

 

Evaluation Report of the Preparatory Assistance Support to Capacity Development

of the Judiciary of Zimbabwe

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## List of Acronyms

GDP Gross Domestic Product

GOZ Government of Zimbabwe

GPA Global Political Agreement

HDR Human Development Report

IMF International Monetary Fund

LRF Legal Resources Foundation

MDC Movement for Democratic Change

MDGs Millennium Development Goals

SWOT Strengths, Weaknesses, Opportunities and Threats

UNDP United Nations Development Programme

ZIMRA Zimbabwe Revenue Authority

ZUNDAF Zimbabwe United Nations Development Assistance Framework

## Executive Summary

The Judiciary is a central organ in the state for, dispensing justice and the protection of human rights , as well as being a pillar for the governance and for the upholding of the rule of law. The United Nations Development Programme (UNDP) has been providing support to the Government of Zimbabwe (GOZ) for since 2004 to strengthen the institutions of governance, improve economic growth and meet the Millennium Development Goals (MDGs) among them the judiciary.

In 2006 UNDP and the GOZ signed an agreement for the Country Programme Action Plan (CPAP) covering the period 2007 to 2011. At the time the programme was developed, Zimbabwe was experiencing a humanitarian crisis, characterised by hyper inflation and rising poverty levels. The Judiciary was also experiencing major difficulties which impaired its capacity to deliver justice. Judges had no access to computers and other office hardware; their literature was obsolete, their own judgments were not being distributed let alone published and judgements were not handed down timeously. Courts at all levels lacked adequate stationery and were operating with obsolete equipment. State budgets allocations for the courts were well below the minimal requirement for the court system to function properly.

These challenges led to a situation of serious delays and backlogs in the case conclusion times. The deteriorating infrastructure and court equipment compounded by the brain drain rendered Zimbabwean courts incapable of optimal performance. These considerations are what brought UNDP and the Judiciary to seek a solution together.

Assistance to the Judiciary in Zimbabwe was provided as part of the preparatory phase for a larger project to support the Judiciary, which UNDP envisaged they would introduce after the Needs Assessment and the SWOT analysis. To this end, the project focused on the provision of critical hardware to capacitate the judiciary to carry out their constitutional mandate.

**Purpose of the evaluation**

1. To assess the project design and its achievements against the activities, outputs and objectives outlined in the programme frameworks and make recommendations
2. Draw lessons that will guide the design of future interventions, in particular any successor project support to the judiciary
3. Assess the contribution of the project towards meeting UNDP’s commitment of support to the Government of Zimbabwe

**Findings**

Under the **Preparatory Assistance Support to Capacity Development of the Judiciary in Zimbabwe**, UNDP provided equipment to the High Court and the Magistrate’s courts, which included laptop computers for High Court judges, recording and transcribing equipment for seven courts at the High Court, printers and photocopiers. The project also refurbished the Commercial Court and support a Needs Assessment and SWOT analysis on the Judiciary. Eleven vehicles were provided to the magistrate’s courts for supervision and monitoring, 50 desk top computers were also provided as well as 18 generators and photocopiers and printers.

The laptops to High Court judges enabled them to type their own judgments, while the transcribing equipment enabled quicker production of court records, facilitating appeals. The introduction of the Commercial Law courts, through an administrative arrangement at the High Court reduced the turnaround time for commercial cases from eight to three months. This was particularly critical because of the high inflation rate people being sued for commercial cases sounding in money were delaying cases so that by the time they settled they would pay very little. As a result of the introduction of the court, there was an increase of 65 percent from ….in the number of commercial cases that were settled out of court. As a whole, the Project was effective as it improved people’s access to justice.

The vehicles procured for the magistrate courts resulted in more regular supervision and monitoring of courts by the Provincial and Chief Magistrate, ensuring that magistrates disposed of cases within the stipulated times. As a result, there was a 66 percent reduction in the number of outstanding cases for appeal from . Because the courts were able to use computers to type judgments the magistrates’ courts were able to clear a backlog going back several years of the cases waiting to go to the Supreme Court for appeal. The computers also enabled magistrate to carry out their research as they were loaded with cases from the High Court and Supreme Court.

Support provided in the form of training for clerks of court on human rights helped to raise their awareness on their role in improving access to justice for the people. Training provided to high court judges on the use of computers enabled them to type their own judgments, thereby improving efficiency of the courts. The refurbishment of the Commercial Law Court with new equipment and furniture has set standards that the Judicial Services Commission will apply to all courts in Zimbabwe. While some of the innovations initiated during the project lifetime such as the introduction of research assistants for judges in the High Court and the Supreme Court were not introduced during the project duration, they have since been introduced with positive results.

In this project, UNDP correctly assessed the needs of the judiciary in a time of economic crisis and tailored its response to meet those needs, even down to the provision of bond paper, which was in crucial short supply at the time. The project also catalysed and leveraged support from other donors and a successor project to the Judiciary is now being implemented with Danish support, which is a positive development considering that no donor was funding the Judiciary before the UNDP project.

