can now trace reference materials very easily.”
  + Availability of Laws and operational manuals- “ From the support of this project, several operational manuals, compendium of all rules of sharia on marriage, divorce and inheritance are available for use in the Cadi courts.”
  + E-filing Training- “Training on E-filing to 60 staff of Judiciary was a successful training conducted under the project activity. The staff expressed satisfaction about the skills they have learned from the training. Now they have started documentation of the information and records of judgements in e-filing which makes extraction of records quickly.”
* Despite the above successes a major constraint was the delay in the implementation of activities due to the busy schedule of the Project Coordinator who is a High Court Judge. It is therefore recommended that in future project coordination be handled by a senior administrative staff at the judiciary, or there should be a designated administration staff attached to the high court judge, to facilitate coordination and implementation
* To harness the gains made under the project there is a need for continuing legal and judicial education for all legal personnel within the sector.

**1. CONTEXT**

The Gambia is a small country in West Africa. It has a population of 1.4 million with an annual growth rate of 2.8 %. About 60% percent of the population lives in the rural areas the majority of whom are women (52.07%). Women constitute 51% of the total population. The crude birth rate is 46 per 1000, while total fertility rate 5.35 births per woman. Over 44 percent of the populations are below 15 years and 19 percent between the ages of 15 to 24, depicting a very youthful population. Average life expectancy is 63 years (62.4 years for males and 65 years for females)[[1]](#footnote-2).

The country is divided into seven administrative areas consisting of two Municipalities and five regions that is Banjul City, Kanifing Municipality, which form the Greater Banjul Area, and the Western, North Bank, Lower, Central and Upper River Regions. The political head of the Regions elected into office is the chairperson. The Representatives of Central Government in the Regions are the appointed Governors. The Regions are further divided into a total of thirty-five districts locally administered by chiefs. *Alkalolos* head *t*he villages.

The Constitution of the Second Republic vests the legislative functions of the Government to the National Assembly, comprising 45 elected members and 4 members nominated by the President. The executive branch of Government is headed by the President, who is also the Commander‑in‑Chief of the Armed Forces.

###### **1.1 General legal framework for access to Justice**

The legal system is modelled on the English legal system. The law is based on the received English law, which is common law and equity, and includes statutes of general application in England prior to 1888. Customary practices and the shariah also form part of the legal system. The Constitution of The Republic of The Gambia is the Supreme law of the land and it provides for the existence of the judicature as a separate and distinct arm of Government.

The main collaborative institutions for the protection and enjoyment of access to justice by all are the Judiciary, the Attorney General’s Chambers and Ministry of Justice, and the private Bar.

The judicial powers of the Gambia are vested in the courts. These include the superior courts comprising the Supreme Court at the apex, the Court of Appeal and the High Court. The subordinate courts, consisting of the Magistrates Courts, the Children’s Court, the Cadi Courts, District Tribunals, Industrial Tribunal and such other courts as may be constituted by law. The Cadi courts have jurisdiction to apply the Shariah in matters relating to Islamic marriages, divorce and inheritance. Shariah law is applicable and governs the personal law of over 90% of the population. The Cadi Appeals Panel has appellate jurisdiction from matters emanating from the Cadi Courts.

# ****1.2 The Ministry of Justice****

The Ministry of Justice is headed by the Attorney General and Minister of Justice. The Solicitor General, and Legal Secretary, is the deputy to the Attorney General. The Ministry has six Departments, each headed by a Director, namely Criminal Division, Civil Litigation, Legislative Drafting, Registrar General, Companies Division and the Curator of Intestate Estate. The Departments' line agencies are the Gambia Law Reform Commission, the National Council for Law Reporting, the Alternative Disputes Resolution Secretariat and the National Legal Aid Agency.

The Ministries sector Policy is intended to respond to and be reflective of the objectives, strategies and regulatory mechanisms, designed to ensure the progressive development of the legal sector and the promotion of justice in a coordinated manner. Incorporated in the Policy is the relevant strategies contained in the Judicial Reform Strategy and the Legal Sector Strategy, both responding to the Poverty Reduction Strategy Paper (PRSP II.

## The guiding principles of the policy are

* Access to Justice for all
* Quick dispensation of justice
* Effective and sound knowledge of the law
* Trained and motivated staff, i.e. professional and administrative with service delivery initiative
* Availability of requisite resources
* The rule of law and respect for good governance and fundamental human rights

To achieve the desired Policy objectives, the MOJ has tasked itself to explore its strengths by placing a premium on the following priority thematic areas:

* Case management
* Plea bargaining
* Victims' rights
* Legal aid
* Capacity building and retention
* Institutional strengthening/infrastructural development
* Business orientation
* Quality service delivery, and
* Public relations

**1.3 The Judiciary**

The Chief Justice, who is appointed by the President, is the head of the judiciary. The Constitution expressly provides that, in the exercise of their judicial functions, the courts, the judges and other stakeholders in the judicial system are independent and are subject only to the Constitution, which is the supreme law of the land, and otherapplicable laws.

The Supreme Court, presided over by a Chief Justice, has both civil and criminal jurisdiction. Formerly, appeals from any decision of the former Supreme Court, (High Court), went before the Court of Appeal, whose judgments could be taken to the United Kingdom Privy Council. The 1997 Republican Constitution provided for a reconfiguration of the courts with the Supreme Court replacing the Privy Council.

The Vision of the Judiciary is “bringing justice to the doorstep of all in an efficient and effective system that upholds the rule of law and guarantees human rights”. In the realisation of this vision, its mission is “ To advance the course of justice and the rule of law by ensuring a free fair and speedy dispensation of justice by an efficient independent judiciary with a high quality human resource base that will command the support and confidence of the people”. In this respect the Judiciary has the following core functions;

* Adjudication of disputes through the due process of Law
* Administration of courts, registries, processes, directives & procedures
* Enforcement of decisions, orders, rulings and judgments

**1.4 LEGAL SECTOR STRATEGY**

The Gambia Government adopted a legal Sector Strategy (LSS) for 2007-2011 as an integral part of the Poverty Reduction Strategy Paper II. The main objective of the Legal Sector Strategy is to address the general neglect of the legal sector institutions leading to inordinate delays of court cases, massive build-up of backlog of cases overtime and institutional weaknesses in terms of court rules, its facilities and logistics. It is evident that the accumulation of cases in the court systems serves as a major constraint to the efficient and effective administration of justice in The Gambia. According to the Project Initiation Plans, as at July 2009, the number of pending cases rose to one thousand, two hundred, and eighty (1,280) in the High Courts and one thousand three hundred (1,300) in the Magistrates Courts within the Greater Banjul Area. Out of this, 70% of these cases were backlogged. In addition to the problems relating to backlog of cases, the majority of the population is mostly peri-urban and rural-based, poor and vulnerable, with limited access to quick and efficient dispensation of justice and resolution of conflicts within the community.

The Legal Sector Strategy has medium and long term activities within the framework of the following objectives:

* Restructuring and strengthening institutions to ensure that they respond effectively to needs and facilitate access to justice;
* Developing human resource plans and policies that would address the development and management needs of the Judiciary;
* Updating and harmonising the legal and regulatory framework of the courts;
* Providing information through use of ICT for decision-making, research and service delivery;
* Developing and improving existing infrastructure and material resources (court and office buildings, equipment books, etc) and;
* Promoting non-adversarial dispute resolution processes.

Several interventions have been supported by donors including the Legal Capacity Building Programme II supported by DfID which facilitated institutional and individual development activities. Amongst these interventions include various support to the JudiciaL system to address the backlog of cases for the timely dispensation of justice. Another mechanism employed by Government to address this phenomenon is the enactment of the Alternative Dispute Resolution (ADR) Act in 2005, and the Legal Aid Act in 2008. The UNDP project therefore focused on, building on the support to the Judiciary; strengthening of the ADR Secretariat with the mandate of implementing the provisions of the Act; and the establishment and operationalisation of the National Agency for Legal Aid to promote the legal aid mechanism and to collaborate with NGOs to extend legal aid clinics to the sub-national levels. These initiatives by the UNDP are essential complimentary components for justice delivery and access to justice in The Gambia and helps fulfill the Government’s constitutional obligations under several regional and international human rights instruments aimed at providing ready access to justice particularly to the poor and vulnerable.

