

**United Nations Development Programme**  
Iraq Country Office



*Empowered lives.  
Resilient nations.*

## **Outcome Evaluation of Country Programme Outcome 2**

**Enhanced rule of law, protection and respect for human rights in line  
with international standards**

**Evaluation Report**

**20 December 2013**

## **Acknowledgements**

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As the Lead Consultant for the Evaluation, I take pleasure in expressing my gratitude and that of my team, to all those within and outside the United Nations who gave their time to make this endeavour possible. This report is offered with the hope that a great healing will one day take place in Iraq and that the light of freedom, justice and equality will shine bright across all who inhabit its rich and ancient lands.

Respectfully submitted,

Richard H. Langan II  
New York

# Map of Iraq



## Acronyms

<b>AC</b>	Anti-corruption
<b>ACRLI</b>	Arab Centre for the Development of Rule of Law and Integrity
<b>AML</b>	Anti-Money Laundering
<b>A-NCSS</b>	Al Naharain Centre for Strategic Studies
<b>AWPs</b>	Annual Work Plans
<b>BEL</b>	Government of Belgium
<b>CA</b>	Coalition Authority
<b>CCA</b>	Common Country Assessment
<b>CoR</b>	Council of Representatives
<b>CP</b>	Country Programme
<b>CPAP</b>	Country Programme Action Plan
<b>CPAP MTR</b>	Country Programme Action Plan-Mid-Term Review
<b>CPD</b>	Country Programme Document
<b>CPR</b>	Crises Prevention and Recovery
<b>CSO</b>	Civil Society Organisation(s)
<b>DEN</b>	Government of Denmark
<b>DEVAW</b>	Directorate to End Violence Against Women (KRG)
<b>DFID</b>	UK Department for International Development
<b>DoS</b>	Department of State (U.S.)
<b>DPKO</b>	Department of Peacekeeping Operations
<b>FMG</b>	Female Genital Mutilation
<b>FRG</b>	Federal Republic of Germany
<b>GBV</b>	Gender Based Violence
<b>GoI</b>	Government of Iraq
<b>HJC</b>	Higher Judicial Council
<b>IAWG</b>	Inter-Agency Working Group
<b>ICS</b>	Iraqi Correctional Service (Federal level)
<b>IGO</b>	Intergovernmental Organisations
<b>IHCHR</b>	Independent High Commission for Human Rights (Iraq)
<b>ILD</b>	Iraqi Legal Database
<b>INGO</b>	International Non-Governmental Organisation
<b>INL-I</b>	US Dept. of State Bureau of International Narcotics & Law Enforcement
<b>IRFFI</b>	Iraq Reconstruction Fund Facility for Iraq
<b>ITF</b>	Iraq Trust Fund
<b>JIO</b>	Judicial Investigations Office(s)
<b>JNP</b>	Justice Network for Prisoners
<b>JTI</b>	Judicial Training Institute
<b>KJC</b>	Kurdistan Judicial Council
<b>KRG</b>	Kurdistan Regional Government
<b>KRSO</b>	Kurdistan Regional Statistics Office
<b>LADP</b>	Local Area Development Programme
<b>LGBT</b>	Lesbian Gay Bi Transsexual
<b>M&amp;E</b>	Monitoring and Evaluation
<b>MDGs</b>	Millennium Development Goals
<b>MOFA</b>	Ministry of Foreign Affairs

<b>MoHR</b>	Ministry of Human Rights
<b>Moi</b>	Ministry of the Interior
<b>MOJ</b>	Ministry of Justice
<b>MOP</b>	Ministry of Planning
<b>MOP-KRG</b>	Ministry of Planning-Kurdistan Region
<b>NDP</b>	National Development Plan
<b>NDS</b>	National Development Strategy
<b>NGOs</b>	Non-governmental Organisation
<b>NHRI</b>	National Human Rights Institution(s)
<b>NMFA</b>	Norwegian Ministry of Foreign Affairs
<b>Non-UN</b>	Non United Nations
<b>NPHR</b>	National Plan for Human Rights
<b>NSA</b>	National Security Adviser
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>ONSA</b>	Office of the National Security Adviser
<b>PLWA</b>	Persons Living with AIDS
<b>PMAC</b>	Prime Minister's Advisory Council
<b>PMO</b>	Prime Minister's Office
<b>PMSU</b>	Project Management Support Unit
<b>PWD</b>	Persons With Disabilities
<b>ROL</b>	Rule of law
<b>RRF</b>	Results and Resources Framework
<b>SALW</b>	Small Arms Light Weapons
<b>SGBV</b>	Sexual Gender Based Violence
<b>SSR</b>	Security Sector Reform
<b>TIP</b>	Trafficking in Persons
<b>TOC</b>	Transnational Organized Crime
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNAMI</b>	United Nations Assistance Mission for Iraq
<b>UNAMI-HRO</b>	United Nations Assistance Mission for Iraq- Human Rights Office
<b>UNAMI-Pol</b>	United Nations Assistance Mission for Iraq - Political Section
<b>UNCT</b>	United Nations Country Team
<b>UNDAF</b>	United Nation Development Assistant Framework
<b>UNDG</b>	United Nations Development Group
<b>UNDP</b>	United Nations Development Programme
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UNICEF</b>	United Nations Children's Fund
<b>UNIFEM</b>	United Nations Fund for Women
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UNOPS</b>	United Nations Office for Project Services
<b>UNOHCHR</b>	United Nations Office of the High Commissioner for Human Rights
<b>USCR</b>	United Nation Security Council Resolution
<b>US</b>	United States
<b>USAID</b>	United States Agency for International Development
<b>USFI</b>	United States Forces-Iraq
<b>VAW</b>	Violence Against Women

# Table of Contents

Acknowledgements .....	ii
Map of Iraq .....	iii
Acronyms .....	iv
Table of Contents .....	vi
Executive Summary .....	vii
Introduction.....	1
Scope and Objectives .....	1
Methodology.....	3
Limitations and Opportunities.....	6
Background and Situational Analysis.....	7
Overview of UNDP Iraq Rule of Law, Access to Justice and Human Rights Programming .....	16
Evaluation Findings: Results and Effectiveness .....	19
A. Detailed Analysis of Impact Across the Three Programmatic Outputs of CPAP Outcome 2 .....	19
1. Output 1: Key national and local institutions strengthened to promote rule of law (including transitional justice) and administration of justice .....	19
2. Output 2: Key government and non-governmental institutions have strengthened capacities to better protect human rights in relation to international standards .....	61
3. Output 3: Enhanced GoI capacity to ensure accountable and effective security sector with civilian oversight.....	83
B. Cross-cutting themes .....	89
C. Programme Oversight and Management .....	89
D. National Ownership, Partnerships and Cooperation .....	93
E. Donor Coordination and Relations .....	97
F. Sustainability .....	98
Conclusions and Recommendations .....	100
I. Strategic Conclusions and Recommendations .....	100
II. Programmatic Conclusions and Recommendations .....	102
Lessons learned .....	112
Schedule I: Relevant Projects .....	1
Appendix A: Terms of Reference .....	1
Appendix B: Documents Referenced.....	1
Appendix C: Agenda.....	1

# Executive Summary

## Evaluation Scope and Methodology

This Evaluation—an independent Outcome-level evaluation— assesses the level of progress made towards achieving UNDP Iraq’s Country Programme Action Plan (CPAP), Outcome 2: Rule of Law & Human Rights in Line with International Standards *at the approximate mid-point* of the programming period (01 January 2001 to 31 December 2014). In addition, the Evaluation seeks to provide concrete recommendations for UNDP Iraq programming beyond 2012, including, the second half of the current CPAP period. The Evaluation was completed during Q1 and Q2 2013.

UNDP set out in March 2011 to redefine and redouble its efforts to support the reconstruction and recovery efforts of the Government of Iraq, in line with the Millennium Declaration, the Millennium Development Goals, and other key international aspirations. The CPAP 2011-2014 set out five broad country programme outcomes, the second of which is the subject of this Evaluation:

***CPAP Outcome 2: “Enhanced rule of law, protection and respect for human rights in line with international standards”***

In order to achieve the above-defined outcome, **three outputs** and **seven key indicators** were formulated for the Programme at its inception. In addition sub-indicators were also formulated.

### Intended Outcome:

Enhanced rule of law, protection and respect for human rights in line with international standards.

### Outputs:

1. Key national and local institutions strengthened to promote rule of law (including transitional justice) and administration of justice.
2. Key government and non-governmental institutions have strengthened capacities to better protect and promote human rights in relation to international standards.
3. Enhanced GoI capacity to ensure accountable and effective security sector with civilian oversight.

CPAP Outcome 2 is directly responsive to the framework set out in the UNDAF, and the UNDAF aims to be directly responsive to the most critical needs of the Iraqi people, as determined by the CCA and the GoI. As the leader of two of the five UNDAF Priority Working Groups—and in particular as the leader of the Governance and Human Rights working group—UNDP and its efforts under CPAP Outcome 2 are absolutely central to the critical rule of law and human rights efforts of the GoI and the international community in Iraq.

More recently, and for purposes of this Evaluation, the UNDP Iraq Country Office has grouped its justice and rule of law projects and outputs under several “sub-clusters”, as follows:

Cluster 1: Rule of Law

Cluster 2. Human Rights and Access to Justice; and

Cluster 3: CPR – Crises Prevention and Recovery (Security Sector Reform and SALW).

These sub-clusters roughly correspond to the CPAP Outcome 2 outputs described above. Operationally, however, there is in fact only a single sub-cluster for Rule of Law, Justice and Human Rights within the Governance Unit, with two project managers; one dealing with Human Rights and Access to Justice and the other dealing with Justice (Rule of Law) and Security Sector Reform (SSR) and Small Arms Light Weapons (SALW). Formerly, UNDP's Mine Action Unit covered SALW.

An Evaluation Methodology was pursued that included an extensive document review, meta-analysis and field interviews. Two National Consultants were engaged to assist the Lead Evaluator in obtaining information from Iraqi stakeholders who were beyond the reach of the Lead Evaluator due to security restrictions. Field visits were undertaken by the Lead Evaluator in Baghdad, Erbil, Dohuk and Suleymaniyah, with supplemental field visits undertaken by the first National Consultant in Baghdad and Basra. The biggest limitation to the Evaluation was one that characterizes UNDP's entire approach to rule of law, access to justice and human rights in Iraq; namely, the fact that there was no overarching UNDP Rule of Law strategy to expand upon the language contained in the CPAP document or any detailed overall workplan with more detailed sets of indicators by which to measure progress. Statistics and data were sometimes not available or were not released to the Evaluation by UNDP's GoI partners. Furthermore, UNDP had not made an effort in-house to collect such information routinely.

Per the request of UNDP, the Evaluator developed a qualitative assessment of UNDP Effectiveness and Results and Sustainability Risk. Under this qualitative assessment, the optimal scenario is one where UNDP achieved a HIGH level of overall Results and Effectiveness coupled with a LOW overall Sustainability Risk.

<b>Results and Effectiveness</b>	HIGH	MEDIUM	LOW	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	LOW	MEDIUM	HIGH	N/A (No targeted UNDP programming)

Such indications of qualitative assessment are inserted at various points in the Evaluation Report as a "quick guide" for readers. This system is further defined in the "Methodology" section of the main Evaluation Report.

Stakeholder Workshops were held in Baghdad and Erbil in early-September 2013 to present the findings of the Evaluation Report and its Findings, Conclusions and Recommendations. Comments of Senior Iraqi Officials and Stakeholders were, thereafter, incorporated into a further revision of this report. Of note, this was the first time in the history of UNDP's engagement in Iraq that this type of workshop had been held in conjunction with a UNDP evaluation. As such, this Evaluation is groundbreaking.

## Background and Context

Iraq has long been, and remains, one of the most difficult places on Earth to establish rule of law and human rights. UNDP's efforts to enhance rule of law and human rights Iraq must be planned—and evaluated—against a backdrop of insecurity, violence, instability and years of corruption and institutional



decay. As a result of the continued instability in the country and structural weaknesses within GoI, Iraq's key justice providers have been severely challenged in their abilities to deliver basic rule of law functions. The institutions are under-staffed, inadequately supplied, and suffer from a lack of technical expertise and knowledge.

As this Evaluation was being conducted in the Spring of 2013, sectarian violence between Sunnis and Shias continued to intensify in Iraq with Iraqi Army raids on Sunni camps, retaliation against GoI forces and waves of bombings across the country in which score of persons were killed and hundreds injured. According to figures collected by the United Nations Assistance Mission for Iraq (UNAMI), approximately 2,900 civilians were killed and 8,000 were wounded in 2012. Tensions were increasing in the Sunni-dominated Anbar Province related to the unfulfilled demands of the "Anbar Awakening". Al Queda in Iraq carried out attacks on the Ministry of Justice, Ministry of the Interior and the Communications Ministry on the morning of March 14<sup>th</sup>, 2013. In mid-July 2013, Al Queda in Iraq carried out bold attacks on two prisons in Iraq wherein hundreds of militants and known terrorists escaped detention. Meanwhile, the crisis in neighbouring Syria was resulting in waves of refugees coming into KRG.

Not surprisingly, public confidence in judges and the courts to render impartial decisions and in the police to secure basic human safety has fallen accordingly. Vulnerable groups, including women, children and minorities, have been disproportionately harmed by the limited capacity of the government to provide basic justice in line with international human rights standards. Currently, Iraq continues to be plagued by a host of rule of law issues, particularly as pertains to its criminal justice system. These include an out-dated criminal code and issues surrounding application of the death penalty, use of confessions, circumstances and procedures surrounding detention and incarceration. There remains a general lack of access to justice for ordinary citizens and the Judiciary is subject to political capture. Significant deficiencies also exist in Iraq's legislative process.

Due to the extreme security situation, for most of the past decade UNDP has operated with very little presence on the ground in Iraq in what has been termed "remote access" approach to programming from the relative security of Amman, Jordan. As 2010 approached, following the success of the U.S. surge in Iraq and a reduction in levels of violence, UNDP began to be able to operate more independently and began a transition to a more normal working environment with staff travelling to Iraq with more regularity and increasingly becoming based in Iraq. UNDP expects that it will complete a full transition from Amman to Baghdad by end-2014.

### **Overview of UNDP Support to the Iraqi Judicial, Human Rights and Security Sectors to date**

UNDP support to Rule of Law, Access to Justice and Human rights in Iraq currently takes place with reference to the Iraqi National Development Strategy and according UNDP's strategic documents. UNDP programmes in close coordination with its donors, which have included the EU, US Department of State INL-I, USAID, SIDA, Germany and Norway, as well as with other UN Agencies (i.e. UNOPS, UNICEF and UNOCHR) and the UNAMI Human Rights Office.