Overall therefore, the project was a success and achieved most of what it set out to do, with a budget of less than a million, the project made a huge impact, largely because interventions were well targeted and addressed some of the critical problems the judiciary was facing at the time.

## Lessons learnt

* The hardware support to the Judiciary was an important entry point for UNDP to further its governance agenda of promoting access to justice and human rights. However, opportunities to take the project forward did not materialize as the Judicial Services Commission entered into an agreement for the next phase with another partner. A key lesson here is the need for UNDP to strengthen relationships more with the Judiciary and with cooperating partners so that it continues to be regarded as the partner of choice in governance interventions
* The hardware support to the Judiciary was a relatively small project financially totaling less than $1 million. However, it made a significant impact as it was well targeted at the key constraints facing the judiciary at the time. This goes to show that it is not the size of the budget that determines the impact of a project, but rather how it is designed and the critical nature of the interventions that it addresses.

## Recommendations

* The programme targeted support to the judiciary, including the High Court and Magistrates’ Courts. However, little attention was given to the police and prisons, who are an integral part of the justice system. During the economic crisis, the prison service, for instance, was experiencing severe transport problems that often resulted in cases being postponed as prisoners could not be brought to court from remand prisons. The programme should have taken a more holistic approach that addressed other critical determinants of access to justice to ensure the achievement of better results.
* Some of the generators provided to the courts could not be used for the purpose for which they were intended as they were too small. It is crucial that in purchasing such equipment, a proper assessment is carried out to ensure that what is bought is suitable for the purpose for which it is meant as failure to do that results in a waste of resources.

**1.0 Introduction and background**

The Judiciary is a central organ in the state for the protection of human rights, dispensing justice and as a pillar for the governance system as well as for the upholding of the rule of law. The United Nations Development Programme (UNDP) has been providing support to the Government of Zimbabwe for many years to strengthen the institutions of governance, improve economic growth and meet the Millennium Development Goals (MDGs). UNDP has been associated with efforts to strengthen the Parliament of Zimbabwe, the judiciary and other state institutions and has provided both technical and financial support to Zimbabwe through various programmes and instruments.

The Zimbabwe United Nations Development Assistance Framework (ZUNDAF) 2007 – 2011 identified governance and human rights as a thematic area for collaboration to facilitate the realization of good governance, upholding of the rule of law and protection of human rights in Zimbabwe, in line with the Millennium Declaration of 2000.[[1]](#footnote-1)

While the ZUNDAF acknowledged the improvement in access to justice – as witnessed by the increase in the number of judges appointed to the Labour Court, the High Court and the Supreme Court; the establishment of additional Magistrates’ Courts, and the establishment of victim-friendly courts, it however noted that the administration of justice was hampered by obsolete court equipment, limited access to resources, budgetary constraints, and high staff turnover. The access of poor and vulnerable groups to justice was being constrained by prohibitive legal costs, inadequate public legal aid and the geographical spread of the courts. As a consequence, the Judiciary often had a backlog of cases.[[2]](#footnote-2)

The UNDP Country Programme of Action Plan (CPAP) (2007 – 2011) Outcome #2 was stated as: “*Strengthened systems, institutions, mechanisms and processes that promote governance, dialogue, gender equality and the rule of law.”* To attain this Outcome, UNDP together with partners agreed on five core outputs: (a) strengthened governance systems in parliament, judiciary, electoral system and the public sector; (b) enhanced national capacity for conflict transformation, policy dialogue and consultative processes; (c) strengthened capacity of the state to ratify, domesticate and implement outstanding regional and international agreements; (d) National Human Development Report (HDR) and MDG progress reports produced and disseminated for policy dialogue and a sustained national MDG campaign established and localized; and (e) women’s leadership capacity in all sector and at all levels strengthened.

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### The evaluation focuses on the aspect of UNDP support to the strengthening the governance systems through the judiciary. The Project, which ran from 2007 to 2011, had two components or phases. Component A focused on the High Court while component B focused on magistrates’ courts.

1.1 Purpose of the evaluation**:**

1. To assess the project design and its achievements against the activities, outputs and objectives outlined in the programme frameworks and make recommendations
2. Draw lessons that will guide the design of future interventions, in particular any successor project support to the judiciary
3. Assess the contribution of the project towards meeting UNDP’s commitment of support to the Government of Zimbabwe

## 1.2 Methodology

The methodology involved both literature review and field work. Literature reviewed included project annual and quarterly reports, project documents, reports to UNDP’s back donors, as well as the end of ZUNDAF 2007 -- 2011evaluation report . Other documents reviewed included the Needs Assessment and SWOT analysis on the Judiciary and the Concept Paper on the need for Research Assistants for the Judiciary. Field work involved key informant interviews with staff from the Ministry of Justice, including the High Court, Supreme Court and the Chief Magistrate’s Office. Key informant interviews were also conducted with UNDP staff in the governance unit as well as with the Law Society of Zimbabwe and the Legal Resources Foundation (LRF), who produce Zimbabwe’s Law Reports.