**1.5 THE GAMBIA BAR ASSOCIATION**

The Legal Sector Strategy Paper described the GBA as:

“...a civil society organization of all lawyers enrolled at the Bar. It has intermittently acted as a resource group for legal reform efforts with some success. Its attempts to address some of the constraints besetting the legal sector have been less successful. The potential of the GBA to support and complement legal sector activities and programmes is not fully tapped.”

The above makes a case for the active participation and involvement of the Private Bar as a vital and crucial stakeholder and a resource base, in any legal reform initiatives relating to access to justice and reform of the judicial process. The private Bar, has a vital role in ensuring that private citizens have access to the courts, in order to address violations, seek much needed redress, and ensure that due process is observed at all times. Strengthening and enhancing the capacity of the private Bar is therefore a sine qua non for the success of any reform measures geared towards ensuring speedy, effective, and efficient delivery of justice, and access to justice for all.

**2 DESCRIPTION OF THE PROJECT**

In line with the CPAP and CPD (2007-2011) and within the framework of a National Governance Programme the UNDP supported the Ministry of Justice to implement two projects, Access to Justice and Support to Judiciary. The intervention made by UNDP was in a large way in response to the Legal Sector Strategy. The problems the projects sought to address have already been mentioned in paragraph 1.4 above.

**2.1 ACCESS TO JUSTICE**

The’ Access to Justice’ project sought to provide ready access to justice to the poor and it had two vital components aimed at realizing this objective. Component one sought to facilitate the establishment and operationalisation of the National Agency for Legal Aid as required by its legislative framework, and to commence the process of decentralization of legal aid clinics in line with Governments policy of decentralization. The second component of the project provided support for strengthening and enhancing the capacity of the Alternative Dispute Resolution Secretariat (ADRS), and to raise awareness on the concept of ADR within the judicial system. The Project period was from August 2009 to December 2011. Total resources allocated to the Project was US$350,000.00

The project focused on the following outcomes:

**2.1.1 NATIONAL AGENCY FOR LEGAL AID**

1. The institutional framework of the National Agency for Legal Aid effectively established and operationalised.
2. Existing Legal Aid initiatives supported and assistance provided for establishment of Legal Aid services at community levels through CSOs/CBOs.

**2.1.2 ALTERNATIVE DISPUTE RESOLUTION SECRETARIAT**

1. Operationalisation of the ADR Secretariat and the decentralisation of ADR centres in other regions supported.
2. Initiatives of Civil Society / Community Based Organisations in implementation of ADR modalities at the grassroots levels supported

**2.2 SUPPORT TO THE JUDICIARY**

As part of the efforts to implement the overall policy goals of the LSS, the “Support to Judiciary of The Gambia project**”** implemented short-term measures aimed at enhancing access to justice and expediting processes within the judicial system. The key expected outputs for the project were:

a) Justice dispensed in 70% of the pending cases constituting the backlog in the Greater Banjul Area Magistrates Courts

b) High Court Rules amended;

c) Rules of Procedures for Children’s Court and Industrial Tribunal introduced;

d) Capacities of the Judicial and Administrative Officers strengthened in leadership and management;

e) Operational Manuals for the Judicial and Court Support services prepared;

f) Web site for the Judiciary developed;

g) Magistrates and Registrars trained and equipped with computer equipment;

h) Planning and Monitoring Unit established and operational

The initial Project duration was 2009-2010, but was subsequently extended to December 2011. The total resources allocated to the Project was $178,090.00

**3. IMPLEMENTATION**

Both projects were nationally executed (NEX). The Office of the Chief justice was the Implementing Partner (IP) for the Support to the Judiciary and the Attorney General’s Chambers and Ministry of Justice was the implementing partner for the Access to justice project. The IPs were responsible and accountable for project implementation including the achievement of project outputs and effective use of UNDP resources.

The Honourable Chief Justice was the Project Director of The Access to Justice Project, and The Solicitor General was The Project Director of the access to Justice Project. A Governance Project Management Unit was established to render technical advice and coordinate attainment of project outputs.

**3.1 MONITORING**

Project Boards (PB), or Project Steering Committees (PSC), were established to oversee the overall implementation process. For the ‘Support to the Judiciary of The Gambia Project the membership of the PSC included Office of the Chief Justice, EC National Authorizing Office, DFID, and UNDP. For the ‘Access to Justice Project, its membership consisted of The Solicitor General, Attorney General’s Chambers and Ministry of Justice, or his/her alternate; (Chairperson); FLAG, FLARE, The UNDP Deputy Resident Representative, or his/her designated officer (Deputy Chairperson); Representative of the Office of the President; Representative from the Alternative Dispute Resolution Secretariat; NALA Programme Specialist, UNDP and Project Coordinators as Secretary ex-officio.

**4. METHODOLOGY OF THE EVALUATION**

The methodology was based on the guidelines and scope of work in the terms of reference for the consultancy. The Findings are based on review of Project documentation, quarterly and annual reviews and reports, interviews with implementating partners and other relevant stakeholders including beneficiaries of the project, and the administration of questionnaires.

Activities undertaken include:

* literature review
* Interviews- List of persons interviewed and summary of interviews is attached
* Site visit to ADR Centre and communities in Farafenni
* Interview with ADR Centre in Basse
* Administration OF QUESTIONNAIRE

**5. SUCCESS OF THE PROJECT IN ACHIEVING ITS OBJECTIVES-**

The Evaluation focuses on what was supposed to be accomplished within the context of the Access to Justice and Support to The Judiciary Projects based on the reality and context of the Legal and judicial sector in order to determine if the overall objectives outlined in the project were met or realized.

**5.1 OBJECTIVES AND ACTIVITIES ACCESS TO JUSTICE**

**5.2 COMPONENT I ADRS**

1. Enhanced and strengthened capacity of the ADRS and the decentralisation of ADR centres in other regions supported. The following activities were undertaken:

* Purchase of equipment; Desk Top Computers, Scanners, Photocopier, Printers and UPS
* Purchase of two 13KVA Perkins generators and the purchase of six LG split unit air conditioners
* Refurbishment of ADR Regional Centre in Farafenni
* Refurbishment of ADR Regional Centre in Basse
* In office training for Farafenni Pilot Centre staff on basic legal studies, mediation & conciliation and office management
* Inauguration of the Farafenni & Basse Pilot Centres
* Capacity Gaps Assessment and Community Initiatives studies conducted
* Training Workshop for staff of ADRS
* Five days Study Tour to Ghana to expose stakeholders to ADR and Legal Aid initiatives in Ghana

1. Initiative of Civil Society / Community Based Organisations in implementation of ADR modalities at the grassroots levels supported. The following activities were undertaken:

* A series of two day sensitization workshop on ADR held in Banjul, Farrafenni, Brikama, Basse, Soma, Bansang, Foni, and Kiang.
* Training of Community Mediators in Banjul , Farafenni, and Bansang
* sensitisation and dialogue with the Judiciary, MOJ & private bar and relevant stakeholders including CSOs on ADR
  + 1. ***WERE THE PLANNED OVERALL OBJECTIVES ACHIEVED?***

The overall objective of this component of the Access to Justice Project was to address the backlog and the delays in the administration of justice by ensuring that an alternative mechanism for resolution of disputes is available and accessible, thus making justice accessible to the poor in an atmosphere that is more akin to the traditional modes of resolution of disputes. The support and activities outlined under this component are therefore geared towards addressing the legal sector strategies of Government relating to restructuring and strengthening institutions to ensure that they respond effectively to needs and facilitate access to justice. This should also address the component of the UNDP funded National Governance Programme relating to the strengthening of governance processes and systems in the Gambia. Having established the ADRS under the ADR Act 2005, there was indeed a felt need to strengthen and capacitise the Secretariat to ensure that it would be in a position to deliver and respond to its mandate under the Act. Furthermore, effective implementation of the act can only be realized if the members of the public are aware and have confidence in the ADR concept and system as a means of resolving disputes in a more cordial family environment based on mutual consent and consensus of the parties involved.