UNDP is currently working with the following Iraqi partners in achieving development results in the area of access to justice and human rights protection:

- Higher Judicial Council (HJC);
- Kurdistan Judicial Council (KJC);
- Judicial Development Institute (JDI);
- Judicial Investigations Offices (JIOs);
- Ministry of Justice (MoJ);
- Ministry of Interior (MoI);
- Ministry of Labour and Social Affairs (MoLSA);
- Iraqi and KRG Bar Associations;
- Civil Society Organizations;
- Independent High Commission for Human Rights (IHCHR);
- KRG Board of Human Rights;
- Family Protection Units;
- Iraqi National Police;
- Prisons; and
- Iraqi Security Sector and related agencies (for SALW and SSR)

## Evaluation Findings

### *Rule of Law*

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>HIGH</b>

Output 1 (Cluster: Rule of Law): Key national and local institutions strengthened to promote rule of law (including transitional justice) and administration of justice.

1. % of courts that have court administration harmonized to minimum international standards (2010:0%; 2014: 15%).

2. A system to map the backlog of civil and criminal cases developed (2010: no; 2014: yes).

UNDP's early support to rule of law in Iraq and KRG during the time period 2003-2010 occurred within the context of "remote access" in the form of limited technical advice. The primary contribution of UNDP during this time was providing in-put and technical advisory services to the drafting of Iraq's Constitution in 2005, limited support to institution building and support to civil society. Beginning in 2007, UNDP began supporting the training of the Iraqi judiciary and capacitating Iraq's Judicial Training Institute and Judicial Development Institute.

UNDP's support to the Iraqi Judiciary intensified after 2010, pursuant to the HJC Strategic Plan for 2009-

2013. UNDP sponsored trainings and twinnings have contributed to recent and isolated incidents of courts in Iraq taking human rights more seriously. For example, there were several high profile prosecutions and convictions in Iraq of persons guilty of sexual exploitation of women and children and TIP during 2010-2012. Meanwhile, the courts in KRG have recently begun to prosecute cases under the KRG Domestic Violence Law with greater frequency according to CSOs and judges interviewed.

UNDP has also supported the establishment of Pilot Courts in Iraq and KRG, including the development of a Case Management System (CMS), establishment of Legal Research Units and the Iraqi Legal Database. Despite the fact that the UNDP projects failed to achieve any adherence to the computerization to date, UNDP perceives that the projects did open up the space for reform. Within the last two years, UNDP has begun to implement the pilot court CMS via a deeper step-by-step engagement with the institution and instil a sense of national ownership (i.e. adding Arabic speaking UNDP national staff and experts to the project).

UNDP remains committed to court automation. This Evaluation, however, is unable to say with any certainty whether CMS will be achieved or whether it will have the intended impact on the Outcome (i.e. a reduction of case backlog; numbers of detainees awaiting trial and a greater level of efficiency, transparency, accessibility and accountability), as historically, the HJC has tended ultimately not to embrace the technology. UNDP has supported the CMS for nearly three years with little impact and it should explore Iraqi government take over. This Evaluation can not recommend further Donor funding of this initiative beyond the current programming period, unless GoI *itself* makes a major investment in this sector.

Case backlog rates appear to have improved at some courts. This may in part be attributable to the trainings that UNDP delivered under the initiative. In each of the model courts, the backlog of cases was reduced by modest amounts year-on-year. HJC only publishes statistics on total numbers of cases filed with each of the federal courts per year, however, and does not attempt to measure the efficiency of courts (i.e. length of time from case filing to final adjudication, etc.). Thus, without more statistical information, it is impossible for this Evaluation to state with certainty whether or not the CPAP goal of 15% of Iraqi courts having administration harmonized to international standards has yet been achieved.

Meanwhile, the establishment of the Iraqi Legal Database—an electronic encyclopaedia of Iraqi legislation—is one of the most significant achievements of UNDP in Iraq to date. The increasing numbers of visitors to the ILD on a daily basis is an indicator of its success. The Legal Committee of Parliament, judges and lawyers interviewed by the Evaluation all reported a heavy reliance upon the ILD in their work. Yet, the HJC has not updated the ILD regularly as originally envisioned. While some updates have been posted by the HJC, they have been posted to a different website. The ILD website itself has not been updated since April 2011 and no new laws or judgments have been added to the ILD since that date. UNDP is currently encouraging the HJC to merge the updates with the original ILD website and update the ILD on a monthly basis.

Despite the problems UNDP experienced with the pilot court initiatives, members of the judiciary interviewed, continue to view UNDP as a central and trusted source of knowledge for rule of law and access to justice in Iraq. Members of the judiciary state that going forward, the key challenge is how to duplicate the success of the pilot courts nationally. The Evaluation also recommends that UNDP and donor support the HJC to publish court decisions regularly in an official standardized format that is published and made widely available to the public.

UNDP laid the groundwork for Legal Aid in Iraq via the establishment of Legal Aid Help Desks in Iraq and KRG. In KRG, two NGOs were engaged (the local-Iraqi NGO Women's Empowerment Organization and the INGO Heartland) to implement the legal aid help desks in Erbil, Suleymaniyah and Dohuk, respectively. Both CSOs also conducted public outreach, public service announcements and awareness-raising to make citizens aware of court services and how to access the courts.

It appears that clients are accessing the legal help desks in KRG. Despite logistical challenges, legal help desks are providing access to legal aid—including court representation and legal advice—to needy Iraqis in Erbil, Dohuk, and Suleymaniyah. In less than a year, the legal help desks benefitted over 2,200 individuals, thus surpassing the benchmark for legal aid provision set forth in the CPAP. The helpdesks' location within courthouses and specific outreach programs have been cited as being integral to these programs' success. The assistance covered areas as diverse as criminal, civil and personal status cases, and the primary beneficiaries were female victims of GBV and other domestic problems. In addition, UNDP has partnered with NGOs to reach out to women to inform them of their rights and encourage them to seek legal protection where necessary.

In Iraq, a legal help desk in Basra was operational as of June 2013 and had started to receive clients (although it was too early in its operation to be assessed by this Evaluation).

The Bar Association will increasingly play a key role in the expansion, supervision, staffing and funding of legal aid initiatives in Iraq and KRG. The Evaluation strongly recommends that UNDP take steps to mitigate the sustainability risks involved with the “hand-off” of the Legal Help Desks to the KRG Bar Association. An MoU entered into between UNDP and the KRG Bar Association in April 2013 stipulates such duties, as well as providing continuing mentoring by the local NGO Women's Empowerment Network; however, UNDP will need to continue to exercise close supervision of the initiative in order to ensure its success and adherence to international best practices. It is also crucial that the medical community be linked with the legal help desks and family protection units in KRG and Iraq. In addition, the Evaluation discusses ways in which UNDP can support the capacity of the Bar Associations management and Iraqi law schools in Iraq and KRG going forward.

In regard to the Criminal Justice Sector, UNDP supported the capacity of the Judicial Investigative Offices (JIOs) in Iraq. The initiative was designed to enhance the investigative capacities of the JIOs, thereby reducing the reliance of the JIOs upon the investigative capacities of the police. UNDP clearly mapped out the needs of the JIOs that will lay the groundwork for their development going forward.

During the programme period, UNDP also completed the initial phases of support the establishment of a Criminal Justice Data Management Network for Iraq under the auspices of the HJC in conjunction with the MoI and other law enforcement and security agencies of the GoI. UNDP's approach has recently become more strategic and participatory, which has resulted in a heightened level of political will and national ownership on the part of the HJC. It is very difficult for the Evaluation to predict with certainty, however, whether a *real and operational* system of criminal justice data exchange between the MoI, HJC and other institutions will ultimately be achieved as a result of UNDP's engagement. All that can be said as of 2013 is that a foundation has been laid, which has the potential to advance the CPAP Outcome at some future point in time.

Meanwhile, UNDP has managed to make a substantial contribution to the Management and Reform of Prisons and Juvenile Detention Facilities in Iraq through a number of assessment studies and piloting exercises. *UNDP's assessment studies were groundbreaking*, highlighting the fact that there are many laws pertaining to the prison system and prisoners, with a resulting duplication of jurisdiction and authority within the prison system. The Pilot projects under the initiative (carried out at several prisons in KRG) were able to significantly improve procedures for registration and tracking of inmates, as well as to improve the balance of duties between prison guards and social workers. UNDP was able to identify a number of on-going issues for the Iraqi Correctional Service (ICS) that could be areas of reform going forward—including with respect to the rights of juvenile detainees.

UNDP also was able to support legal aid for prison detainees. As a result, in 2011, 463 prisoners (including 74 female detainees) received legal representation through UNDP-supported initiatives, and 513 prisoners utilized a rights hotline. These numbers, though relatively low, represent a real accomplishment and forward momentum towards providing justice to a particularly vulnerable population that is often neglected.

Noting that to date, UNDP has not programmed extensively with the Iraqi National Police, the Evaluation suggests that UNDP programming going forward include Community Policing. UNDP should closely coordinate with other members of the UNCT (i.e. IOM) that plan to support Community Policing in the near future.

UNDP support to Participatory Governance and Anti-Corruption in Iraq were not the direct subjects of this Evaluation. Yet, they present many synergies with rule of law and human rights and support to civil society. UNDP could support the Committee on Integrity and the Legal Committee of Parliament going forward.

Despite the fact that the CPAP states that all UNDP interventions are “designed to support the transition towards national reconciliation, peace and stability,” the “Transitional Justice” component of Output 1 has been *underserved* by UNDP to date. UNDP BCPR has a rich practice policy to draw upon concerning Transitional Justice and Peace. UNDP should explore in conjunction with UNAMI possibilities for creating politically neutral spaces for people to engage constructively along non-sectarian lines—particularly for youth in line with UNDP’s rich global practice and comparative experience in transitional justice.

## ***Human Rights***

<b>Results and Effectiveness</b>	<b>HIGH</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

**Output 2 (Cluster: Human Rights and Access to Justice): Key government and non-governmental institutions have strengthened capacities to better protect and promote human rights in relation to international standards.**

3. % of registered cases with the family response units with legal proceedings initiated (2010: 0; 2014: 50%).
4. Number of proposals and recommendations concerning Iraq's accession to international human rights treaties and conventions submitted (2010: 0; 2014: 5).
5. Referral system for the High Commission for Human Rights in line with International Human Rights Standards is functional (2010: No, 2014 : Yes).

With regard to the Independent High Commission for Human Rights (IHCHR), the UNDP-supported Commissioner selection process was, on the whole, positive, and reflected largely successful efforts to comply with the minimum international standards of independence, autonomy, and equity established by the Paris Principles and the parameters set by the Iraqi law authorizing the Commission. While the IHCHR selection process was challenging, it is clear that international and national stakeholders, including UNDP, worked together in a collaborative manner to integrate international standards into the creation of a critical national human rights institution. IHCHR fulfilled the number of required women members (currently, 5 of the total of the 14 appointed commissioners are women).

UNDP should continue to support IHCHR going forward. The next phase of UNDP support can involve greater (and earlier) planning to create a more effective division of labour within the IHCHR staff, with UNDP assisting with interpretation of international standards for the IHCHR, and national partners working to implement them in the unique Iraqi context. UNDP can also assist the IHCHR to open sub offices and focus on legislative reforms, including the re-drafting of a number of Iraqi laws related to human rights that were identified as priority areas by UNDP in 2012. UNDP should further support IHCHR to perform outreach within vulnerable communities and to build a social media presence (IHCHR currently has none). Meanwhile, UNDP's support to the Human Rights Board of KRG in the form of capacity building and technical advisory support was only just beginning in 2013. Going forward, UNDP should continue its support to the KRG Human Rights Board with a focus on its internal policies and procedures as well as its investigative and outreach capacities.

The Iraqi federal Ministry of the Interior (MoI) formed the Family Protection Units (FPUs) beginning in 2010 with UNDP technical advice. Additional FPUs were later formed in KRG under the authority of the KRG Directorate to End Violence Against Women. The FPUs are designed to respond quickly to incidents of violence within the family, to carry out limited investigations of such violence and to promote the peaceful settlement of family disputes and provide protection to women. The first FPU was formed in Baghdad (Al-Karkh FPU at Al Salam Police Station Building) in 2010. As of 2013, a total of 16 FPUs had been formed in Iraq and 7 FPUs had been formed in KRG. These included UNDP supported Family Protection Units in six locations as of end-2011 through 2012.

In the short time that the FPUs have been established, they have managed to give systematic attention to the needs of women and families. Staff report that they are more professional better able to reconcile and advise families. The FPUs continue to face challenges with their locations at some courts and police stations. Additional challenges include staffing quality, low numbers of female police officers at FPUs, systemization and automation of databases and the need to integrate the FPUs with other elements in the justice system. Another fundamental need is awareness on the part of the communities as to the existence of the FPUs and the laws against Domestic Violence and SGBV under the Iraqi Personal Status Code. One indicator of success is the rising number of women who are reporting violence. UNDP should continue to support the MoI in its management of the FPUs going forward.

Meanwhile, KRG issued a Law Against Domestic Violence (Family Violence Law) in 2011 with UNDP technical assistance. This is a very significant step in addressing family violence problems in KRG. UNDP supported a number of events geared to the drafting of the Law on Domestic Violence. Now that the law has been passed, UNDP is working to raise awareness about the law. UNDP identified many gaps and inconsistencies in the draft law that would make implementation difficult.

UNDP has also supported the KRG Directorate of Violence Against Women (DEVAW) since 2011 to develop its strategic plan (2011-2014). The plan included a general outline of the work of the directorate and UNDP arranged many meetings between DEVAW and other stakeholders in KRG. Going forward, UNDP should provide technical expertise to DEVAW, especially with regard to its enforcement of judgements from the KRG Special Court for Domestic violence and establishing and strengthening the lines of communication and procedures followed by DEVAW, the police, the Special Court for Domestic violence and the KRG Public Prosecutor. UNDP should support DEVAW in the establishment of its sub-offices and mechanisms for linking the sub-offices to the central office.

UNDP's biggest role under Output 2 was in developing the KRG Women's Shelter Operating Policy and identifying gaps (i.e. staffing issues, types of women permitted at the shelter, etc.). UNDP should continue to support KRG's Erbil Shelter for Women and use the lessons learned at the Shelter to assist KRG (and Iraq at the federal level) to duplicate such shelters in a nation-wide network of women's shelters. UNDP should provide technical assistance to KRG to revise the Shelter policy to resolve such issues as accepting women with severe physiological or medical issues.

UNDP has also provided substantial support to Civil Society in Iraq during the programming period. CSOs interviewed that had participated in UNDP sponsored trainings attested to the fact that the trainings had increased their capacity to perform monitoring, reporting and outreach. The clients served by these CSOs included low-income women in rural areas to either connect the women to agencies offering assistance and legal aid or to provide such services. Many of the women are war widows and/or IDPs that faced issues regarding support for their children, obtaining necessary documents, marriage and property issues. There continues to be an urgent need in Iraq and KRG for UNDP to support CSOs engaged in the protection of abused women and children and combatting SGBV—especially shocking are recent reports of self-emollitions in Iraq and KRG.