## 1.3 Contextual analysis

Between 2000 and 2008 Zimbabwe experienced serious economic and political governance challenges. In March 2008 parliamentary and presidential elections were conducted in Zimbabwe. However, the presidential elections failed to produce a clear winner, leading to a run-off in June of the same year. But high levels of political violence during the run up to the run-off election led to the candidate for the Movement for Democratic Change (MDC) withdrawing from the race resulting in worldwide reservations about the election outcome. Negotiations to achieve a settlement to the political impasse that followed resulted in the signing of the Global Political Agreement (GPA) that ushered in an Inclusive Government comprising of the three major political parties in February 2009.

The coming in of the Inclusive Government saw a rapid improvement in the macro-economic environment in Zimbabwe and the easing of political tensions. The scrapping of the Zimbabwe dollar and the adoption of a multi-currencies, at the beginning of 2009, restored macro-economic stability almost overnight with inflation falling from the 230 million percent to -7.7 percent as of December 2009[[3]](#footnote-3). The economy recorded positive growth of 5.7 percent in 2009 from a negative of -8.4 percent the year before, while industrial capacity utilization rose from an average of 5 percent in 2008 to between 35 and 60 percent in June 2011.[[4]](#footnote-4)

Between 2000 and 2007 Zimbabwe’s economy shrunk with the Gross Domestic Product (GDP) declining by a cumulative 40 percent over the period.[[5]](#footnote-5) In 2010 structural unemployment was reported to be up to 80 percent and the population living below the total consumption poverty line was above 70 percent.[[6]](#footnote-6) Another consequence of the declining economy was the out-migration of large numbers of both skilled and unskilled labour. A significant percentage of the population now resides outside the country, mainly in South Africa and in the United Kingdom. The brain drain severely eroded national productive capacity in both private and public sectors.

## 2.1 Situation of the Judiciary

In 2006, the Judiciary in Zimbabwe was experiencing major difficulties which impaired its capacity to deliver justice. Judges had no access to computers and other office hardware; their literature was obsolete, their own judgments were not being distributed let alone published and judgements were not handed down timeously. There were no recent law reports in the High Court or in the Magistrates’ Courts although judges and magistrates have to refer from time to time to law reports and other literature to inform their decisions and also to be educated on current developments in the legal profession. At the time of the Needs Assessment, not a single magistrate court had a functioning library, let alone a recent Zimbabwean Law Report. Even the law libraries at superior courts had antiquated reports. There were no computers at all magistrates courts, which meant that judgements were hand written or typed using antiquated type-writers.[[7]](#footnote-7)

Courts at all levels lacked adequate stationery and were operating with obsolete equipment dating back to the 1980s. State budgets allocations for the courts were well below the minimal requirement for the court system to function properly. Out of the total budget of the Ministry of Justice in the four years prior to 2007, an average of only 6 percent went to the judicial sector, with the bulk absorbed by the prison services.[[8]](#footnote-8)

At all levels of the court system, there were backlog of unresolved cases. The causes included the growth of the population unmatched by a corresponding increase in the number of judges and magistrates and supporting staff and constraints of transport and provisions for prisoners and witnesses.[[9]](#footnote-9) The lack of transport also affected the supervision of courts by provincial heads thereby impairing the operations of the courts. In addition, the capacity of the Judiciary to deliver qualitative and quantitative justice was seriously compromised by obsolete and limited equipment which made it difficult to produce simplified court forms and judgments. These challenges led to a situation of serious delays and backlogs in the case conclusion times. The deteriorating infrastructure and court equipment compounded by the brain drain rendered Zimbabwean courts incapable of optimal performance.[[10]](#footnote-10) These considerations are what brought UNDP and the Judiciary to seek a solution together.

In 2006 UNDP and the GOZ signed an agreement for the Country Programme Action Plan (CPAP) covering the period 2007 to 2011. The CPAP was developed through a consultative process involving UNDP, the Government, donors, civil society and other UN agencies. The CPAP is UNDP’s plan for contributing to the implementation of a broad United Nations Development Assistance Framework (UNDAF) 2007-2011. It was developed and launched in a context of economic hardships and political uncertainty in the country. At the time the programme was developed, Zimbabwe was experiencing a humanitarian crisis, characterised by hyper inflation, rising poverty levels, limited external aid and no access to loans from the International Monetary Fund (IMF) and the World Bank.

## 2.2 Project design and institutional arrangements

Assistance to the Judiciary in Zimbabwe was provided as part of the preparatory phase for a larger project to support the Judiciary, which UNDP envisaged they would introduce after the Needs Assessment and the SWOT analysis. To this end, the project focused on the provision of critical hardware to capacitate the judiciary to carry out their constitutional mandate.

In terms of the institutional arrangements, the Project was headed by the Chief Justice; below him was an Advisory Committee, made up of independent legal experts; under this was a Focus Group, made up of members of the academia, civil society and the private sector. Staff at UNDP and the Judiciary constituted the Secretariat of the Project or the Project Implementation Team. The Project was implemented by the Judiciary and UNDP, with UNDP providing the financial management and programme oversight role.

## 2.3 Support to the High Court

Under the first phase of the project, UNDP provided 14 laptop computers for use by high court judges to enable them to type their own judgments and also to access the internet. The Project also procured recording and transcribing equipment for seven of the 14 courts at the High Court to replace some of the obsolete equipment and improve the preparation of court records. The High Court was also provided with printers and photocopiers.