It is thus clear that the objectives and activities outlined under this component i.e

* enhancing and strengthening the capacity of the secretariat, and decentralizing its operation
* promoting initiatives of Community Base and Civil Society Organizations and raising community awareness of communities on the ADR concept

did go a long way in facilitating the realization of the Project outcome of improved access to justice by the poor through the ADR mechanism. As highlighted above 113 cases were successfully mediated.

However, there is a group of ADR practitioners in The Gambia who were trained in 2006, under the Economic Management and Capacity Building Project of the World Bank, in Sacramento California, but it is rather unfortunately that this resource base was not utilized in delivering training and sensitization seminars under the Project. In order to optimize/maximize the resources expended in training this pool of practitioners, it is important for efforts to be made to organize series of training of trainers workshops for present and potential mediators, in order to arm them with prerequisite skills and knowledge on ADR. Even though the ADR process is less formal and devoid of the strict rules of procedures of the formal courts, the qualification and competence of mediators is fundamental in ensuring and endearing the confidence of the communities that the system is supposed to serve.

The existing traditional structures for resolution of disputes also need exposure and training on ADR concepts. The majorities of Gambians live in the rural communities and are subject to the jurisdiction of District Tribunals. It is therefore important that Chiefs and alkalo’s, who preside over these Tribunals are trained on the essentials of ADR to ensure the efficient dispensation of justice using the ADR concepts. Exposing the personnel of traditional adjudicatory bodies to ADR concepts would also facilitate referrals to the pilot mediation centres in deserving cases, and perhaps avert the incidence of forum shopping by would be litigants, and rivalries between the two institutions. This need was identified in the Capacity Gaps Asessment Study, commissioned under the Project. However, in the implementation process, emphasis was placed on training of retired civil servants and prominent personalities in the communities ( as mediators), totally excluding the traditional leaders. This gap was indentified in the evaluation process and the Chief responsible for the area of Jurisdiction of the Farafenni Pilot Centre, whilst commending and applauding the success of the Centre, lamented the fact that the traditional leaders were excluded from the training. He recommended that since the majority of the traditional leaders are illiterate, training and exposure to ADR concepts and techniques will have a very positive impact in the quality of justice dispensed and also facilitate speedy dispensation of justice.

* + 1. **RECOMMENDATIONS**
* Development of guidelines and minimum standards of qualification, and code of ethics for ADR Practitioners
* To harness and build on the existing capacity for ADR, it is recommended that a data base of all trained ADR practitioners is developed to facilitate effective training on the concepts of ADR
* Collaborate with the Judiciary and other stakeholder like the District Tribunals to facilitate referral of disputes to the ADRS and community ADR initiatives
* Train Chiefs and Alkalo’s, as custodians of traditional family disputes on ADR concepts to ensure that the concepts and skills of mediation and conciliation are utilized effectively in the dispensation of justice in the traditional set up.

**5.3 COMPONENT II NALA**

1. The institutional framework of the National Agency for Legal Aid effectively established and operationalised. The following activities were undertaken:

* Procurement of additional equipment and furniture for NALA
* Awareness raising on legal aid through print media, TV, Radio and in-house training for NALA staffs
* Legal Aid capacity gap assessment document validated
* Provision of training for NALA staff (Records Management)

1. Existing Legal Aid initiatives supported and assistance provided for establishment of Legal Aid services at community levels through CSOs/CBOs. The following activities were undertaken:

* Regal Aid Regional Centre, Basse, identified and refurbished
* Rural sensitization on legal aid scheme
* Procurement of equipment and furniture for regional centre – Basse
  + 1. ***WERE THE PLANNED OVERALL OBJECTIVES ACHIEVED?***

The overall objective of this component of the Access to Justice Project is to ensure improved access to justice for all by the provision of legal aid to poor and needy persons who would otherwise not be in a position to access the formal judicial system. This is indeed in consonance with the most important guiding principle of the legal sector strategy of government, which is to ensure access to justice for all. One of the fundamental tenets of democracy and good governance is the observance of the principles of the rule of law and access to justice. Legal aid is indeed relevant to good governance as it ensures that individuals enjoy and benefit from the rights, protections and freedoms accorded to them by law by having unhindered and unimpeded access to justice.

Thus, the objectives and activities outlined for this component of the project respond to both the Legal Sector Strategy of Government and also the UNDP National Governance Programme relating to the strengthening of governance processes and systems in the Gambia. No matter how strong and efficient the national governance structures are, particularly the judiciary, there cannot be good governance if persons are not assured of equality before the law and access to justice. Indeed there cannot be equality before the law if disadvantaged and vulnerable persons are denied access to justice or the court system as a whole merely because they cannot afford the cost.

The first step towards addressing the problem relating to ensuring access to justice for the poor and vulnerable was taken when the Legal Aid Act, 2008, was enacted. Mere enactment of the legal framework for legal aid, without more, would not serve any useful purpose for the poor and vulnerable. This necessitated the under mentioned activities and initiatives under the project:

* Establishing the National Legal Aid Agency (NALA) and furnishing it, procuring essential equipment and capacitising its staff through training and study tours helped immense in ensuring that the Agency is fully functional and in a position to fulfill its mandate under the Act;
* The community awareness and sensitization activities in the form of radio and television programmes were also relevant and very successful as it had the desired effect of ensuring that the poor and the vulnerable became aware of the existence of the Agency and its mandate. The Agency gave legal assistance in the form of advise and representation to 105 people.

An important innovation under the project is the establishment of the Basse Legal Aid Clinic. This activity is the first step towards the realization of government decentralization policy and also ensuring that legal aid facilities are extended to the rural communalities, and where it is most needed. No matter how efficient the Agency is, the absence of any decentralized structures would defeat the whole purpose of making justice affordable and accessible. The people who need the services of the Agency most would certainly not be in a position to bear the colossal cost of travelling long distances to access the facilities in Banjul. This therefore augurs well for rural communities and ensures that the playing field is leveled for all eligible persons under the Act.

Notwithstanding the fact that all the activities under this component of the project were implemented, it is rather unfortunate that at present legal aid is only available in criminal cases. The opportunity provided under the Act for the provision of legal aid in civil matters is yet to be implemented. Therefore the poor and vulnerable may not have any recourse in dire and pressing situations where they are confronted with matters such as deprivation of right to land, enforcement of socio economic rights, divorce and other matrimonial causes, wrongful dismissal, and enforcement of constitutional rights. This is a situation that needs urgent redress so as to better address the overall objective of ensuring access to justice for all, as it is in these matters that the poor and vulnerable need assistance most.

Even though CSO organizations like FLAG and FLARE were part of the Project Steering Committee, no support or collaboration was extended, except for the Study tour to Accra. To harness and build on the existing legal Aid facility being provided by organizations like FLAG, there should have been room to extend the support provided to such organization. This would have filled the gap in addressing legal aid needs of the poor and vulnerable in non criminal cases. Thus the project objective of building and enhancing the capacity of existing civil society and community based legal aid initiatives was not realized.

* + 1. **RECOMMENDATIONS**
* For the full realization of the objectives of the project, it is essential that legal aid be extended beyond criminal cases so as to address matters affecting the constitutional and socio economic rights of the poor and vulnerable.
* The decentralised legal Aid clinic in Basse should be fully operationalised, and replicated in all Regions of The Gambia so as to ensure that justice is affordable and made available to all persons in The Gambia.
* There should be collaboration and support given to CSO legal aid initiatives to ensure wider coverage and maximum realization of the objectives of the Project.