Youth as a component of UNDP's access to justice initiatives has, however, been underserved to date. UNDP should urgently increase its components on youth CSOs in Iraq. Among the youth CSOs interviewed by the Evaluation there was wide enthusiasm for UNDP to initiate a small grants scheme specifically aimed at youth CSOs to enable them to conduct work on specific issues facing youth. UNDP recently supported Iraqi youth to compete in a HuriLab competition in Armenia devoted to building Internet and mobile solutions to social challenges, which is an example of how such grants might be used.

There remains a need for UNDP to engage with Tribal and Traditional Justice Mechanisms in Iraq to ensure that these align with international human rights standards and support the formal justice sector to the extent possible. UNDP can play a role in reforming the tribal justice system only if it uses the GoI ministries and with a nationally designed strategy that uses national tools and approaches. It requires a *highly tailored approach* implemented by GoI and Iraqi institutions.

Meanwhile, the application of the death penalty was not yet a focus of UNDP's work under CPAP Outcome 2. In light of recent UN findings on the application of the death penalty by Iraq, UNDP might

wish to support research and advocacy on the death penalty in conjunction with other UN agencies and departments having a mandate in this area (i.e. UNODC, UNICEF, UNHCHR and UN-DPA).

Finally, the Evaluation notes that “persons with disabilities” and “other vulnerable groups” are mentioned in the CPAP document (2011-2014), but that UNDP has not yet programmed extensively to address the needs of disabled persons and their families in Iraq. Also, in light of recent U.N. resolutions and statements of the U.N. Secretary General, UNDP might wish to explore opportunities for including “other vulnerable groups” such as LGBT youth in its human rights programming and legal aid initiatives going forward.

### ***Security Sector Reform***

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

#### **Output 3 (Cluster: CRP-Mine Action, SALW, SSR): Enhanced GoI capacity to ensure accountable and effective security sector with civilian oversight**

6. Review of security sector conducted and presented to the GOI (2010: no; 2014: yes).

7. Database of small arms and light weapons created and managed (2010: no; 2014: yes).

UNDP supported the provision of an expert consultant to the Office of the National Security Advisor to assist Iraq to draft a new National Security Strategy. UNDP’s initial work on the Draft Strategy has been completed and a novel approach was introduced with participation of both GoI and Civil Society. A high-level steering committee has been assembled to conduct a review of 21 key areas of hard and soft security issues. This is only the initial phase of development and each of the various sectors covered by the strategy must be analyzed and further developed. The NSA is, however, extremely satisfied with UNDP’s work and recommends that UNDP develop a follow-on project for SSR Phase Two that would be focused upon implementation of the new National Security Strategy.

The UNDP SALW initiative was launched in June 2012. UNDP supported the establishment of a focal point on rule of law. SALW has been met with challenges of political will and funding. A plan for the registration of weapons of militia (not actual collection) was developed by UNDP. Collection of weapons is deemed impracticable in Iraq’s current security situation. UNDP in partnership with GoI and civil society should support continued public awareness-raising on SALW and mechanisms to enhance cooperation between Iraq and the U.N.’s Coordinating Mechanism on SALW.

### **Crosscutting themes**

All projects implemented by UNDP within the programming period incorporated elements to ensure gender equality and human rights-based perspectives and to support civil society. More than half of UNDP’s programme has, in some form, targeted women and children and the impact of domestic



violence (i.e. FPU, law on Domestic Violence; the formation of the IHCHR and KRG Human Rights Board, DEVAW, women's shelters, Investigative Judges, Legal Help Desks). Beyond this, a UNDP Gender Advisor within the Country Office provided technical guidance and advice to the cluster heads on SGBV, women and children, legal aid and legal empowerment.

## **Programme Oversight and Management**

The Evaluation notes that there has been relatively little cooperation among the projects within UNDP's Governance Unit, including its rule of law, access to justice and human rights projects. There are many areas where UNDP can more closely coordinate its internal programming going forward. For example, UNDP's "Accountability, Transparency and Anti-Corruption" (ATAC) Programme offers many synergies with Rule of Law, Access to Justice and Human Rights. Additionally, moving towards implementing under a "One UN" framework within the UNCT will enable UNDP to capture synergies among members of the UNCT. UNAMI and UNDP have worked well in parallel together historically surrounding the drafting of the 2005 Constitution and support to the formation of the IHRC. There is much room for increased cooperation between UNAMI and UNDP going forward.

As UNDP completes its relocation from Amman, Jordan to Iraq during the course of 2013-14, it will be important for UNDP to increase its focus on governance, rule of law and access to justice at the local level. The Evaluation has made several suggestions to improve the structure of the Rule of Law clusters in the Governance Unit. As the UN Agency possessed with the leading mandate for Rule of Law, it is absolutely crucial that UNDP ensure that it is in a position to offer its Iraqi stakeholders the *highest level* of technical legal expertise and advice on a frequent basis. It is important that UNDP staff possess the requisite academic training and legal experience required to undertake highly technical work in rule of law, access to justice, human rights and security sector reform. UNDP must ensure that its programme documentation and proposals are grounded in detailed ascertainment research, assessments and analysis of the sector.

## **National Ownership, Partnerships and Cooperation**

On the whole, GoI and KRG are extremely satisfied with UNDP performance. Implementing with UNDP offers GoI and KRG many advantages such as UNDP's ability to mobilize donor resources, connect Iraqi institutions with a larger community of practice internationally and draw upon UNDP's global practice policy. UNDP's experience obtaining national ownership of its programming was, however, mixed during the programming period. In order to promote a higher level of national ownership and sustainability, UNDP must make clear to GoI and KRG stakeholders that co-financing is the "new normal" for Iraq within a context of shrinking donor resources. UNDP should engage with its Iraqi partners at a much earlier stage in project development. UNDP should include local authorities in its partnerships and strategies and utilize them to a greater degree in rolling-out such initiatives legal aid.

## **Donor Coordination and Relations**

UNDP's donors were on the whole satisfied with UNDP performance to date. The departure of the Coalition Authority and U.S. military from Iraq has certainly opened up new areas of cooperation between UNDP and the U.S., with several new DoS INL-I funded projects now being implemented. Some Donors, however, were not satisfied with the level and frequency of UNDP's reporting. The EU in particular was dissatisfied with UNDP performance, principally due to the *pace* at which it was able to implement. Going forward, UNDP should strive to improve the pace at which it implements following signing a project document and improve its reporting to donors. Donors, UNDP and the UN bear

mutual responsibilities to ensure that project documents do not set up UN sister agencies in potential situations of competition with each other and the synergies across the UNCT are fully captured.

### **Sustainability**

The overall sustainability of UNDP's programming in Iraq will ultimately depend upon UNDP obtaining increasing levels of GoI/KRG co-financing for initiatives. Within a context of donors reducing their bilateral development assistance to Iraq and the US drawdown, the GoI must increasingly fund its own development agenda. Without this it cannot be ensured that the outcomes will be reached and maintained after UNDP interventions are completed. There is, however, a threshold issue of lack of capacity within GoI Ministries and institutions to budget and effectively manage the allocation of funds.

### **Conclusions and Recommendations**

Based upon the above findings, the Evaluation reached a number of overall strategic and detailed programmatic conclusions and recommendations that can inform UNDP programming in rule of law, access to justice, human rights and security sector reform going forward. The *overall conclusion and recommendation* of the Evaluation is that UNDP has managed—especially considering the remote access posture within which it has operated—to contribute to the advancement of CPAP Outcome 2 across all three programmatic clusters. UNDP should continue its Rule of Law, Access to Justice and Human Rights programming in Iraq during the second-half of the CPAP period (2011-2014) and beyond. Specifically, UNDP must develop a single new Rule of Law Programme document that is comprehensive and further articulates the CPAP 2 Outcome. Any new UNDP Rule of Law Project document must, however, be based upon a fully consultative process with all stakeholders that will further prioritize this Evaluation Report's recommendations.

UNDP must move to immediately adopt a more strategic approach to its rule of law and human rights programming in Iraq. Programme documentation and proposals should be based upon a firm footing, including detailed ascertainment research, assessments and analysis of the sector. UNDP must seek to include the GoI at a much earlier stage in the development of projects and also include representatives from all Iraqi rule of law stakeholders—especially with regard to UNDP's initiatives for legal aid. UNDP must also strive to upgrade the level of its in-house technical legal expertise.

More detailed programmatic recommendations pertaining to UNDP's engagement with the individual institutions themselves are included in the main body of the Evaluation Report.

## Introduction

This Evaluation—an independent Outcome-level evaluation— assesses the level of progress made towards achieving UNDP Iraq’s Country Programme Action Plan (CPAP), Outcome 2: “Rule of Law & Human Rights in Line With International Standards” at the approximate mid-point of the programming period (01 January 2001 to 31 December 2014). More broadly, the Evaluation Report is the culmination of an extensive review of the UNDP Iraq Governance Unit’s rule of law, access to justice, human rights and security sector reform programming 2007-2013. As such, the Evaluation Report seeks to provide concrete recommendations for UNDP Iraq programming beyond 2012, including, the second half of the current CPAP period. The Evaluation was lead by Richard H. Langan II, J.D., LL.M.—an independent consultant during March to September 2013, with report finalization extending into November 2013.

## Scope and Objectives

UNDP set out in March 2011 to redefine and redouble its efforts to support the reconstruction and recovery efforts of the GoI, in line with the Millennium Declaration, the Millennium Development Goals, and other key international aspirations. The CPAP 2011-2014 set out five broad country programme outcomes, the second of which is the subject of this Evaluation:

***CPAP Outcome 2: “Enhanced rule of law, protection and respect for human rights in line with international standards”***

In order to achieve the above-defined outcome, **three outputs** and **seven key indicators** were formulated for the Programme at its inception. In addition sub-indicators were also formulated.

### Intended Outcome:

Enhanced rule of law, protection and respect for human rights in line with international standards.

### Outputs:

1. Key national and local institutions strengthened to promote rule of law (including transitional justice) and administration of justice.
2. Key government and non-governmental institutions have strengthened capacities to better protect and promote human rights in relation to international standards.
3. Enhanced GoI capacity to ensure accountable and effective security sector with civilian oversight.

### Output Indicators, Baselines and Targets:

1. % of courts that have court administration harmonized to minimum international standards (2010:0%; 2014: 15%).
2. A system to map the backlog of civil and criminal cases developed (2010: no; 2014: yes).
3. % of registered cases with the family response units with legal proceedings initiated (2010: 0; 2014: 50%).
4. Number of proposals and recommendations concerning Iraq's accession to international human rights treaties and conventions submitted (2010: 0; 2014: 5).

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| <p>5. Referral system for the High Commission for Human Rights in line with International Human Rights Standards is functional (2010: No, 2014 : Yes).</p> <p>6. Review of security sector conducted and presented to the GOI (2010: no; 2014: yes).</p> <p>7. Database of small arms and light weapons created and managed (2010: no; 2014: yes).</p> |
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This Outcome is in line with the larger priorities of the UN and UNDP in Iraq. It is responsive to three of the six key issues identified by the 2009 Common Country Assessment (CCA), namely: (i) strengthening legitimacy, accountability and responsiveness of the state; (ii) realisation of human rights and justice through rule of law; and (vi) investing in human capital (especially women and future human capital through youth and children).<sup>1</sup> The CCA, in turn, formed the basis for the UN Development Assistance Framework for Iraq (UNDAF), which was developed to align with the national priorities of the GoI, and in particular with the terms of Iraq's NDP 2010-2014.<sup>2</sup>

CPAP Outcome 2 is also directly responsive to two key priorities of UNDAF: Priority 1: Improved governance, including the protection of human rights, and Priority 4: Investment in human capital and empowerment of women, youth and children.<sup>3</sup> The UNDAF aims to be directly responsive to the most critical needs of the Iraqi people, as determined by the CCA and the GoI. As the leader of two of the five UNDAF Priority Working Groups—and in particular as the leader of the Governance and Human Rights working group—UNDP and its efforts under CPAP Outcome 2 represent critical support to the rule of law and human rights efforts of the GoI and the international community in Iraq.<sup>4</sup>

More recently, and for purposes of this Evaluation, the UNDP Iraq Country Office has grouped its justice and rule of law projects and outputs under several “sub-clusters”, as follows:

Cluster 1: Rule of Law

Cluster 2. Human Rights and Access to Justice; and

Cluster 3: CRP – Mine Action (Security Sector Reform).

These sub-clusters roughly correspond to the CPAP Outcome 2 outputs described above. Operationally, there is in fact a single sub-cluster for Rule of Law, Justice and Human Rights within the Governance Unit, with two project managers; one dealing with Human Rights and Access to Justice and the other dealing with Justice (Rule of Law) and Security Sector Reform (SSR) and Small Arms Light Weapons (SALW). Formerly, UNDP's Mine Action Unit covered SALW.

Yet, it must be observed that while the CPAP document devotes several pages to discussing UNDP's objectives for rule of law, access to justice, human rights and security sector reform in Iraq, to date, UNDP has not developed a more expansive and detailed rule of law *programme document* articulating how each of UNDP's disparate projects were to feed-up into the CPAP and its outcomes. Thus, the UNDP Rule of Law “programme” has remained largely a collection of individual projects situated within the above mentioned sub-clusters.

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<sup>1</sup> UNDAF 15.

<sup>2</sup> UNDP RoL Draft Strategy at 1.

<sup>3</sup> UNDAF 15.

<sup>4</sup> UNDP RoL Draft Strategy at 2.

The CPAP called for an outcome evaluation towards the end of 2012 for Outcome 2 under its framework. Many of the projects that fall under Outcome 2 were only recently completed or are on-going. The Evaluation focuses on generating observations and suggestions regarding ways to refine future efforts so as to make the greatest possible impact within the difficult context of contemporary Iraq. As the Terms of Reference for the Evaluation note, it is early to accurately assess any *final* impact on system-wide judicial and institutional capacity, since these kinds of systemic changes in Iraq will require sustained efforts over rather long periods.<sup>5</sup> In compliance with its Terms of Reference, the Evaluation conducted the following analysis:

*Outcome analysis* – Evaluate the progress that has been made towards the achievement of the outcome in Iraq since 2009 (including contributing factors and constraints);

*Output analysis* - Determine contributing factors and impediments and extent of the UNDP contribution to the achievement of the outcomes through related project outputs (including an analysis of both project activities and soft-assistance activities<sup>6</sup>);

*Output-outcome link* - Assess the contribution UNDP has made/is making to the progress towards the achievement of the outcome; and

Assess *partnership strategy* in relation to outcome.