Through UNDP support, the High Court in Harare was also linked to the internet to enable them to access law reports. UNDP and the Judiciary procured CD Rom with South African and Zimbabwean Law Reports and these were installed on the computers of judges of the High Court and Supreme Court thereby giving them instant access to case law. Further the High Court library was provided with compilations of decisions of the African Commission on Human and People’s Rights and books with General comments of the Human Rights Committees on various articles of the international Covenant on Civil and Political Rights. UNDP also paid for subscriptions to law reports so that judges could access law cases from other jurisdictions. UNDP beefed up other resources of the courts, through support for the production of law reports by the Legal Resources Foundation. For the Commercial Law Court, UNDP provided commercial law textbooks and refurbished the commercial law court and library. UNDP also procured basic consumables for the High Court such as stationery and bond paper to enable the courts to print judgements for distribution to legal practitioners.[[11]](#footnote-11)

## 2.4 Capacity Building of Clerks of Court

The project supported two training workshops for clerks of court on human rights and the role of clerks of court in facilitating access to justice. A total of 60 participants attended the workshops which were jointly organised by the Master of the High Court. An evaluation of both workshops indicated that this was the first time they had received information and training on human rights and critically examined their role as clerks of court in relation to facilitating access to justice and justice delivery to the public.[[12]](#footnote-12)

## 2.5 Capacity needs Assessment

UNDP considered both the High Court and the Magistrates Projects as preparatory assistance in lieu of a bigger project that was envisaged to support the judiciary. The preparatory support was to be at two levels: Firstly the facilitation of supply of immediately required hardware for the judiciary and secondly to facilitate the conducting of a comprehensive assessment and SWOT analysis of the judiciary in Zimbabwe to obtain a full picture of its capacity needs. The process was supposed to lead to the development of a comprehensive support programme document.[[13]](#footnote-13)

To this end, UNDP and the Judiciary hired a team of consultants who conducted a comprehensive capacity needs assessment of the Judiciary. Although the capacity assessment was subsequently not adopted by the Judicial Services Commission, it provided useful information on the capacity gaps in the judiciary and what needed to be done to address them.

## 2.6 Commercial Law Court

During Zimbabwe’s crisis period, between 2006 and 2008 there was a backlog of commercial law cases and they were causing serious disruptions to business transactions with negative impact on local and foreign investor confidence. Part of the reason for the backlog was because there was no commercial law court. It was therefore felt that the setting up of a dedicated commercial law court would be part of the wider strategy of attracting both local and foreign investors, and contributing to the stabilisation of the economy.

UNDP supported the drafting of a concept note on the establishment of the commercial law court and facilitated consultations with a broad range of stakeholders including the legal profession, captains of industry and commerce on the desirability of such an arrangement. UNDP also supported the refurbishment and equipping of the proposed Commercial Law Court. Although the court was not established as a legal entity as this required a legislative and or constitutional amendment, it operated informally as a Commercial Court resulting in substantial improvements in the turnaround time for the commercial law cases being dealt with by the courts.

## 2.7 Appointment of Judicial Assistants

The idea of appointing judicial assistants to carry out research and do some of the administrative work was mooted by UNDP and the Judicial Services Commission as a way to reduce the workload for High Court and Supreme Court Judges. A concept paper on this was developed but the idea was not taken up during the project period largely due to the shortage of resources. However, it was subsequently adopted and the Supreme Court now has judicial assistants who were appointed from among the senior magistrates, while those for the High Court were recruited from graduates fresh from the law school. The duties of the research assistants include among others:

* Preparing memoranda in response to queries from judges
* Preparing bench memoranda, which involves summarizing and analyzing arguments and setting out a brief history of the case
* Proof reading judgments
* Summarizing cases
* Carrying out extra-judicial work, such as writing speeches for judges[[14]](#footnote-14)

## 2.8 Support to the Magistrate’s Courts

Under the short Term Intervention in support of the magistrates Department through the UNDP Project for the Strengthening and Promotion and Protection of Human Rights and the rule of Law through Enhanced Capacity of Institutions, including the Judiciary, a total of 11 vehicles were procured and delivered to the Chief Magistrate. Out of the eleven vehicles, nine were allocated to the nine Provincial Magistrates Courts, which are responsible for conducting inspection and monitoring exercises; two were allocated to the Chief Magistrates Office Head Quarters in Harare, which has the overall oversight role for magistrates’ courts countrywide.