**5.4 OBJECTIVES AND ACTIVITIES- SUPPORT TO THE JUDICIARY**

**A .Justice dispensed for litigants and to reduce and eliminate backlog of cases. The following activities were undertaken:**

* Saturday Court Sittings
* Fast track disposal of High court cases to replicate the progress made with the Saturday sitting in magistrate court.

**B. To ensure efficient and expeditious disposal of cases. The following activities were undertaken:**

* High Court Rules Amended
* Rules of procedure for Children’s Court, Industrial Tribunal, and Cadi Courts

**C.Public access to information about the judiciary’s performance, cases, development, decisions, activities, plans provided. The following activities were undertaken:**

* Development and hosting of Judiciary Website and training of staff to maintain website

**D. .Magistrates courts supported in delivering justice and producing appeal records. The following activities were undertaken:**

* Procurement and installation of 30 computers

**E. Build capacity of judges and personnel of the Judiciary to facilitate efficient and speedy dispensation of justice. The following activities were undertaken:**

* Training Programme organized for Judicial officials
* Development of operational manuals
* Training of Magistrates on ICT
* Training workshop for officials of the district tribunals
* Training workshops for officials of the cadis’ courts.
* Cadis trained on administration of justice
* Training of Registrars and Court Clerks on administration of courts and E Filing
* A compendium of all rules of Sharia personal Law on Marriage, Divorce and Inheritance application in The Gambia produced and validated.

**F. Quality in the delivery of various services within judiciary and courts systems enhanced. The following activities were undertaken:**

* Operational manual for sheriff’s Division
* Plan of action on Prison Reforms developed
* Operational manual for Registrars and Clerks of Court
* Refurbishment of Court library

**G. Formulation of functions, structures and development of tools to support planning and monitoring unit. The following activities were undertaken:**

* Training of judicial staff in monitoring and evaluation

***5.4.1 WERE THE PLANNED OVERALL OBJECTIVES ACHIEVED?***

The overall objective of the Support to the Judiciary project was to enhance access to justice through the implementation of short term measures in support of the administration of justice. These measures were meant to address the general neglect of the legal sector institutions that led to the twin problems of inordinate delays in court cases and massive build up of backlog of cases overtime. All the initiatives undertaken under the project are part of the efforts to implement the overall policy goals of the Legal Sector Strategy of the Government of The Gambia. The project therefore supported activities to address the delays in the administration of justice and strengthen the institutional capacities of the judiciary. Through the activities under this project the following have been achieved:

* Significant reductions in the backlog of cases in the Magistrates Courts (1420 cases addressed within 6 months);

* Judiciary now has a functional website, with up-to-date information including judgments, papers delivered at Judicial lectures and trainings and profiles of judges to name a few;

* The ICT skills of 30 Magistrates have been strengthened and computers and accessories were procured for magistrates and judicial staff
* High Court Rules were amended in 2009 to ensure the expeditious and efficient disposal of cases;

* Rules of Procedure for the Children’s Court and the Industrial Tribunal were drafted. The rules of procedure for the children’s court has been gazetted and is now fully operational;
* Leadership and Management Training for 30 Magistrates, 20 Administrative and Registrars and 30 clerks were organized and conducted at the MDI;

* An Operational Manual for the Sheriff’s Division of the High Court of the Gambia has been developed;
* Rules of Procedure for the Cadi Courts has been drafted now fully operational and Cadi Court officials have been trained on administration of justice;
* The judiciary staff have been trained in monitoring and evaluation by an international consultant
* A fully functional and upgraded internet system with Local Area Network within the Banjul High Court Complex and Brikama High Court.

All the above activities were successfully implemented and had a great impact and contributed significantly in clearing the back log of cases within the judiciary, and strengthening and enhancing the capacity of judicial personnel to enable them respond effectively and efficiently to needs and thus facilitate speedy dispensation of justice.

An effective, efficient and independent Judiciary is an essential component of good governance. Thus the interventions made under this project are indeed relevant to UNDP’s Good Governance Programme relating to the strengthening of governance processes and systems in The Gambia.

Notwithstanding the success of the project, it is important that the gains made are harnessed and made sustainable. It is vital that all stakeholders in the Judicial process are engaged in all the reform processes. The Judiciary must coordinate all donor interventions to ensure maximum and judicious use of resources. The first step in this process was taken when other donor partners were made members of the Project Steering Committee. This should ensure that interventions are coordinated to avoid duplication of efforts. The training of magistrate and court personnel should be on an ongoing basis. Vital stakeholders like the private Bar must also be carried along in any reform measure if the two institution of Bar and Bench are to be relevant to each other and responsive to the public that both serve. This will reinforce and build positive public perception of the Judiciary as a means or medium of redressing grievance in an atmosphere of impartiality and complete independence. Furthermore, in order to realize the overall goals of enhancing access to justice, it is fundamental that the traditional mechanism for adjudication and dispensation of justice are also strengthened and capacitised. The District Tribunal have jurisdiction over the vast majority of Gambian in the rural areas. For many people in the Gambia, improving access to the formal judicial sector alone will not have any impact on their lives and their quest for justice in particular. For these people the nearest and in some cases the only means of accessing justice is through the District Tribunal. Even though the project was limited to certain short term intervention to address problems relating to access to justice, it was relevant and important that those measures should have prioritized the needs of the sector as whole, so as to ensure a lasting, sustainable and comprehensive impact and success as a whole.

**5.4.2. RECOMMENDATIONS**

* To foster access to the formal justice sector it is important that in addition to simplifying the rules and process, the public is made aware of the role, structure and procedures of the formal justice system. This endears public confidence which is essential for an independent judiciary.
* It is important that all stakeholders in the judicial and legal sector be taken on board and carried along in any reform intervention in the sector. This will ensure that successes and gains are sustainable and have a lasting impact on the sector as a whole, as each component is equal in importance and vital to ensuring access to and speedy dispensation of justice.
* It is also recommended that there should be continued legal and judicial education for the sector as a whole, to ensure that justice is dispensed effectively and efficiently by competent personnel in the sector.
  1. **THE GAMBIA BAR ASSOCIATION**

The GBA also benefitted from the Support to the Judiciary in the form of facilitating and funding the development of a five year Strategic Plan for the Association. The GBA is an unincorporated body made up of all members of the Legal profession in The Gambia. The Association is a vital stakeholder in the legal sector and should have a pivotal role to play in ensuring good governance and access to justice. In its strategic plan, which was developed under the aegis of the project, the association hopes to fulfill this role by the establishment of three Committees as follows:

* **Human Rights Committee with the mandate to-**

-Take up litigation on issues of Human Rights under the name of the GBA.

- Make public pronouncements in the name of the GBA on Human Rights issues

- Monitor situations of human rights violations or potential violation e.g. arrange and make prison visits, monitor welfare of prisoners

* **Access to Justice Committee with mandate to-**

- Institute a Legal Aid/ PRO BONO Scheme

- The committee will deal with prolonged pre-trial detentions

- Liaise with other bodies with similar objectives such as FLAG and NALA

- Liaise with Prisons Committee at the Ministry of Interior in regard to issues of access to Prisons

* **Legal Education and Research Committee**

- Introduction of pupilage scheme for trainingofr new entrants to the Bar

- Training of paralegal clerks.

- Pioneer programmes for continuing professional development for members

- Advise the vice chancellor of the University through the General Legal council on the future of legal education for law students,

- Liaise with Bar Associations in other jurisdictions to share experiences

This initiative of support to the GBA needs to be built on and harnessed in any future intervention to ensure that the goals and objectives of the funded strategic plan are fully implemented. It is however lamentable that the Plan is yet to be finalized even though the consultant has been paid in full. In future the GBA would like to have a say in the process of recruitment of consultant to ensure that they have some input in determining the qualification and competence of a consultant in undertaking any assigned task.