The Evaluation also seeks to:

Identify strengths and weaknesses in the current Programme/Projects in respect of the stated outcome.

Extract lessons and best practices for futures interventions

Propose better ways of coordinating donor interventions in the sector

Identify priority areas of focus for future programming.

## Methodology

The Independent Consultant has used both *meta* evaluation and *direct* evaluation techniques, and the data collection based on the methodology discussed below.

The Lead Evaluator reviewed the key documents provided by UNDP, and, where appropriate, documents prepared by third parties. These documents included programme and project documentation, progress reports and evaluations, project summaries, and perception surveys and reports. Meta-analysis was employed extensively for this Evaluation as indicated by the numerous references to these documents. Especially helpful was a 2012 Evaluation of the UNDP “Support to the Rule of Law and Justice Project” that detailed impact (2007) 2008-2011 across most outputs of Programme Output 1. A complete list of the documents reviewed for the preparation of this Inception Report appears in Annex B.

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<sup>5</sup> Appendix A, Terms of Reference, at 1.

<sup>6</sup> For UNDP, soft assistance activities include advocacy, policy advice/dialogue, and facilitation/brokerage of information and partnerships.

Two National Consultants were engaged to assist the Lead Evaluator in obtaining information from Iraqi stakeholders who were beyond the reach of the Lead Evaluator due to security restrictions. A special workplan was developed for the National Consultants in order to align their field work and analysis with those of the Lead Consultant and, where necessary, to fill in any gaps. The first National Consultant (a former Deputy Minister of Education with extensive experience supporting U.N. evaluations) conducted supplementary field meetings and effectively extended the reach of the Evaluation into remote areas of Iraq that were “off-limits” to the Lead Consultant due to security concerns. The second National Consultant (a retired former Senior Iraqi Judge) prepared an in-depth review of judiciaries, courts and human rights frameworks at the Iraq federal and KRG levels respectfully. This enabled the Lead Consultant to identify gaps in UNDP support to date in Rule of Law, Access to Justice and Human Rights, as well as potential entry points for new programming going forward.

Due to the limited mobility and “remote access” that UNDP experiences in Iraq, the Evaluator was heavily reliant upon UNDP to pre-clear all meetings in advance both in terms of protocol and also with UNDP DSS. A total of three separate missions were undertaken to Iraq in order to maximize coverage. Field visits were undertaken by the Lead Evaluator in Baghdad, Erbil, Dohuk and Suleymaniyah with supplemental field visits undertaken by the first National Consultant in Baghdad and Basra. The field visits included interviews and face-to-face consultations with representatives from a broad range of stakeholders and beneficiaries, according to the schedule listed in Annex C. In all a total over 150 separate individuals were interviewed.

Efforts were made to triangulate information obtained from all sources via reference to data or via comparison of various informant statements. Cross-cutting issues such as gender and support to civil society run across all outcomes of the programme. The Evaluation Team thus included questions devoted to these issues in all of its meetings with stakeholders. The Evaluation utilized stakeholder questionnaires in some instances. Indicative sets of questions appear in Annex A of this Evaluation report.

Key deliverables of the Evaluation included the drafting of an Inception Report, a mid-term debriefing for UNDP/UN and key partners, a Draft Evaluation Report and a Final Evaluation Report. Stakeholder Workshops were held in Baghdad and Erbil in early-September 2013 to present the findings of the Evaluation Report and its Findings, Conclusions and Recommendations. Of note, this was the first time in the history of UNDP’s engagement in Iraq that this type of workshop had been held in conjunction with a UNDP evaluation. As such, this Evaluation is groundbreaking.

The Evaluation provides an opportunity for UNDP to highlight its successes to date in achieving system-wide change in the rule of law and human sectors in Iraq and an opportunity to examine what elements of projects under CPAP Outcome 2 have been effective to date and what elements have not met expectations. The Evaluation should be viewed as an opportunity to have a constructively critical conversation about UNDP’s programming with regards to rule of law and human rights, and how that programming can be strategically structured between now and the end of the CPAP timeframe in 2014.

Per the request of UNDP, the Evaluator developed a qualitative assessment of UNDP Effectiveness and Results and Sustainability Risk. These are inserted at various points in the Evaluation Report as a “quick guide” to Impact Across the Three Programmatic Outputs of CPAP Outcome 2. Under this system, the

optimal scenario is one where UNDP achieved a HIGH level of overall Results and Effectiveness coupled with a LOW overall Sustainability Risk.

<b>Results and Effectiveness</b>	<b>HIGH</b>	<b>MEDIUM</b>	<b>LOW</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	<b>LOW</b>	<b>MEDIUM</b>	<b>HIGH</b>	N/A (No targeted UNDP programming)

These qualitative designations are defined as follows:

<b>Results and Effectiveness</b>	
<b>HIGH</b>	UNDP achieved all or most of its intended outputs within the programming period with a high level of political endorsement and national ownership that met or exceeded expectations; and in a manner that is perceived by the majority of stakeholders to have significantly advanced the overall Outcome.
<b>MEDIUM</b>	UNDP achieved many of its intended outputs within the programming period, but did not achieve as high a level of political endorsement or national ownership as expected or its performance was subject to criticism by stakeholders; but where the majority of stakeholders nonetheless perceive that UNDP has made progress in advancing the overall Outcome and laid a significant foundation for future programming.
<b>LOW</b>	UNDP achieved very few or none of its intended outputs, or despite achieving some outputs, failed to obtain the political endorsement and national ownership of the outputs or where UNDP's national counterparts ultimately rejected project deliverables; and where Stakeholders perceive that only minimal or no progress towards the overall Outcome was achieved and/or that only a minimal foundation for future programming was established.
<b>N/A</b>	UNDP has not targeted the beneficiary directly during the programming period or has had only minimal/tangential programming with the beneficiary.
<b>Sustainability Risk</b>	
<b>LOW</b>	UNDP established a clear exit strategy and achieved a high degree of national ownership over the initiative fully transitioning to national co-financing/funding and/or further development. There are no or only minor perceived threats to sustainability.
<b>MEDIUM</b>	UNDP established an exit strategy that was limited or not clearly articulated or vague in its details, but there is, nonetheless, a moderate to high degree of national ownership and political will and/or co-financing/funding and/or plans for further development. There are a limited number of threats to sustainability that can be clearly mitigated by UNDP and its partners.
<b>HIGH</b>	UNDP established a vague exit strategy or no exit strategy and/or there is a lack of political will or national ownership over the initiative and/or UNDP's national counterparts have already failed to fulfil their agreed roles in sustaining the initiative. There are various threats to sustainability that may not be able to be clearly mitigated by UNDP and its partners or that may exceed UNDP's mandate as a development agency, requiring a decision at the political level.
<b>N/A</b>	UNDP has not targeted the beneficiary directly during the programming period or has had only minimal/tangential programming with the beneficiary.

## Limitations and Opportunities

Assessing the impact of programming with any certainty within the extremely challenging security situation in Iraq is a difficult exercise. Limitations on movement, dialogue, and resources mean that UNDP and its partners (whether GoI or CSO) are challenged by a lack of concrete, empirical data against which to measure the impact of the relevant projects to date. The same is true of baseline data. The lack of access between UN experts and the Iraqi institutions and populations they seek to assist, while understandable, continues to be a serious barrier to both impact and evaluation throughout Iraq. The timing of the Evaluation was also significant: as noted below, many projects are on-going or implementation has just begun. As a result, the Evaluation was unable to measure *results* under all sub-outputs of the programme to equal degrees.

Due to the security situation in Iraq and the posture of “remote access”, the Evaluation’s fieldwork could not be as robust as desired. The same level of information and data was not consistently available for all clusters and each and every project’s outputs. The Evaluation, therefore, at times found “gaps” in its knowledge relating to output, output-outcome linkages and partnerships.

Yet, the biggest limitation to the Evaluation was one that characterizes UNDP’s entire approach to rule of law, access to justice and human rights in Iraq; namely, the fact that there was no overarching UNDP strategy for its rule of law programming to expand upon the language contained in the CPAP document or a detailed overall workplan. UNDP’s rule of law and human rights programme has to date consisted of highly “siloes” projects implemented with minimal regard to one another or to how the projects fit into a larger strategy for rule of law, justice and human rights in Iraq. This also complicates the task of pinpointing links between UNDP’s project outputs and the overall CPAP Outcome.

The Evaluation Report makes a number of Conclusions and Recommendations. Normally, an Evaluation of this scope would be in a better position to prioritize its recommendations; however, several factors exist that make prioritization at this stage difficult. These include the fact that the relatively short duration of the Evaluation mission combined with the “remote access” security posture has limited the Evaluation’s opportunities for discussing the Recommendations with senior Iraqi officials. Secondly, the extensive analysis of the Iraqi justice sector undertaken as part of the Evaluation that identified many areas of need, many of which are equally urgent.

The UNDP Governance Unit is expected to further prioritize the Evaluation’s recommendations based upon further meetings with Iraqi counterparts over the course of the next year; with the possible participation of UNDP BCPR and international experts in conjunction with drafting of a new UNDP Rule of Law Programme for Iraq. In fact, as discussed in more detail below, UNDP had already begun to solicit the opinion of the HJC in regard to its own priorities as the Evaluation was ending and a high level meeting was held between UNDP and HJC in Amman in July 2013 where the HJC expressed some of its priorities for rule of law in Iraq. Stakeholder meetings held as part of the Evaluation in Baghdad and Erbil in September 2013 further contributed to this process.



## Background and Situational Analysis

Iraq has long been, and remains, one of the most difficult places on Earth to establish rule of law and human rights. UNDP's efforts to enhance rule of law and human rights Iraq must be planned—and evaluated—against a backdrop of insecurity, violence, instability and years of corruption and institutional decay. Since at least 1991, the ability of the Iraqi state to exert authority has been significantly curtailed by the cumulative effects of authoritarianism, conflict, and instability.<sup>7</sup>

As this Evaluation was being conducted in the Spring of 2013, sectarian violence between Sunnis and Shias continued to intensify in Iraq with Iraqi Army raids on Sunni camps, retaliation against GoI forces and waves of bombings across the country in which scores of persons were killed and hundreds injured. According to figures collected by UNAMI, approximately 2,900 civilians were killed and 8,000 were wounded in 2012. Tensions were increasing in the Sunni-dominated Anbar Province related to the unfulfilled demands of the “Anbar Awakening”<sup>8</sup>, but the GoI had passed a draft amendment to the de-Ba’athification legislation, thereby granting members of the former regime pensions and access to employment. Overall, the sectarian conflict was intensifying largely as a result of a continuing sense of disenfranchisement felt by Sunni Arabs.

Long anticipated provincial elections held in early-April 2013 apparently failed to ease tensions between Sunni protestors and the central government or result in a greater sense of enfranchisement among the population. Indeed it was forecast that over the 18 month period between February 2013 to September 2014 a total of five electoral contests would be scheduled in Iraq—all burdened with political tensions and the possibility of extreme violence. Provincial elections in Anbar and Minewa governates were postponed until mid-July 2013. Meanwhile, the war in Syria continued to burden all countries in the region, with KRG having already accepted over 140,000 refugees as of May 2013. There was a surge of Syrian-Kurdish refugees into KRG during mid-August 2013.

As a result of the continued instability in the country and structural weaknesses within GoI, Iraq's key justice providers have been unable to deliver basic rule of law functions. The institutions are understaffed, inadequately supplied, and suffer from a lack of technical expertise and knowledge.<sup>9</sup> Judges and other professionals in the justice system have been routinely threatened and the subject of targeted killings.<sup>10</sup> During the time period of this Evaluation, the Ministry of Justice, Ministry of Interior and the Communications Ministry were attacked by *Al Queda* affiliates on the morning of March 14<sup>th</sup>, 2013. In mid-July of 2013, *Al Queda* in Iraq carried out bold assaults on two prisons at Abu Ghraib and Taji that freed hundreds of militants. These attacks underscored the worsening conditions in Iraq and

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<sup>7</sup> UNDAF at 17.

<sup>8</sup> The “Anbar Awakening” that began in Iraq's Anbar province in the fall of 2006, ultimately led to a series of citizen protests that were hailed by many as the equivalent of an Iraqi “Arab Spring”. The movement was unprecedented in Iraq, culminating in a series of demands being issued by protestors that concerned principally three laws: The Accountability and Justice Law; the Amnesty Law and the Anti-Terrorist Law that the Sunnis believed are unfairly applied and/or interpreted. Demands were made for reform of these laws. Other issues raised by the Anbar protest movement included ethnic imbalance within Iraq's security services, abuse of the laws and a general lack of inclusiveness on the part of Iraq's current administration. These demands touch upon human rights, transparency and access to justice.

<sup>9</sup> *Id.*

<sup>10</sup> RoL & Justice Programme Document at 6.

demonstrated that *Al Qaeda* affiliates continue to have the capability to carry out attacks upon even the most secure of rule of law institutions and promote an overall sense of insecurity among ordinary Iraqis.

Public confidence in judges and the courts to render impartial decisions and in the police to secure basic human safety has fallen accordingly. Vulnerable groups, including women, children and minorities, have been disproportionately harmed by the inability of the government to provide basic justice in line with international human rights standards.<sup>11</sup> Currently, Iraq continues to be plagued by a host of Rule of Law issues, particularly as pertains to its criminal justice system. These include an out-dated criminal code and issues surrounding application of the death penalty, use of confessions, circumstances and procedures surrounding detention and incarceration. There remains a general lack of access to justice for ordinary citizens and the Judiciary is subject to political capture. Deficits also exist in Iraq's legislative process.

As in other post-conflict societies where access to, and confidence in, formal justice mechanisms is limited, many Iraqis turn to traditional justice mechanisms—and while in theory these may play an important role in facilitating reconciliation, in Iraq they are often out of step with international and national human rights standards.<sup>12</sup> In surveys, respondents indicated that they avoided the formal justice system because of police intimidation, delays, lack of police effectiveness, bias and corruption, and a lack of confidence that the verdict would be enforced. Respondents living in poverty were particularly critical of the effectiveness and fairness of the formal justice sector.<sup>13</sup>

Social and political developments have created independent, if interrelated, challenges. The *Saddamiyya* regime of Iraq's fallen Ba'athists strongly encouraged politicization of the judiciary and law enforcement, while strictly excluding civil society from the public dialogue on justice and rights.<sup>14</sup> Today's government, while more committed to an independent judiciary, human rights, and open government, must nevertheless deal with the entrenched legacy of those years and an on-going security crisis that is often at odds with those goals.