# Findings

## 3.1 Relevance

A total of 50 desktop computers were purchased and distributed to 50 court stations in all the nine provinces and 25 printers were also purchased and distributed to 25 courts in nine provinces. In addition, 18 generators were purchased and distributed to 18 courts and allocated to 9 provinces. Further, 12 photocopiers were purchased and distributed to 12 Courts. The provision of printers and photocopiers enabled Magistrates Courts to print and photocopy important basic litigation templates for use in filing domestic violence cases and maintenance claims. The generators enabled trials to continue in some courts even during power outages, which are frequent in Zimbabwe, as the courts could continue to use recording equipment and also to run equipment for the child friendly courts. The provision of vehicles enabled the provincial magistrates and the chief magistrates to supervise and inspect the courts. The support was therefore relevant in enhancing the capacity of the judiciary in Zimbabwe. By better equipping the courts, the Project also increased staff motivation which contributed to improving access to justice for the populace.[[15]](#footnote-15)

## 3.1.1 ICT Familiarisation for Judicial Officers

Computer training, on computer literacy, including basic word processing functions and internet searching, was provided to magistrates and judges of the High Court and Supreme Court to ensure that they fully utilised the computers in their work. Feedback to the office of the Judge President and the chief Magistrate’s Office on the training was that the judges who had been trained had gained the necessary skills to enable them to operate and use the computers, which expedited the production of judgements.[[16]](#footnote-16)

Support to the High Court in the form of equipment was very relevant, especially considering the period when this was provided as it was at the height of the economic crisis, in 2007 – 2009 when the Government had very limited resources and consequently the courts were highly under-capitalised. Of critical importance to the administration of justice was the provision of digital recording and transcribing equipment to seven of the 14 courts at the High Court.

According to Mr Rex Shana, the Deputy Secretary for the Judicial Service Commission, the shortage functional transcribing and recording equipment was causing delays in Supreme Court hearings: *“There is need to understand the critical nature of recording and transcribing. The Supreme court deals with transcriptions and so they are important for an appeal*,” he says. The old equipment that the courts were using (and still using in some of the courts) was difficult to service as they could no longer find the type of tapes they were using and so they were using them over and over again with the result that the sound quality was poor. But since the digital equipment was introduced, the transcribers are “happy” with the quality of the sound and this is resulting in much quicker turnaround in the production of court records.

The provision of laptop computers to the judges was relevant as it speeded up their work as they were able to type their own judgements and to research on cases on the internet using the computers.

The refurbishment of the Commercial Law Court and furnishing it with recording equipment and furnishing it was relevant as it provided an appropriate venue for commercial law cases involving business people and companies. The court was furnished to such high standards that it has become the standard for all courts and the Judicial Services Commission now wants to apply the standard to all its courts.

## 3.2 Effectiveness

The informal setting up of the Commercial Law Court, as an administrative arrangement of the High Court, was particularly critical given the hyper-inflationary environment prevailing at the time. During that period, by the time the due court processes were done and a commercial case was heard, the amount being sued for would have become worthless due to inflation. This was something that the courts could do little about because of a principle in law that says once you have issued summons, you cannot go back to the court to change the amount claimed. As a result many individuals and companies being sued just delayed matters and by the time the case was settled they paid very little. As a result, the courts were passing “academic judgements”. But when the Commercial Court was introduced, even as an informal arrangement, it reduced from eight to three months the time it took to hear and settle commercial law cases. As a result, many litigants started settling out of court: “*People became aware that the courts could be effective. We had a predictable timeline in which cases could be heard and as a result almost 66 percent of the cases were being settled out of court. Before that, people were playing the game where they knew that by the time the case came to court they would pay nothing. But when people realised that the cases would be heard quickly, then they tended to settle out of court*,” says Mr Shana.

However, the Commercial Law Court could not be officially established as it required a constitutional amendment to put it into effect, which the Ministry of Justice was not prepared to spearhead at the time in view of the constitutional reform process that was going on. The coming in of the new constitution will enable the Commercial Law Court to be established as the new constitution has a clause that allows for the division of the High Court into specialised divisions: “*To do it properly (setting up the Commercial Law Court) we needed legislation and this entailed defining what the High Court meant and its role. In the new constitution, this has been provided for and given a legal basis. The new provisions come into effect when the new President comes into office,*” Mr Shana says.

The appointment of the research assistants has also been effective. Five research assistants were appointed for the High Court and three for the Supreme Court. Very experienced lawyers were appointed to work as research assistants at the Supreme Court, while graduates straight from law school were appointed for the High Court: “*We took some of the best performing regional magistrates and these were selected to be the research assistants in the Supreme Court. One of the researchers has become a High Court judge after 18 months as the Chief Researcher,”* Mr Shana says. The appointment of the research assistants has reduced the workload of the judges as they are now carrying out some of the research on cases that the judges used to do themselves and thus contributing to the expediting of cases.

The provision of vehicles to the magistrates’ courts was effective as it facilitated the proper supervision of the courts. Zimbabwe has 52 resident courts (one for each district). The country is divided into nine magisterial provinces, so nine of the vehicles were distributed one per province, with two being retained at the head office. The resident courts in turn go to 50 circuit (or periodic courts). The Provincial Magistrates deal with the resident and the circuit courts and have to follow them up to ensure that set standards are met e.g. magistrates should sit for at least 60 hours a week; a case should be completed in at least two months; sexual offenses should be dealt with in three days. As Mr Mishrod Guvamombe, the Chief Magistrate says: “*In terms of the law, it’s the turnaround of cases that will deter people from committing offenses. So when we go out we are trying to check if everything is in place in terms of set standards. As the Chief Magistrate, I also check on the courts and I produce reports”.*

The 11 vehicles that UNDP provided enabled the Chief Magistrate and the Provincial Magistrates to go out for purposes of monitoring and supervision. Mr Guvamombe says the vehicles came at the right time as the judiciary had no resources then as they had just been weaned off from the Ministry of Justice and Legal Affairs to become part of the Judicial Services Commission. *“With these vehicles, I was able to go to every province and in some provinces more than once. We had a backlog of cases, which we reduced by 65% mostly through more regular supervision and inspection visits. We attribute the improvement in reducing the case backlog to the vehicles. We are grateful for the vehicles as they made our lives much easier. The vehicles are suitable all terrain vehicles,”* he says.