* + 1. **RECOMMENDATION**
* Build on the support presently given to the GBA to ensure that the Strategic Plan is fully implemented.
* Ensure that the GBA is recognized as a vital partner in any reform measure within the legal and judicial sector so as to optimize any gains to be achieved.

**6. EFFICIENCY AND PERFORMANCE**

***6.1 . BUDGET, PERSONNEL, TRAINING PROCESS, RELATIONS WITH THE LOCAL INSTITUTIONS***

The budget, personnel and training process appear to have been well managed although this was not the major focus of the review. However, there was an observation from all project coordinators that budgets were cut without consultation due to an internal change in focus and reallocation of resources at the level of UNDP. This affected the implementation of some of the activities. However, this notwithstanding, the actual monies disbursed were effectively and efficiently utilized and the equipments purchased were accounted for.

**6.1.2 TRAINING PROCESSES**

Several trainings were undertaken under the project and all were considered relevant to the attainment of the project objectives. However, concern was expressed on the late disbursement of project funds to facilitate some of the trainings. In some of the training initiatives under the access to justice project concern was expressed on the process of recruitment and the competence and qualification of ADR trainers.

The above notwithstanding the trainings were found relevant and there is a general demand for continuous training to ensure sustainability.

**6.2. LOGISTICAL ARRANGEMENTS**

There was a general concern over delays in the disbursement of funds and flow in communication between the IP’s and UNDP. This was caused in most instances by change of personnel at both ends and also lack of communication flow between staff with different responsibilities under the Project.

**6.3. RELATION WITH OTHER KEY IMPLEMENTING AGENCIES**

Even though the overall objectives of the two Projects- Access to Justice and Support to the Judiciary were all very similar and complementary to each other, there seemed to have been limited coordination and collaboration between the various implementing institutions in the execution of the projects. This would have facilitated a coordinated implementation and pooling of resources and maximization of sensitization activities under the various components. Any future intervention should therefore focus on collaboration, and coordination and joint implementation of activities, where possible, to optimize the gains and attainment of overall project objectives. This would also present a comprehensive picture to the public as a whole.

**6.4 MONITORING AND EVALUATION**

The project was nationally executed under the supervision of project steering committees, with the support of a centralized Project Implementation Unit under the UNDP Human Rights and Good Governance Programme. The Project Coordinators for the various components were responsible for implementation of activities under the project. For the support to the Judiciary Project, the Project Coordinator was a High Court Judge, whereas the Chief Executive for both the ADRS and NALA were the Project Coordinators, respectively, for the two components of the Access to Justice Project. The Project Management Unit was responsible for supporting the project coordinators in the realization and fulfillment of project outputs and activities. Quarterly project reports were submitted by the coordinators followed by quarterly reviews facilitated by UNDP. At the end of each year annual reports were also submitted.

Throughout the implementation process concerns were raised on the lack of support from the PMU. On the other hand, the PMU also lamented the fact that project coordinators were too busy and in some cases inaccessibly as they had to combine their normal jobs with project coordination. This resulted in delays in the implementation of activities, and lack of effective coordination between the two. Furthermore, concern was expressed on the fact that the PMU did not have the full complement of staff and this affected effective monitoring of project activities. A designated staff responsible for monitoring and evaluation at the PMU is yet to be appointed, and this leaves the project manager and his assistant with the burden of carrying out the overall work load of the unit.

There is therefore a need to strike a balance between harnessing the gains of reducing the overall cost of project management through the establishment of a centralized management unit, and ensuring that the unit is fully functional with the full complement of staff with capacity and competence to fully implement its mandate of monitoring and giving full support to all projects within its purview.

On the other hand, IP’s should ensure that the job description of identified project coordinators fits in with the implementation of activities of the Project. Appointing persons whose job description does not include implementation and coordination of activities under the project only saddles the person with extra burden and work load and does not augur well for both project implementation and fulfillment of the normal duties of the personnel.

**6.5 RECOMMENDATIONS**

* Effective collaboration between UNDP and IP’s is essential for effectiveness and efficiency in project delivery.
* IP should be adequately trained and exposed to UNDP procedures and processes on disbursement to avoid delays in disbursement of funds.
* The capacity of IP’s should be built on project implementation and coordination. This should facilitate timely submission of reports and request for disbursement with full supporting documents.
* IP should identify Project Coordinators whose job description fits in with implementation and coordination of project activities
* Project Coordinators under all components of the Project should collaborate to ensure that training and sensitization activities under all components are coordinated to ensure maximum utilization of resources. This would also ensure a comprehensive and consolidated approach to address problems in the legal and judicial sector.

**7. IMPACT**

The criteria for the assessment of the strategies and components focuses on the capacity of the project to produce systemic changes that result in improved practices, perceptions, processes and resource allocation within the access to justice.

**7.1 POSITIVE IMPACTS OF ACCESS TO JUSTICE**

The access to justice project sought to address the problems related to acute back log of cases and to ensure access to justice for the poor and needy who would otherwise not be in a position to access the formal justice sector through legal aid and ADR.

**7.1.1 ALTERNATIVE DISPUTE RESOLUTION**

Interventions made under this component of the project have yielded a positive impact on the lives of the communities in The Gambia. The training of community mediators was very successful and two of the trained mediators, who are Religious leaders, ( an Imam and Deputy Imam in Farafenni), expressly stated that ADR is a very useful means of addressing conflicts within the community and is in consonance with both the traditional ways of resolving conflict and in line with the practices of Islam. To bring their perception of ADr into perspective, I reproduce an except from an interview with Imam Hydara of Farafenni as follows:

**“We are going back to the customs of our elders, in the past conflicts were resolved using the council of elders but today people eagerly rush to the police. With the advent of the ADR Centre in Farafenni, the community sensitization activities, and our training in ADR this trend is changing. People are now referring cases to us- religious and community leaders. However, the training we underwent has taught us skills we did not have before, the most important of those being the confidentiality of process and the “NEUTRALITY” of the mediator. We should have more training to sharpen our skills and to equip us to train our colleagues in the community. Presently, I am held in high regard in the community of Imams because of the utilization of my mediation skills in resolving conflict in the community”.**

The above clearly shows the positive impact of the project in the Pilot Centre and community at Farenni. This clearly makes a strong case for a replication of this initiative all over the country. The chief of the Community who is a fervent supporter of ADR also called for follow up activities to include training of Chiefs and District Authority personnel on ADR techniques so as to facilitate speedy dispensation of justice and reduce the incidence of prolonged court sitting and foster harmony in the community.

**7.1.2 LEGAL AID**

Providing legal aid greatly facilitates access to justice. With the enactment of the Legal Aid Act 2008, the legal framework was put in place to facilitate access to justice. It was, however, only through the project that the Agency was operationalised and made functional. This has a very positive impact on the lives of the poor and vulnerable who would not have access to the formal justice sector due to their inability to afford the services of legal representation. However, to maximize this impact and to realize a lasting and systemic change it is important that legal aid should be extended beyond criminal cases and the legal aid facilities are extensively decentralize and extended to the rural poor. The establishment of the Basse legal Aid Clinic is therefore a step in the right direction and needs to be replicated in other regions to ensure maximum impact.

**7.2 SUPPORT TO THE JUDICIARY**

The Support to the Judiciary project targeted limited intervention to address immediate problems confronting the judiciary relating to back log of cases, institutional strengthening and capacity building for personnel. Building the capacity of judges and magistrates ensures that justice is dispensed expeditiously and efficiently by competent personnel. Providing Rules of Procedure for the various courts to facilitate the process of dispensation of justice also enhances the quality and efficiency of justice delivery.