According to reports of UNAMI, the US Department of State and INGOs such as Human Rights Watch and Amnesty International, Iraq is faced with an entire catalogue of on-going human rights abuses. These include allegations of denial of the right of fair trial, detention without due process, extrajudicial killings, torture, exploitation of juveniles and denial of rights of equality for women, SGBV and FGM. According to the U.S. Department of State's 2013 Trafficking in Persons (TIP) Report, Iraq remains a both a source and destination country for TIP. Women and girls are subject to sex and labour trafficking within Iraq and in Syria, Lebanon, Jordan, Kuwait, UAE, Turkey, Iran, Yemen and Saudi Arabia. Iraq is a destination country for a number of countries and regions—particularly from those in South and S.E. Asia.

Weak implementation of international human rights treaties and domestic legislation, coupled with pervasive cultural and social norms, severely limits the ability of women and other vulnerable groups to

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<sup>11</sup> UNDAF at 17.

<sup>12</sup> *Id.* One survey noted that while more than one-half of Iraqis would prefer to use the formal justice system, over one-third would rather use an informal dispute mechanism. RoL & Justice Final Report at 31.

<sup>13</sup> Promoting Access to Justice and Legal Aid Project Document at 2-3.

<sup>14</sup> UNDP RoL Draft Strategy at 7.

participate in public life and enjoy their human rights.<sup>15</sup> Women, girls and youth in general are particularly at risk. Nearly 25 percent of girls who marry in Iraq and KRG do so before age 18; while approximately 6 percent of all marriages include some extent of polygamy. Meanwhile, the prevalence of FGM is high in Iraq (8.1%), but especially so in KRG (42.8 percent).<sup>16</sup> A high percentage of the married women in Iraq aged 15-54 who reported an incidence of domestic violence, stated that they had been beaten by their husbands when they had left their house without his permission or disobeyed his orders; while in other cases nearly 70 percent of the women reporting an incidence of domestic abuse stated that their husbands had prevented them from visiting their relatives. Most VAW occurs in the home, but women are also subjected to VAW in crimes committed against them outside of the home. Women are often deprived by their husbands of the right to visit a health clinic alone--especially in less developed areas such as Anbar.<sup>17</sup>

Domestic polarization—among political parties, religious denominations, and regional factions—has significantly hampered political progress.<sup>18</sup> Regional instability has also recently impacted upon Iraq—especially KRG—including the fall-out from the neighbouring Syrian crises. As of 2013 more than 140,000 Syrian refugees were present in KRG; with less than half of these residents in U.N. refugee camps. This has begun to strain social services and the legal system in KRG and cited by leading human rights CSOs as the cause of a number of issues such as an increase in crime rates and TIP. The recent influx of Syrian refugees is also shifting local labour markets and economies of scale, as young, educated Syrians flood local labour pools willing to work for much lower wages than their Iraqi counterparts. Meanwhile, Iraq's large population of Internally Displaced Persons (IDPs) is particularly vulnerable to sex trafficking and TIP.

As domestic and international audiences understand, the stakes are extremely high: Iraq's inability to establish good governance and rule of law is exacerbating economic, social, and political grievances of the kind that can encourage terrorist and sectarian violence.<sup>19</sup> But the news is not all bad, and there are some promising trends. Despite sporadic (and recent) outbursts of violence, overall levels of violence are falling across Iraq.<sup>20</sup> As detailed below, the Government is making concerted efforts to improve the judicial infrastructure, and has incorporated rights-related initiatives into its long-term plans, at least to some degree.<sup>21</sup> And, despite the unstable security situation and logistical challenges, UNDP Iraq is making efforts to relocate its Senior management and programme staff from Amman, Jordan to Iraq.<sup>22</sup> The next several years present a critical opportunity to make UNDP's programming for Rule of Law, Access to Justice, Human Rights and Security Sector Reform more strategic, capitalizing on UNDP's

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<sup>15</sup> NDP 2010-2014 at 134; UNDAF at 17.

<sup>16</sup> See, "Multiple Indicator Cluster Survey" (2011)(MICS4)(Iraq Central Statistics Office; Kurdistan Regional Statistics Office and UNICEF)(September 2012); and "Iraq Women Integrated Social and Health Survey" (I-WISH)(Ministry of Planning and Central Statistics Office)(March 2012).

<sup>17</sup> I-WISH (2012)

<sup>18</sup> UNDP RoL Draft Strategy at 5-6.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> *Id.* at 6. Note, however, the uptick in violence since the start of 2012, which may or may not be indicative of a longer-term trend. SALW Project Document at 2.

<sup>21</sup> See, e.g., NDP 2010-2014 at 134.

<sup>22</sup> UNDP RoL Draft Strategy at 2 (42% of UNDP staff are currently based in Iraq, and UNDP is scheduled to close down its Amman Office by the end of 2013).

comparative strengths and synergies across the UNCT and re-focusing upon UNDP's core constituency (i.e. women, youth, persons with disabilities and other vulnerable groups).

### *Overview of the Iraqi Legal and Judicial System*

Iraq is endowed with a constitutional and legislative framework that provides a strong starting point for enhanced rule of law and respect for human rights. A Constitution was drafted and ratified in 2005 with UN support. From a strictly textual standpoint, the current Constitution is well-crafted, and contains a rich catalogue of rights in line with international standards, including those that pertain to judicial procedures,<sup>23</sup> law enforcement,<sup>24</sup> and detention.<sup>25</sup> In language that sets it apart from the constitutions of many other UN Member States, the Iraqi Constitution even explicitly enshrines rights for women, children and the family.<sup>26</sup>

The Iraqi Constitution specifically provides for open trial, equitable treatment and prevention of retroactive effect of penal codes, right to legal counsel in cases where a defendant cannot afford an attorney, prevention of detainment of persons without a judicial hearing, prohibition of detainment in places other than designated ones, the right to participate in public affairs and to enjoy political rights and asylum. The Constitution also provides for economic, social and cultural rights.

Iraq is party to a number of core international human rights agreements, including international obligations regarding civil and political rights; economic, social, and cultural rights; women's rights; and the rights of other vulnerable groups and workers.<sup>27</sup> And in recent years, the GoI and KRG have passed legislation that directly addresses pressing rule of law and human rights needs of Iraqi society such as protecting victims of domestic violence and legislation to establish key human rights institutions.

The Constitution enshrines the concept of an independent judiciary<sup>28</sup> and establishes the judicial institutions including the **Supreme Judicial Council (Higher Judicial Council)**, which is chaired by the Chief Justice of the Supreme Court (a cabinet-level minister), is an independent organ with responsibility for maintaining the quality, independence, and administration and management of all the major justice institutions and supervises the federal courts.

In the more detailed planning documents for the agencies there is a marked emphasis on structure over standards. The objectives of the two most recent Five-Year Plans of the HJC place a very clear emphasis on *technical* development over *normative* development.<sup>29</sup> To be fair, there may be some very good

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<sup>23</sup> Constitution Art. 19 (right to a hearing, right to public trial) and Arts. 19, 87, and 88 (judicial independence).

<sup>24</sup> Constitution Art. 37 (prohibition on utilizing confessions obtained under torture).

<sup>25</sup> Constitution Art. 19 (no unlawful detention) and Art. 37 (no detention without judicial order).

<sup>26</sup> Constitution Art. 29(4) (prohibition on all forms of violence and abuse in the family, schools, and society) and Art. 30 (the right of women and children to live a 'free and decent life').

<sup>27</sup> The relevant agreements that Iraq is party to include the International Covenant on Civil and Political Rights (1976); the International Covenant on Economic, Social and Cultural Rights (1976); the International Convention on the Eliminations of All Forms of Racial Discrimination (1970); the Convention on the Elimination of Discrimination Against Women (1986); the Convention on the Rights of the Child (1994) and its Optional Protocols (2007); the Convention on the Protection of the Rights and Dignity of Persons with Disabilities (2006); and the Core Conventions of the ILO (C29, C98, C100, C111, C138, and C182).

<sup>28</sup> Constitution Art. 88 and 89, et. seq.

<sup>29</sup> HJC Five-Year Plan 2009-2013 at 9, 29; HJC Five-Year Plan 2012-2016 at 4. The seven main priorities of the 2009-2013 Plan, which are echoed in the more recent document, are as follows: (i) build institutional capacity of the HJC; (ii) promote public confidence in the judiciary; (iii) establish a judiciary that works for the public interest; (iv) develop human resources; (v) introduce

reasons for this: most obviously, a judicial system that has no effectiveness of any kind would be, *ipso facto*, a judicial system that cannot enforce international standards. And, as the HJC itself has recognized, one of the greatest threats to the emerging judicial regime comes from the instability of the new organization's and the dearth of training opportunities of the professionals who staff them.<sup>30</sup> Moreover, legislative deadlock has left key legislation pertaining to justice in limbo, making it difficult to determine who is responsible for enforcing international norms, and how.<sup>31</sup>

Moreover, the HJC has identified at least some activities that would support human rights in Iraq. Significantly, HJC planning documents have called for a review of the prosecution function, in order to enhance its ability to protect the rights of society and involve it in the corrections process. The HJC has also identified a need to process cases within set time limits, and to create a mechanism to ensure that detainees' cases are processed in a timely manner.<sup>32</sup>

The Constitution provides for a **High Federal Court** (Supreme Court), **The Court of Appeal**; the **Federal Cassation Court**, **Ordinary Civil Courts** (Court of First Instance; Court of Family Cases; Personal Status Courts); **Ordinary Criminal Courts** (Courts of Investigation/Inquiry; Courts of Misdemeanours; Criminal Courts; Juvenile Courts; the Central Criminal Court); **Mixed Courts** (having both penal and civil jurisdiction) such as the Court of Labour and Court of Customs; the **Administrative Causes Court** (based within the Shura Council at the MoJ); **The Public Discipline Court**; and the **Military Courts**. In addition, the Constitution permits **specialized administrative courts** to be formed within certain Ministries.

A **Judicial Supervisory Board** oversees judicial ethics and discipline, but is in fact only a small subsidiary unit within the HJC and imposes discipline directly from the Chairman of the HJC in a highly centralized manner. The **Federal Judicial Institute (Judicial Training Institute)(JTI)** is a statutory body under the MoJ charged with the duty to train judicial and prosecutorial candidates to hold office; qualify certain employees of the MoJ to occupy their positions; and upgrade the capacity of personnel in the legal departments of state institutions. The **Institute of Judicial Development (JDI)** carries out the continuing training and education of judges and court staff. It is an administrative entity reporting directly to the HJC.

Other key elements of the Iraqi Legal System at the Federal level include the following:

The **Ministry of Justice**, which is responsible for administration of the **Federal Public Prosecution**, judicial and prosecutorial training, publishing the Gazette of laws and proclamations, and, critically, prisons;

The **Shura Council**, which is comparable with the *Conseil D'Etat* in France, is a part of the Ministry of Justice and is responsible for the vetting of draft legislation to ensure constitutionality and avoid contradictions with the Iraqi legal system prior to the legislation being passed to the Council of Representatives.

The **Ministry of the Interior**, which is responsible for internal security and law enforcement through the *Iraqi Police Service*, the *Federal Police*, the *Border Enforcement Police*, and the *Facilities Protection Service*;

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advanced technology to manage judicial work; (vi) develop the infrastructure of courts in all federal appellate jurisdictions; and (vii) develop legislation and laws.

<sup>30</sup> HJC Five-Year Plan 2009-2013 at 29.

<sup>31</sup> UNDP RoL Draft Strategy at 5. For example, one such piece of pending legislation includes a law on the composition, selection and work of the Federal Supreme Court.

<sup>32</sup> HJC Five-Year Plan 2012-2016 at 11.

The **Ministry of Labour and Social Affairs** and the **Ministry of Women**, which work to ensure compliance with international human rights obligations regarding women and children, establishing institutions for family protection systems and address the needs of victims of domestic and gender based violence.

The **Iraqi Bar Association**, which is a statutory body that is charged with setting standards of professional conduct for the legal profession. The **Disciplinary Committee** of the Bar Association exists to discipline lawyers in the form of either admonition (warning) or suspension from the practice of law. The Bar Association also has certain statutory obligations to assist the Iraqi Judiciary in the provision of legal representation to indigent criminal defendants, as well as having its own programmes to provide legal counselling to lower income individuals.

The Ministry of Justice, HJC and the MoI are central institutions regarding issues of **Security Sector Reform** and in delivering human safety to citizens in Iraq.

**KRG** has a separate KRG MoJ established in 1992 and reinforced in 1997, that has a *Judicial Supervisory Board*, *Public Prosecution Agency*, *Real Property Registration Directorate*, as well as various other departments such as *enforcement directorates*, *notary public departments* and *publications departments* (i.e. KRG MoJ *Official Gazette*). The **KRG Shura Council** is part of the KRG MoJ and exercises jurisdiction over administration and public employees with a specialised **KRG Administrative Causes Court** that conducts trials on the validity of administrative orders, indemnifies citizens harmed by wrongful administrative decisions and resolves disputes on local elections among its other duties that include ruling on nationality cases. The *KRG Shura Council* also contains a **KRG Discipline Commission** that deals with grievances of state employees and members of the civil service.

**KRG Higher Judicial Authority** (HJC KRG), established by the Kurdistan Judiciary Law No. 23 of 2007 that is fully independent from the federal MoJ. But, the **KRG Prosecution Agency** remains under the authority of the **KRG MoJ** as of 2013. Judicial candidates and prosecutors in KRG are trained by the **Kurdistan Judicial Institute**, which has recently enrolled its first class for 2012-2014, due to graduate in mid-2014 with 44 students, including 12 females. Meanwhile, there is a single **KRG Court of Cassation** headquartered in Erbil with **other civil and criminal first instance courts** in major cities in KRG such as Dohuk and Suleymaniyah.

In regard to **Criminal Justice and Corrections**, the entire Federal Prisons Administration was transferred from the Ministry of Labour to the MoJ per CA order No. 10 of 2003, however, the GoI subsequently issued an order (No. 8 of 2005) that returned juvenile reform to the MoLSA. Conditions of confinement in Iraq are governed by CA order No. 3 of 2003. These provisions, if actually implemented, would be in conformity with international best practices as well as Iraq's international human rights obligations. Yet, prisoners and detainees continue to be housed in overcrowded prisons and cleanliness and health of confined persons suffers as a result.

According to the US DoS, UN and INGOs torture and the extraction of confessions by duress and coercion remain widespread in Iraq. Judges often inadvertently perpetuate these illicit practices by routinely adopting confessions obtained by duress and torture. The perpetrators of such abuse largely evade detection and operate with impunity as a result of the seclusion and isolation of prison facilities. GoI has prevented the human rights committees in Iraq from entering some prisons. According to its 2010 report on human rights, UNAMI has also been prevented from gaining access to prisons.