**Benefit of the vehicles to the Magistrate’s Office**

“With these vehicles, I was able to go to every province and in some provinces more than once. We had a backlog of cases, which we reduced by 65% mostly through more regular visits and inspections. We attribute the improvement to the vehicles. We are grateful for the vehicles as they made our lives easier.,” **Chief Magistrate Mr Mishrod Guvamombe**

UNDP assistance to the Magistrates Courts included 50 desktop computers that were distributed to all the country’s district magistrates’ courts. The computers were uploaded with law cases to enable magistrates to use them for research. Although this meant that each court could only have one computer, they proved useful for typing court cases, to enable cases to go on appeal or review: *“We moved from type-writers to computers and with the computers, we were able to tackle our backlog of cases for the Supreme Court and we reduced our backlog from being behind by several years to the current situation where we are now up to date. All our appeal preparations are now up to date,”* says Mr Guvamombe.

According to Mr Guvamombe, the computers are also being used for research. Because the magistrate’s courts have no libraries, the computers have been uploaded with cases that magistrates use to refer. They have now hired an IT person who is loading cases, picking up on new issues and cases decided by the Supreme Court and the High Court. However, the number of computers provided through the project is far from adequate as it works out to one per court. At the Harare Magistrates’ Court, there are 20 courts, which means that at any one time there should be that number of magistrates working. The provision of one computer per centre is therefore far from adequate, especially considering the nature of research which may take several hours.

The provision of 18 generators was also effective as it enables some of the courts to continue sitting even when there is a power outage (which is a frequent occurrence in Zimbabwe). This is particularly the case with the regional courts that have recording machines and which in the past had to adjourn when the power went. As a result, the turnaround time for cases in courts with generators has improved significantly. However, the generators procured are too small for the larger courts and are therefore not very useful. But they are useful for the 17 regional centres which also provide victim friendly courts for children’s cases. These courts are using the generators to operate the equipment in child court cases, mostly child abuse cases.

## 3.3 Efficiency

Measured against the impact of the interventions in improving justice delivery against the relatively small amounts that were invested ($452 342 for Component B supporting capacity building for the magistrates’ courts which was made possible through a cost sharing agreement with the Government of Denmark through their Embassy in Zimbabwe and component A supporting the High Courts through UNDP regular resources of $420 000) one can safely conclude that the project was efficient. The two projects invested in key strategic interventions that made a huge impact on the justice delivery system in Zimbabwe.

As UNDP Assistant Resident Representative Mfaro Moyo says: *“Given the situation at the time, UNDP support was very useful to the judiciary. When we started the project, none of the bilateral donors wanted to provide support to the Judiciary. We went in because the judiciary is a key institution. Our going in opened the door for other cooperating partners who are now engaged with the courts. We were the only support the judiciary was able to get at the time which enabled the courts to continue to operate and it kept the institutions going”.*

Because the project was implemented at a time when the country was going through an economic crisis, huge delays were experienced in the procurement of equipment. For instance, the recording and the transcription equipment could not be procured on time because not sufficient companies put in bids to supply and as a result, procurement had to wait while new bids were sought.

Delays were also experienced in the procurement and delivery of computers, photocopiers generators and printers due to the supplier’s capacity challenges. Due to the urgency of the project to deliver, a thorough capacity assessment of vendors was not done resulting in the delays. Delays were also experienced in the procurement of vehicles due to the involvement of other external parties including the Ministry of Foreign Affairs and Zimbabwe Revenue Authority (ZIMRA) whose decisions on tax exemptions impacted on the delivery of project outputs. Further challenges in vehicle registration and transfer of ownership were experienced resulting in further delays. The cumulative effect of the delays led to missing the agreed timelines. As a result, the project, which was supposed to end in the second quarter of 2007, was extended to the end of 2007 by which time the delivery of results had been fully achieved.[[17]](#footnote-17)

## 3.4 Impact

Previous sections of the report have highlighted some of the achievements of the programme, which have made a substantial impact on the administration of justice in Zimbabwe. These include the increase in the number of litigants agreeing to out of court settlements when the turnaround time for commercial law cases was reduced from eight to three months, during the hyper inflationary period; the clearing of the backlog of appeal cases from Magistrates Courts to the Supreme Court as a result of the introduction of computers, which speeded up the production of typed judgments of cases. A huge impact was also made in access to justice when the magistrates’ courts were able to reduce the backlog of cases from about 45 000 in mid-2011 to about 9 000 cases in December 2012 through more regular supervision and inspection visits, by the Chief Magistrate and the Provincial Magistrates, which were possible after they were provided with vehicles. The provision of laptop computers to High Court judges speeded up the conclusion of trials as judges were able to type their own judgements thereby improving access to justice for the people.