The Reports indicate that the back log of cases both at the magistrate court and the high court were cleared, but in terms of perception of beneficiaries and stakeholders it is vital to ensure that quality is not sacrificed by speed. To ensure greater impact there should be an in-depth study on the causes of delays so as to ensure that we do not have a repeat of the back log. An independent and transparent study incorporating the views of all stakeholders will endear public confidence in the judiciary and improve the perception of the public on the dispensation of justice and further create a better public understanding of the judicial processes and procedures.

**7.3. NEGATIVE IMPACT**

There are no identifiable negative impacts of the Project. However, due to the limited scope of project successes, there is a need for further follow on action to deepen the gains and to ensure systemic impact and change.

**8. SUSTAINABILITY**

This segment examines whether the outcomes of the project are likely to continue after external funding ends. This is vital to ensure sustainability.

**8.1 ALTERNATIVE DISPUTE RESOLUTION SECRETARIAT**

The Secretariat is up and running and fully functional. There are no additional resources required to run the secretariat, as staff emoluments are budgeted for and paid from subvented public funds. The equipments purchased are being used and should last for a considerable period before the need for a replacement would arise. However, there are no budgetary allocations for further training of mediators and continued community sensitization; the services of the trained mediators are not being utilized because there are no resources to pay for their services; and there are no budgetary allocations to continue the decentralization of the Secretariat by the opening of other regional centres. On a positive note, the community mediators like the few imams that were trained are utilizing their services within the communities.

However, to ensure sustainability adequate budgetary allocation must be made to ensure sustainability of gains made. This was aptly put by a retired head teacher in Farafenni, when he said, “**since our training in mediation my services have not been engaged and I may lose my skill and knowledge acquired during the training**”. The administrator at the centre in Basse expressly indicated that there is no budget to ensure that the services of the trained mediators are utilized. Consequently, all the mediation is done by the staff of the Centre. This has the potential of turning the centre into another type of court where the employees of the public sector are required to mediate between members of the community as opposed to having an identifiable and respected personalities in the community mediate over community disputes. This would contradict the message sent out to the community during the community sensitization when they were expressly informed that they were going back to the old ways of getting elders within the community to preside over disputes. Furthermore, engaging and training traditional leaders will greatly facilitate sustainability and ensure the continued use of ADR in the resolution of disputes in the rural communities.

**8.2 NATIONAL AGENCY FOR LEGAL AID**

The Agency is fully operational with a Board to oversee its operation. It now has its full complement of staff. The staff of the Secretariat have been fully engaged and trained in records management and information technology. The Legal Aid Centre in Basse is fully furnished and would soon be opened. There is budgetary allocation for the staff of the Centre. It would therefore seem that the activities implemented under the project would be sustained and carried forward by Government. However, there are no budgetary allocations for continued public sensitization and for continuing the decentralization of the Agency to the other Regions of the Country. Furthermore, there are no immediate plans to extend legal aid beyond criminal cases and this greatly impedes access to justice for the poor. Therefore any follow up action should address the sustainability issues identified above.

**8.3 THE JUDICIARY**

The interventions made in the Judiciary would have sustainable impact on access to justice and efficient dispensation of justice. The various rules and manuals developed under the project will be utilized to facilitate access to justice way beyond the life of the project. The trained personnel are now better prepared to address challenges relating to the administration of justice.

**8.4 GAMBIA BAR ASSOCIATION**

The strategic plan developed by the GBA will provide strategic direction and guidance to the private bar for the next five years. However, to ensure sustainability of the gains there must be budgetary allocation for continuous judicial and legal education. The GBA must ensure that resources are raised to implement its strategic plan.

**8.4 COMMITMENT AND CAPACITY OF INSTITUTIONS**

The above notwithstanding, the project has built the capacity of all the beneficiary institutions through the training and sensitization programmes and the validation workshops and seminars of several documents under the project. There is a great enthusiasm for further reform action and progress towards facilitating access to justice generally. The project has greatly endeared a commitment for change for the better in all the institutions. Based on the lessons learnt in the implementation of this phase of the project capacity has been greatly enhanced and any follow up action will be implemented with relative ease.

The various implementing partners should however come together to share best experiences and lessons learnt in the implementation process. UNDP should further raise awareness of implementing partners on its mandatory procedures and processes so as to clear doubts and misunderstandings and to facilitate ease in the implementation of activities.

The Project Implementation Unit of the UNDP Human Rights and Governance Programme should be adequately resourced to ensure that it is in a position to effectively fulfill its mandate of rendering the much needed support and facilitation to the implementing partners.

**9. RELEVANCE**

This segment of the report examines the relevance of the project to the problems and needs of The Gambia taking into account access to law, population awareness and empowerment, political, institutional and policy changes in the justice sector.

There are at least two levels on which the relevance of the project can be assessed. First, is access to the justice as it has been interpreted by this project, a current priority for the people of The Gambia? Secondly, did the project correctly identify the legal issues which are of the most importance to public?

The context section of this report clearly spells out the policy of the Government of The Gambia in the Legal and Judicial sector. The policy is amply reflected in the Legal Sector Strategy, which was a response to the government’s poverty reduction Strategy, (PRSP II). The Project rationale and objectives justify the interventions made as a response to the LSS. This therefore underscores the relevance of the project to the country and its people as a whole. The Gambia being a very poor and highly indebted country any initiative geared towards addressing the needs and plight of the poor will indeed be relevant and necessary for its people. . Facilitating access to justice and equality before the law is a mandatory Government obligation, under the constitution of the Republic of the Gambia. Therefore, putting in place measures and initiatives to ensure the fulfillment of this Constitutional requirement is not only relevant but a sine qua non for good governance.

Having identified the relevance of access to justice as a country priority, the second question to be answered is, did the project correctly identify the legal issues which are of the most importance to the public?

As highlighted earlier the project focused on:

* putting in place a mechanism to ensure free access to legal aid and decentralizing such facilities;
* providing an alternative mechanism for the resolution of disputes, that is simpler, less formal and cheaper and;
* enhancing and strengthening the capacity of the formal judicial system.

The project relied on the problems identified in the LSS of government and the diagnosis was that there was:

* Acute back log of cases causing great delay in the dispensation of justice
* Lack of trained and competent personnel to dispense justice effectively and efficiently
* Inability of the poor to access the formal courts system

From the above, it is clear that the areas identified for intervention and the beneficiary institutions were indeed the right institutions for addressing the twin problems of back log and inordinate delays in the administration of justice.

However, there are other vital stakeholders and components in the access to justice system that were not adequately catered for under the project as follows:

* Civil Society Participation- Harnessing and strengthening civil society initiatives dealing with legal aid and access to justice;
* Traditional Adjudicatory Bodies- There is a need to review and improve on the skills of the traditional adjudicatory bodies of basic legal principles relating to due process and fair hearing, distinction between civil and criminal matters, and basic ADR skills. This calls for collaboration between ADRS and the Judiciary;
* Court Connected ADR- building on the process of reconciliation of dispute through ADR by the promotion of Court connected ADR or referral of cases to ADRS;
* The Police and other security agents- Enhancing the capacity of police and train them on a continuous basis on basic human rights and ADR skills;
* GBA- The support to the GBA was limited to funding the development of its strategic plan. As a vital stakeholder in the Legal sector the GBA should be exposed to training relevant to access to justice, and continuing legal education to ensure that competent private lawyers will complement and play their roles in the entire reform measures under taken in the legal sector. This need was identified in the LSS and should therefore be implemented for maximum impact.

**10. CONCLUSIONS AND FINDINGS**

Despite the identified constraints in the implementation of the various components of the project, overall the project was a success.