Various **Criminal Investigative Authorities** include the Judicial Investigation Offices under the supervision of the HJC; the Family Protection Units under the supervision of the MoI and in KRG the Women's Protection Directorates under the Directorate to End Violence Against Women (DEVAV). The **Judicial Investigation Offices** are staffed by Investigative Judges investigate crimes in accordance

with the Amended Penal Procedures Law No. 23 of 1971. The police under the authority of the MoI undertake investigations only in exceptional circumstances and then only under the supervision of a Judicial Investigation Office and judge. As of 2011, there were 29 such Judicial Investigation Offices in Iraq—excluding KRG. The policy behind the establishment of the JIOs is to promote separation between law enforcement and the investigation of the accused and to reduce the reliance upon the police for this purpose. Yet, the JIOs are criticised for their lack of transparency, lack of resources and training and their susceptibility to corruption. Meanwhile, the **Family Protection Units** are organized under the MoI and have responsibility for accepting complaints of violence within the family, investigating such incidences and the peaceful resolution of disputes. The number of FPU in Iraq-excluding KRG is 16. The **KRG Women’s Protection Directorates** fulfil similar functions.

The Constitution of 2005 and various statutes provide for **Right to Counsel and Legal Assistance** for indigent criminal defendants in Iraq.<sup>33</sup> While the laws of Iraq certainly require evaluation and improvement, the primary deficiency is not one of legislation—it is one of execution and implementation. Few courts, judicial institutions or other procedures work as they were designed to. The judicial and criminal justice sectors continue to face a number of challenges, including physical threats to the lives of judges and police, insufficient training for legal and administrative professionals, insufficient research capacities, and endemic abuses throughout the system, such as coercive interrogations and extensive trial delays.<sup>34</sup>

In practice, even the revised procedures for the secondment of advocates in criminal cases have not resulted in a viable legal aid system and are not applied as intended or adequately supervised. Indeed, lawyers often provide only the minimum level of representation necessary to collect fees; fail to appear for hearings and in some instances have even been known to request a court to apply higher penalties against their clients so that the lawyer can be entitled to additional fees. This is in direct contravention to the interests of their clients.

As a result of citizen mistrust of the formal justice system and the delays inherent within the system, many Iraqi citizens turn to tribal leaders and traditional justice. **Traditional Justice** thus occupies a prominent role in Iraq and the Constitution Article 45 specifically pertains to the duty of the GoI to upgrade the tribes and clans and to enhance their conformity with international human rights principals.

In an effort to foster greater accountability, responsiveness, and participation, national plans of the central Government have espoused moves towards decentralization and advocated putting more power in the hands of the provinces.<sup>35</sup> This can be expected to impact upon the Judiciary and other justice institutions going forward. The special situation of the Kurdistan Regional Government under the 2010 Erbil Power-Sharing Agreement deserves particular attention.<sup>36</sup>

Perhaps **Legal Education** and **Legal Media** offer the best hope for Iraq. Law schools prepare the next generation of lawyers. There are 30 recognized private universities in Iraq, and 23 of them include colleges of law. The total number of universities in Iraq is 50 public and private combined, and 41 of these include colleges of law. **Clinical legal education** is being increasingly seen as a vital part of the

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<sup>33</sup> There are two avenues available for the provision of free legal assistance: i) Judicial Legal Aid granted under the Legal Practice Law No. 173 of 1965; or ii) via court secondment of an advocate to represent the accused pursuant to Article 144 of the Amended Criminal Procedure Code (Law No. 23 of 1971). The Coalition Authority adopted an order in 2004 providing for secondment of an advocate in both criminal felonies and misdemeanours and instructing the HJC to establish revised fee schedules for lawyers providing legal aid. The HJC did this via HJC Resolution No. 10891 (2010).

<sup>34</sup> See HRW World Report 2013 and Section II.B.1, *infra*.

<sup>35</sup> NDP 2010-2014 at 178.

<sup>36</sup> UNDP RoL Draft Strategy at 5.

Iraqi law school curriculum. Meanwhile, the **media** is marginally capacitated to report on legal affairs and the courts. In addition, the **Iraqi Legal Database** provides a source of information to practitioners and the public alike.

### *Overview of Human Rights Institutions and Civil Society in Iraq*

A variety of institutions at the Federal level in Iraq have responsibility for guaranteeing human rights for Iraqi citizens, namely: **the Ministry of Human Rights; the Independent High Commission for Human Rights (IHCHR); the Human Rights Committee of the Parliament**; various human rights committees within individual ministries, provincial and district councils and civil society. At the sub-national level, the KRG passed legislation in 2010 creating a **KRG Human Rights Board** endowed with a similar mandate to the federal Human Rights Commission, namely to ensure the protection and enforcement of human rights and the rights and liberties provided for in the Iraqi Constitution of 2005 and applicable domestic legislation.

At the broadest level, Iraq's National Development Plan (NDP) establishes admirable goals that reflect the highest international standards and aspirations for human rights. For example, the NDP recognizes the need for, and desirability of, reforming legislation to give real-world effect to norms of gender equality, participation, and non-discrimination.<sup>37</sup> It acknowledges that continued marginalization of Iraqi youth increases the risk of delinquency, crime, and even terrorism.<sup>38</sup>

The Iraqi Council of Ministers has adopted a **National Plan for Human Rights** as a result of its decision No. 357 of 2011 (September 27, 2011) which proclaims the GoI's commitment to enhancing human rights in Iraq in-line with international standards. The National Plan also includes a review of the Iraq position on various international conventions and affirms the role of the National Human Rights Report Preparation Committee and the contribution of the U.N. to that process (i.e. **Universal Periodic Review**). The National Plan also contains a work plan with a number of outputs including conducting studies and analysis of human rights issues; training and outreach; enhancing the role of the IHCHR and Human Rights Committee of the Parliament, as well as enhancing the Bar Association and civil society and integrating human rights in educational curricula.

At the legislative level the National Plan contains a list of over 20 different laws related to criminal justice, access to justice, elections and human rights that need to be reformed in order to fully comply with Iraq's human rights commitments; including reforms to the Iraqi Penal Code of 1969 and the Amended Penal Procedures Code of 1971. The National Plan contemplates special legislative agendas to protect various classes of persons including amendment of the governates elections laws to promote a higher percentage of women serving in elected positions, development of a child law and enactment of a handicap law. Other issues are addressed such as preventing and combatting human trafficking and ensuring the rights of immigrants and IDPs.

Yet, Human Rights, as that concept is understood in the international community, is a very new concept in an Iraq emerging from decades of oppression, war, and occupation. Human rights efforts are often deprioritized as a result of domestic political and security developments. The difficulties plaguing past efforts to create a IHCHR are illustrative in this regard. The GoI passed a law calling for such a Commission in 2008, and in 2010, plans were made to enable UNDP to help establish, and then support, the new IHCHR. This support was prioritized because of the central role that such focal points can serve

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<sup>37</sup> NDP 2010-2014 at 136.

<sup>38</sup> *Id.* at 137.



in fostering a rights-based culture. However, the delay in formation of a new government following the March 2010 elections resulted in further delay in efforts to create the new IHCHR.<sup>39</sup>

While the KRG's record with regards to human rights and rule of law is not without reproach, the governates of KRG are among the most stable in the country in terms of violence levels.<sup>40</sup> KRG has been particularly effective in bringing its justice system in line with international standards, especially relative to the rest of Iraq. KRG has passed a number of laws and undertaken a number of legislative reforms to protect human rights. Some recent examples include the passage of the **KRG Law Against Domestic Violence** (Law No. 8 of 2011), which criminalizes acts of physical or psychological abuse perpetrated within the network of family relations to the fourth degree and criminalizes other acts such as forced marriage, marriage of minors, female genital mutilation, ritualized beatings, etc. The law also provides for the establishment of a special division of the police to deal with family violence and obligates DEVAW to follow-up with incidents of violence against women. The law also stipulates that the KRG Ministry of Health is to coordinate with the KRG Ministry of Labour and Social Affairs to ensure health care and rehabilitation of persons affected by family violence.

The creation of **NGOs and civil society organizations** is specifically guaranteed by the Constitution; however, both the GoI and KRG have recently passed legislation requiring NGOs to register with the government. NGOs are planning a vital role with regard to the development of legal assistance and legal empowerment schemes in Iraq, as well as monitoring prisons and places of detention and fulfilling a "watch dog" function over Government.

### *Overview of the Iraqi Security Sector*

Strengthening Good Governance and Improving Security was Pillar 4 of Iraq's National Development Strategy. As stated above, the Ministry of Justice, HJC and the MoI are central institutions regarding issues of **Security Sector Reform** (SSR) and in delivering human safety to citizens in Iraq, including the curtailment of proliferation of **Small Arms and Light Weapons** (SALW).

Other GoI agencies that play a role in SSR and SALW include the following:

- Ministry of Interior (Director General of Planning)
- Ministry of Defence (Director General of Policy and Requirements)
- Office of the National Security Advisor (Director of Political Affairs)
- Office of the National Security Advisor (Chief of Staff)
- Office of the National Security Advisor (Director General International Policies)
- Counterterrorism Bureau (Brigadier General)
- National Intelligence Service (General)
- State Ministry for National Security (Director General of Policy)
- Council of Representatives (MPs members of the Security Committee of the Parliament)
- University of Baghdad (Research Department)

The Office of the National Security Advisor (ONSA) of Iraq conducted its first Security Strategy in the period 2007-2010. Since then there have been dramatic changes in Iraq, mainly with the departure of the U.S. Military. The nature of national security threats changed, which prompted the GoI to embark on a

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<sup>39</sup> HCHR Capacity Building Project Document at 1.

<sup>40</sup> *Id.* at 6.

new National Security Strategy. Furthermore, the MoI and MoD recently made commitments to the implementation of **U.N. Sec. Council Resolution 1325** and developed a **National Plan of Action for the new National Security Strategy**. In 2007, the Ministry of Interior (MOI) established a **National Focal Point on Small Arms** in line with the UN Programme of Action on small arms. In 2008 a Demilitarization Committee dealing with SALW matters had been created.

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The above institutions and their performance and needs are discussed in more detail throughout this report.

## **Overview of UNDP Iraq Rule of Law, Access to Justice and Human Rights Programming**

UNDP has been present in Iraq for 35 years and until 2003, the UNDP Iraq Country Office would've operated much like any other office in a conflict/post-conflict environment. UNDP's posture in Iraq changed dramatically, however, as a result of the 2003 Canal Hotel Bombings that killed 22 U.N. personnel and forced a relocation of the office from Baghdad to Amman, Jordan. For most of the past decade UNDP has operated with very little presence on the ground in Iraq in what has been termed "remote access" approach to programming from the relative security of Amman.

It is important to note that even when UNDP staff have travelled to Baghdad, they have been largely restricted to operating from the "International Zone" ("Green Zone"), which is still a form of "remote access", but from within Iraq itself. Security threats have continued to persist in some form throughout the *entire* programming period.

During the time period 2004-2007 UNDP support was minimal, but UNDP did contribute to the drafting of Iraq's new Constitution in 2005 in close cooperation with UNAMI, UNOPS, UNESCO and UNIFEM; ensuring that the Constitution contained provisions for respect for human rights; gender equality and freedom of expression. UNDP also supported some early capacity development of the Iraqi judicial system and supported CSOs in Iraq. Thereafter, UNDP contributed to laying the groundwork for future engagement in rule of law and access to justice in partnership with UNAMI pursuant to U.N. Security Resolution 1770, passed on August 10, 2007, which reinforced the U.N.'s mandate in Iraq to promote the protection of human rights and judicial and legal reform in order to strengthen the rule of law in Iraq.

The first major joint UN multi-sectoral initiative was the decentralized Local Area Development Programme (LADP) that resulted in 15 district development plans in five governates that were responsive to people's needs. UNDP also participated in ten joint programmes including two large multi-sectoral initiatives: Private Sector Development and Public Sector Modernization. UNDP initiatives gradually shifted from hard infrastructure projects to upstream initiatives including capacity development and policy support to key rule of law institutions.

Apart from the few Iraqi Trust Fund supported rule of law capacity building projects during the time period 2007-2010 (discussed in more detail below), UNDP was challenged by its lack of access and its programme budgets were overwhelmed by security and staff costs during that time period. Beyond this,

until recently, UNDP was overshadowed and forced to work within the context of the U.S. Occupation of Iraq.

Preceding the CPAP period pre-2010, Iraqi courts, prisons, and law enforcement were largely unable to carry out their functions in a manner consistent with international standards pertaining to human rights and rule of law. Not surprisingly, there was significant mistrust among Iraq's most vulnerable citizens regarding the ability of the formal justice sector to protect their rights and effectively address crimes.<sup>41</sup> As recently as 2010, a survey of Iraqis in Baghdad, Basra, and Erbil indicated that approximately one-third of respondents preferred the informal justice system over formal processes.<sup>42</sup> Within the HJC itself, key justice providers acknowledged a significant need for training in line with international standards, as well as a major update to legislation, procedures, administration for the courts.<sup>43</sup> National and international stakeholders alike acknowledged the need for a particular effort to meet the needs of women, youth, and families.<sup>44</sup>

As 2010 approached, following the success of the U.S. surge in Iraq and a reduction in levels of violence, UNDP began to be able to operate more independently and began a transition to a more normal working environment with staff travelling to Iraq with more regularity and increasingly becoming based in Iraq. UNDP's relative role also increased with the departure of the American forces and gradual reduction of U.S. assistance. UNDP fielded nearly 300 missions into Iraq in 2009. A 2009 UNDP supported outcome Evaluation covering 47 projects from 3 portfolios made several recommendations that were incorporated into the CPAP 2011-2014<sup>45</sup>

While UNDP is in the process of transitioning fully to Iraq as of 2013, it remains challenged by lack of physical space in Baghdad to accommodate its staff. The time period 2012-2013 has also witnessed levels of sectarian violence in Iraq not seen in the past several years. UNDP continues to work within the security parameters of UNAMI, which hamper its abilities to expand programming and require it to maintain its offices and house international staff within the International (Green) Zone. But, there can be no doubt that having staff based in Iraq is deepening UNDP's impact.

As more fully described in the "Findings" section of this report, since 2010, UNDP has programmed in rule of law, administration of justice, legal aid, domestic violence/SGBV, anti-corruption, human rights

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<sup>41</sup> See Situational Analysis—Overall Context, above.

<sup>42</sup> Promoting Access to Justice and Legal Aid Project Document at 2.

<sup>43</sup> HJC Five-Year Plan 2009-2013 at 5.

<sup>44</sup> See, e.g., NDP 2010-2014 at 136, 139.