## 3.5 Sustainability

The Project mostly focused on the provision of hardware support to the judiciary, which by nature has a limited lifespan. The Project should however be viewed within the context of the economic climate prevailing at the time of implementation. The Project was implemented during the economic crisis, and at a time when the government had very limited resources and therefore could not invest in building the capacity of the judiciary to provide services or improving their working environment. While the economic crisis has ended, its impact is still being felt and the government continues to face severe resource constraints, which limit its ability to refurbish the courts and provide the necessary equipment.

While the Judicial Services Commission is aware, for instance, of the need to renew subscriptions to foreign law reports from South Africa, or to buy more vehicles for the Magistrates’ Office, they lack the resources to do this. To this extent therefore, while there was a buy in by the JSC of the importance of the Project interventions, it is difficult to sustain them given the limited resources at the government’s disposal.

However, components of the Project, that focused on the software, were more sustainable. These include the training of clerks of court on human rights, the support for the establishment of the Commercial Law Court, support for the introduction of research assistants at the Supreme Court and High Court as well as the introduction of the internet facilities at the High Court.

But perhaps even more critical for long-term sustainability was been the extent to which the JSC took up recommendations that came out of the Assessment of the Judiciary in Zimbabwe that was carried out by the Project into JSC Strategic Plan 2012 – 2016. As the table below illustrates, the JSC has taken several recommendations from the Assessment, which has enhanced the Project’s sustainability as its recommendations are now being carried out.

|  |  |  |
| --- | --- | --- |
| **Area of intervention** | **Recommendations from the Project’s Assessment of the Judiciary**  | **Issue as raised in the JSC Strategic Plan** |
| Human resources | * Implement and maintain a job evaluation system together with an appropriate remuneration system
* Install an appropriate strategy-linked performance management system for JSC employees
 | * Improve service conditions for magistrates at all levels. Salaries should be automatically adjusted to the cost of living
 |
| * Professional skills of judges should increase. Continuous education and training should be organised for both judges and magistrates
 | * Send staff members to attend regular refresher courses and training programmes in line with individual professional development plans
 |
|  | * The Judicial College needs to be strengthened so that non-degreed magistrates continue to be trained before joining the Magistracy
 | * Train magisterial students in preparation for judicial appointments
 |
| Provision of tools for the trade | * Courts at all levels should be provided with adequate and modern equipment
 | * Lobby for funding for tools of the trade, procure tools of the trade and allocate tools to staff
 |
| Construction and refurbishment of infrastructure | * Court buildings need to be properly maintained, therefore financial provisions should be made for their regular maintenance
 | * Identify needs in all provinces. Lobby for funding, commence construction and refurbishment
 |

## 4.1 Partnerships

Since 2005, the UNDP engaged in a confidence building process with the judiciary in Zimbabwe, which paved a way for a relationship that resulted in the formation of a partnership to facilitate the capacity building of the judiciary. As part of an exercise to build a consensus on the challenges affecting the judiciary, a brainstorming session bringing together key stakeholders, including representatives of the judiciary, the Ministry of Justice, UNDP, civil society, the academia and the private sector, was convened.[[18]](#footnote-18)

These stakeholders also effectively constituted the management structures of the project, which included the Project Head (the Chief Justice), the Advisory Committee (made up of an independent law expert, a representative of the judiciary and of the Ministry of Justice, a and a UNDP representative), the Focus Group (comprising academia, civil society and the private sector) and the Secretariat (UNDP staff and the Judiciary).

According to the September to December 2009 Project Quarterly report, *“The partnership between UNDP and the Judiciary has grown from strength to strength and the relationship has progressed toward a greater understanding of each of the parties’ priorities and modus operandi”.*  To this extent therefore, the Project built and sustained effective partnerships that were involved in the project design and implementation.

## 5.1 Lessons learnt

* The hardware support to the Judiciary was an important entry point for UNDP to further its governance mandate and to promote human rights. However, opportunities were lost through the failure to take the preparatory programme forward into the next phase by delivering a full programme. A key lesson here is the need for UNDP to strengthen relationships more with the Judiciary and with cooperating partners so that it continues to be regarded as the partner of choice in governance interventions.
* The hardware support to the Judiciary was a relatively small project financially totalling less than $1 million. However, it made a significant impact as it was well targeted at the key constraints facing the judiciary at the time. This goes to show that it is not the size of the budget that determines the impact of a project, but rather how it is designed and targeted as well as the critical nature of the interventions that it addresses.

## 6.1 Conclusion and Recommendations

The report has highlighted the interventions by UNDP to strengthen the Judiciary of Zimbabwe in line with the ZUNDAF 2007 – 2011. It shows how UNDP understood and the peculiar challenges facing the Judiciary at the time and respond accordingly. While the investments were relatively small financially, they were targeted to make the most impact. However the decision by the JSC to work with another partner in the next phase left many gaps, which hopefully the successor programme will fill. These include refurbishing the rest of the courts, by providing recording and transcribing equipment, providing more vehicles to the magistrate’s courts and seeing the process of establishing the commercial court through.