**10.1 LEGAL AID**

* All the planned activities under the component of the Project relating to the establishment of the framework of the National Agency for Legal Aid and its full operationalisation and functioning were achieved.
* However, there is a need to continue the decentralization efforts and the community sensitization through the radio and television on a continued and sustained basis so as to raise awareness on the existence of the agency, its role and objective.
* There is a need to extend legal aid to non criminal cases so as to truly realize the objectives of the Act, and maximize its benefits to the poor.
* The staffs trained under the project are serving the Agency and there are budgetary allocation for the payment of their salary and retention.
* The project has significant impact in giving legal assistance to the poor as over 100 people benefitted from legal aid during its duration and the number of request seems to be increasing.
* The study tour to Ghana exposed staff to best practices and experience in operation of legal aid initiatives in Ghana.
* However, the component of the Project relating to support and assistance to civil society was not implemented at all, thus a vital opportunity for collaboration with civil society was lost.

**10.2 ADR**

* Most of the activities under this component were implemented. However the following were not carried out due to lack of proper planning or reallocation of funds at the level of UNDP:
  + Training of Arbitratotrs
  + Viability Study in Foni and LRR. And opening of more pilot Centres
  + Supporting Civil Society Initiatives in implementing ADR
  + Resource mobilization and Communication Strategy
  + ADR week
* Farrafenni and Basse Pilot Centres are a success story. The farafenni Centre registered 57 cases and 40 were successfully mediated, and the Basse Centre registered 107 cases. These two centres have contributed considerably in the resolution of disputes within the community thus taking the burden off both the District Tribunal and the formal court system. This has a very positive impact in the reduction of backlog of cases.
* Despite the successes of the two Centres, there is a need to review the processes and procedures to ensure they provide a cheap and affordable forum for the resolution of disputes. The fees charged for mediation needs to be revised and standardized as it would seem that most of the complainants at the Farrafenni Centre have not been able to pay the fees charged. This totally defeats the objective of providing a cheaper forum for resolution of disputes.
* The community sensitization activities were very successful and need to be carried out on a continued and sustained basis. It is recommended that in addition to the meetings and seminars, other media forms like the radio and television should be utilized to gain wider coverage.
* The training of community mediators was a success story, as the skills acquired during the training are being utilized within the community. However, it is important these mediators are exposed to more in-depth training to ensure that they are better equipped to deal with the challenge of resolving conflicts within the community. The training should also be extended to the chiefs and village heads to maximize the use of ADR within the communities.
* To harness the gains made in earlier legal capacity building initiatives, it will be useful to utilize the services of the trained and qualified mediators who were trained in Sacramento California.
* The study tour to Ghana also exposed the staff of the ADRS to best practices in the implementation and running of ADR initiatives. It is however important that experiences gathered be implemented so as to improve the efficiency of the Secetariat.
* There is a need for collaboration and support for civil society and community ADR initiatives.
* The capacity assessment study needs to be thoroughly reviewed and implemented, based on the recommendations contained therein.

**10.3 THE JUDICIARY**

* All the activities under the project were implemented except that concern was expressed on the cut in the budget due to reallocation of funds at the level of the UNDP.
* The capacity and skills of the Judiciary staff are enhanced with knowledge and skills in court administration, its processes, Legal Issues and E-filing.
* The following success stories were highlighted in the Project Reports:
  + Refurbishment of Library and cataloguing of law books- “Before lawyers and judges found it difficult to trace reference materials. After refurbishment and cataloguing of the law books of the library, lawyers and judges can now trace reference materials very easily.”
  + Availability of Laws and operational manuals- “ From the support of this project, several operational manuals, compendium of all rules of sharia on marriage, divorce and inheritance are available for use in the Cadi courts.”
  + E-filing Training- “ Training on E-filing to 60 staff of Judiciary was a successful training conducted under the project activity. The staff expressed satisfaction about the skills they have learned from the training. Now they have started documentation of the information and records of judgements in e-filing which makes extraction of records quickly.”
* Despite the above successes a major constraint was the delay in the implementation of activities due to the busy schedule of the Project Coordinator who is a High Court. It is therefore recommended that in future project coordination be handled by a senior administrative staff at the judiciary, or there should be a designated administration staff attached to the high court judge, to facilitate coordination and implementation
* To harness the gains made under the project there is a need for continuing legal and judicial education for all legal personnel within the sector.

**ANNEXE I**

**TERMS OF REFERENCE**

**Job Title:**  Terminal Evaluation of the Access to Justice & Support to Judiciary Projects

**Background:**

The Gambia Government adopted a legal Sector Strategy (LSS) for 2007-2011) as an integral part of the Poverty Reduction Strategy Paper II. The main objective of the Legal Sector Strategy is to address the general neglect of the legal sector institutions leading to inordinate delays of court cases, massive build-up of backlog of cases overtime and institutional weaknesses in terms of court rules, its facilities and logistics.. It is evident that the accumulation of cases in the court systems serves as a major constraint to the efficient and effective administration of justice in The Gambia. As at July 2009, the number of pending cases rose to one thousand, two hundred and eighty (1,280) in the High Courts and one thousand three hundred (1,300) in the Magistrates Courts within the Greater Banjul Area. Out of this, 70% of these cases are backlogged. Moreover, the overloaded adjudicatory Court system and considering the fact that the Court system is often expensive leads to the majority of the population, who are mostly peri-urban and rural-based, poor and vulnerable with limited access to the quick and efficient dispensation of justice and resolution of conflicts to community members

The Government through its collaboration with development partners such as UNDP initiated various interventions aimed at enhancing access to justice and the efficient and effective administration of justice. Amongst these interventions include various support to the Judiciary system to address the backlog of cases for the timely dispensation of justice. Another mechanism employed to address this phenomenon is the enactment of the Alternative Dispute Resolution (ADR) Act in 2005, and the Legal Aid Act in 2008. These have led to the establishment of the ADR Secretariat with the mandate of implementing the provisions of the Act; and the National Agency for Legal Aid in 2010 to promote the legal aid mechanism and to collaborate with NGOs to extend legal aid clinics to the sub-national levels. These   
two frameworks are essential complimentary components for justice delivery and access to justice in The Gambia and fulfil the Government’s constitutional obligations under several regional and international human rights instruments aimed at providing ready access to justice particularly to the poor and vulnerable.

**Brief Project Description:**

In line with the CPAP and CPD (2007-2011) and within the framework of a National Governance Programme and the projections to strengthen the governance processes and systems in The Gambia, UNDP supported the Ministry of Justice to implement two projects (Access to Justice and Support to Judiciary) to build upon and strengthen the available structures.

The ‘Support to Judiciary of The Gambia project**’** implemented short-term measures aimed at enhancing access to justice and expediting processes within the judicial system. The key expected outputs for the project are: a) Justice dispensed in 70% of the pending cases constituting the backlog in the Greater Banjul Area Magistrates Courts b) High Court Rules amended; c) Rules of Procedures for Children’s Court and Industrial Tribunal introduced; d) Capacities of the Judicial and Administrative Officers strengthened in leadership and management; e) Operational Manuals for the Judicial and Court Support services prepared; f) Web site for the Judiciary developed; g) Magistrates and Registrars trained and equipped with computer equipment; h) Planning and Monitoring Unit established and operational

The’ Access to Justice’ project sought to provide ready access to justice to the poor at both the Secretariat in Banjul and rural regions of the country through the establishment of legal aid clinics and the provision of support to fully operationalise the Alternative Dispute Resolution (ADR) concept within the judicial system. The project focused on the following 5 output areas: (i) The institutional framework of the National Agency for Legal Aid effectively established and operationalised (ii) Existing Legal Aid initiatives supported and assistance provided for establishment of Legal Aid services at community levels through CSOs/CBOs (iii) Operationalisation of the ADR Secretariat and the decentralisation of ADR centres in other regions supported (iv) Initiatives of Civil Society / Community Based Organisations in implementation of ADR modalities at the grassroots levels supported and (v) Governance Projects Management Unit established to render technical advice and coordinate attainment of identified project outputs.