<sup>45</sup> UNDP's 2009 outcome level evaluation covering 47 projects from 3 portfolios provided some key lessons which were incorporated in the drafting of the CPAP, including: (i) UNDP should not put off capacity development in circumstances of crisis, and needs to effectively utilize synergies among institutions and development actors, including vulnerable groups, for consensus and ownership within all interventions in line with human rights and gender equality; (ii) Based on positive experiences in the Kurdistan Region, UNDP should expand government cost-sharing initiatives; (iii) As joint programmes take a long time to mobilize, preparatory projects can accelerate inception, and timelines should be realistic considering delivery challenges inside Iraq, and operational constraints for recruitment; (iv) Gender analysis has to be integrated into projects at the design stage with indicators and budgets identified; (v) UNDP needs to find the means for improved risk management and reporting of achievements that are difficult to quantify, such as capacity development and ownership; (vi) Policy work at the national and regional levels needs to be coupled with bottom-up pilot initiatives and linked to the work of other agencies; (vii) Monitoring and evaluation work through remote management requires competencies and reliance on specific institutions within the country, for which additional resources need to be allocated. These lessons were to be built upon during the implementation of the CPAP in 2011-14.

and security sector reform and proliferation of light weapons. UNDP's support in these areas has focused on the needs explicitly identified by the Iraqi judiciary, which include court management tools, improvement of court procedures, and training for judges, and improved access to legal research and other materials. It is important to note that UNDP had not previously focused on security-related interventions, given the traditional role of the international community in security in post-conflict contexts—a role that was filled by the US and MNF-I until recently.<sup>46</sup>

UNDP's support currently takes place with due regard for the Iraqi NDS and according to the CPAP, UNDAF, CCA and other strategic documents; and in close coordination with partners such as the EU, US Department of State INL, USAID, SIDA, Norway and UN Agencies (i.e. UNOPS, UNICEF and UNOHCHR) and the UNAMI Human Rights Office. UNDP's priority in contexts like Iraq's is to address insecurity through “conflict prevention and peace building measures including political dialogue; strengthening of governance; provision of livelihoods and basic rule of law, justice, and security.”<sup>47</sup> Iraq is one of 20 countries in the Global Programme of UNDP BCPR and has benefited from BCPR experience in the rule of law sector. The Results and Effectiveness of UNDP projects and initiatives that have formed the bulk of UNDP's support to Rule of Law, Access to Justice and Human Rights in Iraq are discussed below. A comprehensive list of these projects appears in Annex A of this report.

UNDP is currently working with the following partners in achieving development results in the area of access to justice and human rights protection:

- Higher Judicial Council (HJC);
- Kurdistan Judicial Council (KJC);
- Judicial Development Institute (JDI);
- Judicial Investigations Offices (JIOs);
- Ministry of Justice (MoJ);
- Ministry of Interior (MoI);
- Ministry of Labour and Social Affairs (MoLSA);
- Iraqi and KRG Bar Associations;
- Civil Society Organizations;
- Independent High Commission for Human Rights (IHCHR);
- KRG Board of Human Rights;
- Family Protection Units;
- Prisons; and
- Iraqi Security Sector and related agencies (for SALW and SSR)

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<sup>46</sup> *Id.* at 1.

<sup>47</sup> UNDP RoL Draft Strategy at 3.

## Evaluation Findings: Results and Effectiveness

### A. Detailed Analysis of Impact Across the Three Programmatic Outputs of CPAP Outcome 2

#### 1. *Output 1: Key national and local institutions strengthened to promote rule of law (including transitional justice) and administration of justice*

Results and Effectiveness	MEDIUM
Sustainability Risk	HIGH

Output 1 CPAP indicators and sub-indicators
<b>1. % of courts that have court administration harmonized to minimum international standards (2010:0%; 2014: 15%)</b> <b>2. A system to map the backlog of civil and criminal cases developed (2010: no; 2014: yes)</b> <b>3. % of registered cases with the family response units with legal proceedings initiated (2010: 0; 2014: 50%)</b>
% of men and women judicial officials better informed on law, courts administration and human rights in line with international standards (2010: 10%; 2014: 35%)
% of men and women law enforcement officials capable of handling cases of human rights (including Security Council Resolution 1820 (2008)) and GBV in line with international standards (including Security Council Resolution 1325 (2000)) (2010: 1%; 2014: 12%)
# of men and women penitentiary administrators capable of conducting capacity-building on human rights, GBV and administration in line with international standards (2010: 0; 2014: 40)
Number of family response units established under Ministry of Interior (2010: 2; 2014: 18)
Number of cases reviewed, investigated and processed by the family response units (2010: 0; 2014: 1000)
Number of men and women supported by legal-aid centres (2010: 1000; 2012: 2000)

#### *Overview of Relevant Projects for Output 1*

UNDP's early support to rule of law in Iraq and KRG during the time period 2003-2010 occurred within the context of "remote access" in the form of limited technical advice. The primary contribution of UNDP during this time was providing in-put and technical advisory services to the drafting of Iraq's Constitution in 2005. Although this pre-dated the CPAP period that is the subject of the current Evaluation, UNDP's support to the GoI in this regard was a crucial and direct impact that has continued to advance rule of law, access to justice and human rights in Iraq.

In 2007, UNDP embarked upon an EU funded project entitled, "Iraq Support to the Rule of Law and Justice Project". This project had a total budget of 18.3 million US Dollars for the time period 2008-2010,

with a “no cost” extension until end-2011. This overlapped with the CPAP period. UNDP and UNOPS were each assigned responsibility for outputs under the project. The project was the principal vehicle during this time period for UNDP’s support to rule of law, judicial capacity building and access to justice in Iraq. The goals of the project that involved UNDP included providing training to Judges, prosecutors and court staff, building the capacity of the Judicial Training Institute (JTI) and its curriculum, supporting the establishment of two pilot courts (Erbil and Basra) along with an electronic case management system and the establishment of legal aid help desks in Erbil and Basra. As discussed in more detail below, as of its conclusion at end-2011 the project had achieved only limited impact across these outputs. Both UNDP and UNOPS had outputs for legal aid initiatives under the project that were implemented completely separate from each other and in no way synergized or coordinated. [Note: In addition to the EU project, the Spanish funded a complimentary project with very similar and parallel objectives. The Spanish project was a \$5.9 million project (through the ITF)].

2010 marked a turning point for UNDP. With an improvement in the security situation in Iraq, UNDP began to enjoy an expanded level of access in Iraq with more frequent staff presence on the ground. During the time period 2010-2012, UNDP continued and expanded its focus on Judicial Capacity building. UNDP’s project “Reforming Judicial Training in Iraq” was designed to parallel US Government support to Iraq’s new Judicial Development Institute (JDI) in the form of the development and testing of a civil law curriculum for judges. The project duration was originally 01 January 2010 to December 2011, with a total budget of 404,040 USD funded by Germany. A ‘no cost’ extension was granted for an additional year of implementation through end-2012 with a change in the second outcome from testing the civil law curriculum to support the JDI in its institutional development and strategic planning.

During this same time period, UNDP embarked upon a major project in partnership with and funded by the US Department of State entitled, “INL-Strengthening the Administration of Justice in Iraq” designed as a two year project from September 2010 to September 2012, with a no cost extension until September 2013. The total budgeted and allocated funds are \$3,200,000 US Dollars. The project has aimed to strengthen the administrative and operational capacity of the Iraqi Judiciary, through the development of a twinning programme between the Iraqi Judiciary and the Dubai Judiciary; support to the newly established criminal “Judicial Investigative Offices; and support to the development of a pilot court complex in Baghdad (Rusafa) to develop and test systems and procedures.

More recently, in order to build upon earlier U.S. Department of State (INL) efforts to enhance justice sector management in Iraq, UNDP has embarked upon a “INL-Justice Data Management” project that is designed to support the timely and secure data management and exchange between justice institutions. The project spans two years 2012 to 2014 with a total allocation of 3,800,000 US Dollars. The project seeks to build a pilot system based on a thorough justice data integration strategy, which can be extended during an envisioned second phase by the GoI under an Inter Agency Working Group.

At the time of this Evaluation UNDP had just entered into new project with the Government of KRG, entitled, “Promoting Rule of Law in Kurdistan Region of Iraq through a Modern, Efficient and Accountable Justice Sector” to support justice institution capacity development and access to justice in KRG, with 6 million US Dollars in co-financing provided by KRG, supplemented by 600,00 US Dollars of TRAC funding. Alongside this project, UNDP has negotiated a MoU with the KRG Bar Association,

signed in April 2013 that will permit the KRG to assume operational responsibility for the UNDP supported legal aid scheme targeting poor and vulnerable populations in Suleymaniyah and Duhok, as well as promote the further institutionalization of legal aid in KRG. As of early-2013, UNDP was also in the process of reviewing a new Rule of Law Project document for a project entitled, “Promoting Access to Justice and Legal Aid in Iraq” envisioned to be a 5-year, 13 million US Dollar project.

Several other UNDP projects falling under CPAP Outcome 2, output 1 have sought to support to prisons, juvenile pre- and post-trial detention facilities, as well as support to law enforcement. These include the UNDP funded project “Strengthening the Capacity of the Government of Iraq to Reform and Manage Prisons and Juvenile Pre and Post Trial Detention Facilities in Line with International Standards” that was an off-shoot of the EU funded “Iraq Support to the Rule of Law and Justice Project” and which supported studies on the legal framework of Iraq’s prison system, actual conditions of detention and training needs against international standards. The project also included piloting of prison management procedures in Iraq and KRG. UNDP also aimed to support the Iraqi Police Service (IPS) in the Al Basra Governate to reach higher standards of efficiency and productivity in service delivery and improve confidence levels between citizens and police via the “Refined Architecture for the Al Basra Enforcement Project BLUE”, which had elements of Community Policing as part of its design.

The results and effectiveness of the above projects and other UNDP technical support is assessed by area of engagement below.

## Capacity Building of Judges and Prosecutors in Iraq and KRG

UNDP’s approach to capacity building of the judiciary, courts and prosecutors and court staff involved under the aforementioned projects involved support to the HJC, the Judicial Training Institute, Judicial Development Institute and, later, a series of “twinning” between the Iraqi Judiciary and Dubai Judiciary.

### *Trainings under the EU and Spanish funded projects*

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

After signing a project document for the EU funded project in 2007, UNDP identified two courts the “pilot” beneficiaries: i) the Erbil Investigative Court and ii) the Basra First Instance Court. After a period of significant delay in the start-up of the EU project, UNDP undertook extensive assessments at the two courts and strategic plans were discussed in 2010 with a range of stakeholders. At one point UNDP placed plans for the Basra pilot court on hold due to security reasons, but this later resumed. Meanwhile UNDP support to the Erbil pilot court continued during 2010 to 2012. While the EU funded project did not specify precisely what the model court should consist of in all its components, UNDP hoped that the various activities, trainings, IT systems and legal aid help desks would produce a “generic” system that could be applied to all courts and adapted as need be on a case-by-case basis. [Note: a third

“Pilot” court was later added to UNDP’s pilot court programme in 2010 with the U.S. State Department funded project “INL-Strengthening the Administration of Justice in Iraq” that has supported the development of a pilot court system in Baghdad (Rusafa)].

Trainings for judges, court staff, prosecutors and others were conducted under the EU funded project by the Arab Centre for the Rule of Law and Integrity (ACRLI) after a stock-taking exercise that had concluded that prior UNAMI and other international trainings of the Iraqi judiciary had failed to adequately tailor trainings to the needs of the Iraqi judiciary and the specific legal context of the country. Trainings included judges, staff and prosecutors from the Erbil and Basra pilot courts, plus additional judges, prosecutors and others nominated by the HJC and the KJC (Kurdistan Judicial Council). Courses included such topics as juvenile justice, international laws and standards, judicial ethics, human rights, gender, arbitration, SGBV, etc. A total of 445 participants benefited from ACRLI trainings during 2010 to March 2011.

In total UNDP helped to provide over 400 judges, investigators, and prosecutors with training on human-rights related issues in the Baghdad, Basra and Erbil model courts.<sup>48</sup> While there was evidence that the sessions were hastily planned and too short to cover important topics in depth, independent evaluators noted their success in other areas.<sup>49</sup> Sessions on gender and juvenile justice were particularly well-attended, and the training received high marks from participants overall.<sup>50</sup> UNDP and ACRLI also took measures to ensure a high degree of gender balance among participants.

One reason that results and effectiveness at the Outcome level are difficult to measure is that the indicators in the various project documents pertaining to the courts are limited. UNDP’s baselines and statistics have also been lacking. While figures for total cases heard in the courts are maintained by the HJC, these are not disaggregated with much detail.

An assessment of the initiative conducted in 2012 showed that the results and effectiveness of the trainings were mixed, with some participants and the HJC critical of the level of detail and duration of the courses. Yet in a survey conducted by the EU, 49% of respondents rated the trainings as “good” and 45% rated the trainings as “excellent”. Nearly 85% of the trainees believed that the trainings were well organized. An independent evaluation conducted by UNDP concluded that the courses met a critical need, given the low capacity of the Iraqi Judiciary and the Judicial Training Institute (JTI).

***Support to the Judicial Training Institute (JTI) and Judicial Development Institute (JDI)***

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

<sup>48</sup> Development of Justice & RoL Final Programme Report at 5; RoL & Justice Final Report at 23-28.

<sup>49</sup> RoL & Justice Evaluation at 13, 15-16.

<sup>50</sup> RoL & Justice Final Report at 8-9.



UNDP has supported key justice institutions with training, in particular the Judicial Training Institute (JTI) was analysed with UNDP support and a rights-based JTI curriculum was adopted by the Chief Justice and JTI board members in 2012. UNDP undertook a number of trainings for judges, investigators and prosecutors for human rights in Baghdad, Basra and Erbil.

The JTI exists to train judges to assume roles in the judiciary, but more than 500 judges were appointed in Iraq between 2006 and 2008 by virtue of the fact that they held a B.A. in law and had 10 years of experience (on the basis of a clause within the Judiciary Law No. 160 of 1979, as amended by Law No. 3 of 2007). Thus, there are still many judges in Iraq today that never benefited from the JTI training.

UNDP's training outputs under the EU funded project entitled, "Iraq Support to the Rule of Law and Justice Project" were largely conducted in an *ad hoc* manner and not fully integrated into the JTI curriculum. A principal conclusion of the independent evaluation of the EU project was that it would've been better for UNDP to build up the JTI curricula, rather than conduct ad hoc trainings. Thereafter, UNDP undertook a new \$400K project funded by Germany to develop the curricula of the JDI, but concluded that the JDI lacked the present capacity to implement a training programme. Thus, in 2012, UNDP decided to shift focus away from curriculum development and focus on the institutional development for the JDI.

UNDP claims that it conducted extensive diagnostics with HJC in advance of its engagement with the JDI, but that later HJC failed to endorse UNDP institutional development outputs. Unfortunately, at the end of the 2012 programme cycle, the JDI notified UNDP that all of the plans prepared by UNDP to address the management systems at the JDI would not be endorsed. Ultimately, the JDI did not endorse the outputs of this project. The Evaluation observes that this is an example of UNDP planned deliverables ultimately not being accepted by the HJC (Note: As discussed below, HJC initially rejected elements of the Case Management System and failed to fully take responsibility for the Iraqi Legal Database as originally contemplated—despite the fact that HJC has recently provided updates on a different website).