To a large extent therefore, the project achieved most of what it set out to do, although there were delays that could be attributed partly to the economic crisis the country was going through at the time.

A positive from UNDP’s initial support is that it has helped the Judicial Services Commission to leverage additional support from the Danish government for the follow up programme. Several of the initiatives started under the UNDP Project have been continued in the successor programme and also by the Judicial Services Commission itself. These include the appointment of the research assistants for the Supreme Court and the High Court as well as issues around combating corruption.

Another UNDP initiative that has been taken up is the introduction of a case tracking system, which was introduced as pilot and is now being rolled out countrywide. Under the system, the moment a case is filed, it can be captured by the tracking system so the courts now have both a physical and an electronic document. The Judiciary is soon to launch the Public Kiosk, where people can just look up cases on the screen and if they want a printout they pay a small amount and it is printed.

According to Mr Shana, other components of human resource training initiated under the UNDP programme are ongoing through the Danish programme. But perhaps a major legacy of the UNDP support is that under the new constitution, the Commercial Court can now be introduced as the constitution has a close that allows the division of the high court. These developments show that although UNDP support to the Judiciary ended, the work it started continues, in some cases on a much larger scale, such as in the construction of new magistrates’ courts in different parts of the country.

## 6.2 Recommendations

While UNDP’s preparatory assistance targeted the judiciary, including the High Court and Magistrates’ Courts, little attention was paid to the police and prisons, who are an integral part of the justice delivery system. During the economic crisis, the prison service, for instance, was experiencing severe transport problems that often resulted in cases being postponed as prisoners could not be brought to court from remand prisons. The police were also experiencing severe resource constraints, in particular for transport and even basic items such as stationery. The programme should have taken a more holistic approach that addressed other critical determinants of access to justice to ensure the achievement of better results.

Some of the generators provided to the courts could not be used for the purpose for which they were intended as they were too small. It is crucial that in purchasing such equipment, a proper assessment is carried out to ensure that what is bought is suitable for the purpose for which it is meant as failure to do that results in a waste of resources.

## Appendix One: List of People Interviewed

Deborah Barron Executive Director, Legal Resources Foundation

Edward Mapara Executive Secretary Law Society of Zimbabwe

Mfaro Moyo Assistant Resident Representative, UNDP

Mishrod Guvamombe Chief Magistrate,

Rex Shana Deputy Secretary Judicial Service Commission

Simon Chipumha Administrator in the chief magistrate’s office

Stephen Macharaga Accountant in the chief magistrate’s office

Tafadzwa Muvingi Human Rights and Access to Justice Specialist, UNDP

Walter Chikwanha Chief Registrar for the Superior Courts

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York, September 2000). [↑](#footnote-ref-1)
2. UNDP (2007) Zimbabwe United Nations Development Assistance Framework 2007 -- 2011 [↑](#footnote-ref-2)
3. Central Statistics Office July 2008. [↑](#footnote-ref-3)
4. Zimbabwe: Industrial development policy 2011-2015 http://www.trademarksa.org/news/zimbabwe-industrial-development-policy-2011-2015 [↑](#footnote-ref-4)
5. Government of Zimbabwe (2010) Millennium Development Goals Status Report. [↑](#footnote-ref-5)
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7. UNDP (200&) Assessment of the Judiciary in Zimbabwe [↑](#footnote-ref-7)
8. UNDP (2007) Assessment of the Judiciary in Zimbabwe [↑](#footnote-ref-8)
9. UNDP (2007) Assessment of the Judiciary in Zimbabwe [↑](#footnote-ref-9)
10. UNDP (2007) Assessment of the Judiciary in Zimbabwe, Draft Report [↑](#footnote-ref-10)
11. UNDP (2007) Annual Project Review Report 2007: Preparatory Assistance for Support to Capacity Development of the Judiciary in Zimbabwe [↑](#footnote-ref-11)
12. UNDP (2007) Annual Project Review Report 2007: Preparatory Assistance for Support to Capacity Development of the Judiciary in Zimbabwe [↑](#footnote-ref-12)
13. GOZ Judiciary and UNDP (2006) Preparatory Assistance Support to Capacity Development of the Judiciary in Zimbabwe [↑](#footnote-ref-13)
14. Ministry of Justice (undated) Judicial Research Assistants: The Concept [↑](#footnote-ref-14)
15. ###  UNDP (2011) Final Progress Report to the Embassy of Denmark: “Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions including the Judiciary”

 [↑](#footnote-ref-15)
16. UNDP (2007)Annual Project Review 2007 [↑](#footnote-ref-16)
17. UNDP (2011) Final Progress Report to the Embassy of Denmark: “Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions including the Judiciary” [↑](#footnote-ref-17)
18. GOZ Judiciary and UNDP (2006) Preparatory Assistance Support to capacity development of the Judiciary in Zimbabwe Project Document [↑](#footnote-ref-18)