Both projects were nationally executed (NEX). The Office of the Chief justice was the Implementing Partner for the Support to the Judiciary and the Attorney General’s Chambers and Ministry of Justice was the implementing partner for the Access to justice project. The IPs was responsible and accountable for project implementation including the achievement of project outputs and effective use of UNDP resources.

Project Boards (PB) were established to oversee the overall implementation process. For the ‘Support to the Judiciary of The Gambia Project the membership included Office of the Chief Justice, EC, National Authorizing Office and UNDP. For the ‘Access to Justice Project, its membership consisted of The Solicitor General, Attorney General’s Chambers and Ministry of Justice, or his/her alternate; (Chairperson); FLAG, FLARE, The UNDP Deputy Resident Representative, or his/her designated officer (Deputy Chairperson); Representative of the Office of the President; Representative from the Alternative Dispute Resolution Secretariat; NALA Programme Specialist, UNDP and Projects Coordinator as Secretary ex-officio

**Objectives:**

The objective of the evaluation is to assess progress of UNDP’s interventions towards achievement of priority areas of intervention areas identified in terms of its objectives and to evaluate the efficacy of the strategies employed in contributing to the achievement of the outputs and outcomes as well as generate lessons, challenges and recommendations that could provide inputs or feed into the development of the next CPAP and any future interventions in this area.

**Scope of the Evaluation**

* The evaluation will cover all activities supported by UNDP in the two projects and, where appropriate, in collaboration with other development partners that have contributed to the achievement of the outputs. The evaluation is expected to generate lessons learnt, findings, conclusions and recommendations in the following areas:
* An assessment of the adequacy of the project design, including adequacy of the situational analysis and indicators for achievement of outputs/activities;
* An assessment and analysis of the outputs and outcomes: whether they have been achieved in part or full as was intended, the reason for any shortfall in their achievements and whether any unexpected results or outcomes have occurred. The evaluation should appraise their relevance to the intended overall project objectives;
* An analysis of factors within and beyond UNDP’s control that influenced performance and success of the project (including the strengths, weaknesses, opportunities and threats) in contributing to the realization of the outputs;
* An analysis of whether UNDP's interventions can be credibly linked to achievement of the overall objectives, including the key outputs and assistance provided, both soft and hard as well as how the support has influenced the capacity development
* Whether UNDP’s partnership strategy has been appropriate and effective including the range and quality of partnerships and collaboration developed with government, civil society, donors, the private sector and whether these have contributed to improved project delivery. The degree of stakeholder and partner involvement in the various processes related to the objectives. How can synergies are built with other projects within the UNDP Country Programme and those of other development partners (donors);
* Whether cross-cutting issues such as ICT, gender etc were adequately addressed in the interventions and have contributed to the achievement of the objectives; and if not, establish the reasons for not addressing the cross-cutting issues and suggest the appropriate remedial measures to be taken into account under the next support.
* Explore whether the activities being implemented would contribute to smooth exist strategy or/and sustainability

**5. Expected outputs of the Evaluation**

The findings are expected to feed into CPAP (2012-2016) development process and for any possible future support and provide valuable insights into the implementation of the Country Programme Action Plan

* The expected Deliverables of the assignment are as follows:
* An inception report after desk review of relevant documents
* A draft report after two weeks from signing the contract
* Prepare power point presentation of evaluation findings and facilitate Terminal Tripartite Review of project
* A final Evaluation report.

**6. Methodology or Evaluation Approach**

The consultant may employ relevant and appropriate methods to conduct evaluations including review of documents, individual and group interviews/discussions with stakeholders and partners, field visits, use of questionnaires, etc.

**7. Composition of the Evaluation Team**

The evaluation team shall consist of at least one expert who must be knowledgeable in the management of development programmes and strategies and project management in general with specific background in legal issues and understanding of the Gambian justice system. The evaluation will last for a period of 21 days effective 18th January 2012. The final report should be submitted latest **7th February 2012 by 17:00 pm (COB).**

The selected consultant will have the responsibility for the overall co-ordination of the evaluation and for the final coherence of the reports, both in terms of content and presentation. The consultant must have at least a masters’ degree in development studies, legal studies, or any of the social sciences relevant to task and should have extensive experience in leading evaluations and report writing.

Additional requirements include;

* The consultant should have not less than 5 years of professional experience in, project design, monitoring and management.
* Experience with organizational capacity building, programming and delivery mechanisms
* Knowledge and competencies/experience in organizational development, policy analysis, capacity building and mainstreaming crosscutting issues such ICT & gender etc
* Experience in technical cooperation programmes and projects would be an added advantage
* Knowledge of UNDP procedures and programme implementation strategies will be additional advantage

**8. Implementation arrangements**

The evaluation process will be overseen by the Project Coordinators of the Access to Justice and Judiciary Projects and the Programme Specialist –UNDP. The support of the project Steering Committee is also envisaged during the execution of the evaluation assignment.

**ANNEXES II**

**LIST OF PERSONS INTERVIEWED**

* Sirra Horeja Ndow Programme Analyst Governance and Human Rights
* Mamady Ndow - Programe Associate Governance and Human Rights
* Bakary Jammeh -Programme Manager Project Management unit UNDP
* Penda Tammy - ADRS Acting Director
* C S. Thomas – Administrator NALA
* Jawru Krubally - Senior Mediator ADRS Farafenni
* Ousman Camara - Complaints Assistant ADRS
* Chief Ebrima Jammeh - Seyfo Illiassa District
* Alagie lang Suruwa Dibba - Alkalou Farafenni
* Abdul Kadir Fofana - Deputy Imam Farafenni –trained community mediator
* Imam Abdul Aziz Hydara Imam Farafenni – trained community mediator
* Mr Sainey Kinteh –Retired Head Teacher trained mediator
* Nenneh Jallow ADR Complainant Farafenni
* Salmina Dukureh – Quranic Teacher and member of Supreme Islamic Council- attended communi

**ANNEX III**

**SAMPLE QUESTIONNAIRES**

**QUESTIONNAIRE FOR PROJECT COORDINATORS, UNDP AND PMU**

1. Name ………………………Position ………………………… Date…
2. How many sensitization and training sessions were conducted?
3. What was the duration?
4. Were these adequate?
5. Did the project provide any equipment/materials to the Project Coordinators?
6. What would you say is the major impact of the project on its beneficiaries?

.

1. What were the major achievements?
2. Where there any constraints or limitations to the project?
3. Were the project funds adequate?
4. What aspect of the project was not implemented and why?
5. What were some of the lessons learnt?

**QUESTIONNAIRE FOR STAFF OF NALA, ADRS, and Judiciary**

1. Name: ………Position **………………………..** Date:
2. *Was this project useful to your office if yes, how?*
3. *Did you benefit from any training /sensitization? Please name*
4. *Did you find it relevant to your work?*
5. *Do you think this project was relevant to the Project coordinators? Why?*
6. *Were there any constraints? What are some of the things you would have liked to see done differently?*
7. *How will you rate the Project?*

*Excellent*

*Very good*

*Satisfactory*

*Poor*

1. *What were some of the lessons learnt?*
2. *What are some of the achievements of the Project?*
3. *Was the Project duration adequate?*

Thank You

**QUESTIONNAIRE FOR PROJECT STEERING COMMITTEE**

1. Name ……… Institution ………………Position………Date………………………
2. How many steering committee meetings were held?
3. Were periodic reports prepared and circulated on time?
4. Has the project been effective in meeting its objectives?
5. Were project activities implemented on time?
6. Were project activities relevant to the beneficiaries?
7. What were some of the successes?
8. What were some of the constraints?
9. What would you say is the major impact of the project?
10. What were some of the limitations?
11. What would you like you see done differently next time?
12. Were the project funds adequate?
13. Were the funds disbursed on time?
14. Was the project duration adequate?

Thank you

1. Population and Housing Census, 2003 [↑](#footnote-ref-2)