As noted in the section of the Evaluation report on "National Ownership" this raises a question in the mind of the Evaluation of why UNDP was not able to achieve a higher degree of political will or ownership from the HJC at an earlier stage of project implementation. As of 2013, HJC had given preliminary indications that it hoped to merge the JDI and JTI, which has placed UNDP's plans to further programme with JDI on hold until HJC resolves this issue.

**Going forward, the JTI and JDI at the federal level and KRG JI should remain a focus of UNDP support. As of 2013, HJC was continuing to urge UNDP to support trainings for judges and HJC support staff and support to the JTI. Yet, the JTI's budget remained very restricted with the training period for judges reduced from five to two years and with only one year in specific legal topics. Instructors are mostly retired judges that are paid a paltry fee. There is widespread agreement among stakeholders that the court system needs more judges. The JDI is not yet capacitated.**

Given the difficulties in engaging each court individually, the JTI is an excellent point of contact for creating system-wide change without much additional expenditure of resources or security risk. The HJC

predicts that it will need to train 300-500 judges and prosecutors through the JTI by 2016.<sup>51</sup> 500 new judges, well-trained in the importance of human rights and due process, would conceivably have an impact upon justice and rule of law throughout the country.

**Going forward UNDP should build the capacity of the HJC and its administration, focusing on mid-level staff training and administrative processes, lines of reporting and communication within the HJC, judges and courts. The former Chief Justice of Iraq informed the Evaluation that it was crucial for UNDP to begin to address the training and capacity requirements of the local courts in Iraq. Members of the judiciary desire additional training on juvenile justice, international law, investigations and forensics, terrorism, judicial ethics and human rights. Prosecutors interviewed state that they need training on emerging issues in Iraq such as the oil industry, financial fraud and financial crime. Any training on judicial ethics and discipline should be highly coordinated with the HJC Judges Affairs Committee. Beyond this, the Judiciary in Iraq and KRG need very practical examples of how other jurisdictions resolve issues, such as the application of international treaties in domestic law.**

Meanwhile, KRG has created its own JI (Judicial Institute) that is now in the process of being capacitated. Yet, there remains a lack of awareness on the part of the KRG judiciary on the values to be derived from training. Judges in KRG is still largely view trainings as a form of “punishment” being inflicted upon them by the JI.

UNDP is also making efforts to improve M&E for the judicial sector, and the new KRG co-financed Rule of Law project document contains more detailed indicators. This particular project was signed after consultations with numerous stakeholders in KRG. The Chief Justice of KRG requests that more trainings of judge be held that support the independence of the judiciary. Of all the courts in KRG, the investigative courts and criminal courts are particularly important from a human rights perspective.

Finally, the Evaluation finds that the judicial training curricula in both Iraq and KRG should explore the role of precedents in the Iraqi legal system. At the moment, Iraq judges consider previous decisions of the courts in their reasoning; however, these do not rise to the level of *stare decisis*, but are accorded weight as *justice constante*. Educating the judiciary on the role of precedents is mentioned in the CPAP.

In alignment with this Output, and within the same timeframe, the HJC has called for (i) a comprehensive study on ways to link the JTI with the HJC to modernize the Institute’s methodologies and curriculum, (ii) enhanced training for HJC administrative staff (including the establishment of a National Center for Legal Research and Judicial Studies, and (iii) enhanced information technology systems to facilitate administrative and judicial tasks, as well as the exchange of information among departments of the HJC.<sup>52</sup> Recent rounds of planning have seen more specific calls for IT capabilities, including databases of criminal records, electronic legal research libraries (including an electronic legislation database), and case tracking systems for both civil and criminal cases.<sup>53</sup>

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<sup>51</sup> HJC Five-Year Plan 2012-2016 at 9.

<sup>52</sup> HJC Five-Year Plan 2009-2013 at 30.

<sup>53</sup> HJC Five-Year Plan 2012-2016 at 8, 12-13. More recent planning documents have acknowledged the longer-term importance of working with the Ministry of Foreign Affairs to facilitate Iraq's entry into key international agreements pertaining to criminal prosecutions (including participation in the International Criminal Court), as well as the opportunities provided by working with legitimate civil society organisations. In addition, the HJC has called for a review of the prosecution function, in order to enhance its

**UNDP should continue to build the capacities of the JTI and JDI, but also develop specialized programmes for judges who were appointed without completing the two-year JTI preparatory course.**

***“Dubai twinnings”***

<b>Results and Effectiveness</b>	<b>HIGH</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

UNDP’s U.S. Department of State funded project “INL-Strengthening the Administration of Justice in Iraq” aimed to strengthen the administrative and operational capacity of the Iraqi Judiciary through the development of a twinning programme between the Iraqi Judiciary and the Dubai Judiciary. The project aligned with the HJC Strategic Plan 2009-2013 and was a continuation of the US Department of State’s International Narcotics and Law Enforcement’ efforts to conduct administrative twinnings and develop judicial desk books. In this regard, the project was closely line with a parallel US INL project implemented by the US National Centre for State Courts.

Exchanges between the judicial staff of Dubai and Iraq provided further exposure and insight into international best practices, made more relevant, perhaps, by the “South-South” nature of the twinning programme.<sup>54</sup> Both senior judiciary personnel and technical staff were selected to participate in the twinnings in order to ensure that the initiative would have the broadest results across all levels of the judiciary and courts. UNDP contributed technical advice including the engagement of an International Technical Advisor to commence development of the twinning programme between the Iraqi Judiciary and held detailed discussions with the HJC in this regard throughout 2010-2011. A UNDP national staff member was engaged to provide support to the overall project in Baghdad.

The project had hoped to build upon previous INL efforts derived from a previous US-funded Dubai twinning programme—specifically finalizing a set of “Desk Books” for judges. Despite the fact that UNDP was keen to build upon the previous work of INL in relation to the Desk Books, the desk book were never formally endorsed by the HJC. This prevented UNDP from utilizing the desk books in the twinning programme or within the UNDP supported pilot courts.

The judges and prosecutors viewed the twinnings as highly successful. Representatives of the HJC, KJC and the judiciary interviewed by the Evaluation stated that their experiences in Dubai had resulted in a number of recommendations being made by HJC, including the pilot courts, judicial and procedural reforms and improvements to JTI training curriculum. Court automation and E-governance were promoted on the HJC’s agenda as a result of the Dubai Twinnings. KRG Prosecutors who had attended the Dubai trainings were impressed by the use of mediation in the courts of Dubai and believe that

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ability to protect the rights of society and involve it in the corrections process. The HJC has also identified a need to process cases within set time limits, and to create a mechanism for ensuring that detainees’ cases are processed in a timely manner. These goals, while important, do not overlap significantly with the outputs of CPAP Outcome 2.

<sup>54</sup> Strengthening Justice Progress Report 1Q 2011 at 3-4.

mediation needs to be introduced in Iraq in order to relieve the administrative burden and caseload in the courts. Court fees were another area that judges and prosecutors noted needed to be improved. All Iraqi stakeholders interviewed by the Evaluation, while acknowledging the value derived from the twinnings stated that going forward they want “on the job” training *in Iraq* by international experts.

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UNDP sponsored trainings and twinnings may have contributed to recent and isolated incidents of courts in Iraq taking human rights more seriously. For example, there were several high profile prosecutions and convictions in Iraq of persons guilty of sexual exploitation of women and children and TIP during 2010-2012.<sup>55</sup> Meanwhile, the courts in KRG have recently begun to prosecute cases under the KRG Domestic Violence Law with greater frequency according to CSOs and judges interviewed.

## **Pilot Courts: Case Management Systems; Legal Research Units and the Iraqi Legal Database**

### ***Case Management System and Institutional Capacity Building of the Rasafa Pilot Court Complex***

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>HIGH</b>

A key deliverable under the EU funded project entitled, “Iraq Support to the Rule of Law and Justice Project”<sup>56</sup> and the separate Spanish funded project was the establishment of the Iraqi Legal Database and an electronic Case Management System (CMS) in Basra and Erbil. The initiative also included establishing an email system for the HJC and websites for the HJC and KJC respectively. The goal was to replace the courts’ paper record system with an electronic filing system in order to expedite cases, streamline record indexing (i.e. police records, cases of domestic violence, etc.) and also to reduce opportunities for bribes and exploitation. Subsequent to the EU project’s conclusion, UNDP entered into the DoS INL-I funded project “Strengthening the Administration of Justice in Iraq” (2010-2012, with a no-cost extension to 2013), the second component of which was to support the establishment of a Pilot Court Complex in line with international best practice at the Rasafa Civil Court building and to promote accessibility of the court by completing the installation and fine-tuning of the CMS.

Based upon an assessment carried out by UNDP, an initial plan for CMS was approved by the HJC in 2010 and deployed and fine-tuned with UNDP technical support during 2011 in response to HJC’s change requests with the final version deployed on pilot court servers in June 2011. Based upon recommendations contained in the IT assessment, UNDP procured a comprehensive package of IT

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<sup>55</sup> U.S. Department of State TIP Report 2013.

<sup>56</sup> Note: The EU-Spanish funded project’s allocation of responsibilities between UNDP and UNOPS raises serious questions in the mind of the Evaluation. This aspect of the project is discussed, *infra*, in the Donor Coordination and Relations section of the Evaluation Report.

equipment, which has been delivered, tested and installed in Basra and Erbil Pilot Courts.<sup>57</sup> And, the Higher Judicial Council in Baghdad, as well as the Basra Justice Palace and the Erbil Investigative Judges Court all have satellite-based internet access.<sup>58</sup>

Yet, until the beginning of 2012, UNDP had not managed to get the full political will and enthusiasm of the HJC. By way of contrast, thanks to UNDP support and advocacy the KRG judiciary was fully committed to the development of CMS. Despite the fact that the EU and Spanish projects failed to achieve any adherence to the computerization to date, UNDP perceives that the projects did open up the space for reform.

Within the last two years, UNDP has begun to implement the pilot court CMS via a deeper step-by-step engagement with the institution and instil a sense of national ownership (i.e. adding Arabic speaking UNDP national staff and experts to the project). UNDP feels that the level of commitment significantly increased and new opportunities are opening up (i.e. the recent opening of discussions with the HJC for a pilot legal aid office at the Rusafa Court). Thus, UNDP remains committed to court automation, because it feels that it is on the verge of it taking hold and the GoI taking the project over.

UNDP's new investment via the INL-I funded project is only \$300,000 US and arguably UNDP's new approach has achieved more within the past year than the EU and Spanish projects were able to achieve. As a result of UNDP's renewed focus on the initiative, the HJC has listed court automation as one of the goal's of its strategic plan. UNDP is still expecting that the GoI will embrace and assume responsibility for the technology once UNDP installs the case management system at the model courts. As of end-2012, the CMS was still not yet operational. The CMS, while nearly complete in Erbil, was not yet fully in place in Basra. Despite this, the HJC signalled its intention in 2012 to expand the Case Management System to all courts in Iraq, including the Rasafa Court Complex despite significant initial difficulties in launching the system.<sup>59</sup> UNDP had contributed substantial work to finalize the CMS responding to numerous comments of HJC.

This Evaluation, however, is unable to say with any certainty whether CMS will be achieved or whether it will have the intended impact on the Outcome (i.e. a reduction of case backlog; numbers of detainees awaiting trial and a greater level of efficiency, transparency, accessibility and accountability), as historically, the HJC has tended not to embrace the technology.<sup>60</sup> Yet, UNDP has engaged in renewed advocacy with the HJC and as of 2013, there are encouraging signs of progress. The manger of the HJC IT department is actually pushing UNDP to deliver the technology and the HJC is also discussing legislation to recognize computerized case management (CCM) as a parallel with paper processes. UNDP is still trying to install a culture of transparency in the court system. UNDP is confident that within the next 5 years, the HJC will actually be using the system that UNDP has supported. In KRG, UNDP realized that given the current lack of capacity in KJC, it is too early to completely hand over the case management system, but KRG has begun to discuss ways in which to fund and take the system

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<sup>57</sup> RoL & Justice Final Report at 12-13.

<sup>58</sup> RoL & Justice Progress Report 4Q 2011 at 3, 7.

<sup>59</sup> Development of Justice & RoL Final Programme Report at 6; RoL & Justice Evaluation at 13.

<sup>60</sup> Note: CSOs, legal academics and practitioners who attended Stakeholder workshops in Baghdad and Erbil were highly skeptical about the prospects for the success of the CMS and stated that a high percentage of court staff in Iraq and KRG remain computer illiterate as of 2013.

forward. UNDP has advocated for KRG to take responsibility under the new UNDP KRG Rule of Law Project.

Also, notwithstanding the fact that the CMS is not yet operational, case backlog rates appear to have improved at some courts. This may in part be attributable to the trainings that UNDP delivered under the initiative. In each of the model courts, the backlog of cases is reported to have been reduced by modest amounts year-on-year<sup>61</sup>. The KRG judiciary informed the Evaluation that its courts had become more efficient in recent years and are now perceived by foreign investors as impartial. According to the Evaluation's interviews with judges, lawyers and court staff, Iraqi courts system-wide continue to be faced with more cases than they can handle in a timely manner, and judges are faced with substantial judicial and non-judicial/administrative workloads simultaneously.

The Evaluation notes that while the HJC does publish statistics on total numbers of cases filed with each of the federal courts per year, the HJC does not attempt to measure the efficiency of courts (i.e. length of time from case filing to final adjudication, etc.). Thus, the Evaluation was challenged in assessing the efficiencies of the individual pilot courts or making statistical comparisons between the efficiencies of the pilot courts and the non-pilot courts in Iraq. Based upon data made available to the Evaluation it is impossible to state with statistical certainty at this stage whether or not the CPAP goal of 15% of Iraqi courts have administration harmonized to international standards.

**Court automation is a long-term endeavour. UNDP has supported the Case Management system for nearly three years and it should explore Iraqi government take over. UNDP must, however, be extremely cautious going forward of substituting electronic case management systems for paper systems, when the courts may not have a capacity to absorb the technology. Such systems have an extremely high maintenance factor and a high sustainability risk as IT hardware quickly becomes obsolete.** An example of this is the fact that already at a recent workshop, Judges and IT users in Basra suggested some thirty points of amendment to the system software that would be required in order to facilitate the proper transfer of all documents relating to a particular law case file from paper to electronic storage. In general, IT is a risky investment for donors as it has a high sustainability risk. In the end, no amount of IT investment on the part of any donor can compensate for a lack of political will. Moreover, merely investing in IT alone cannot solve what are often endemic and systemic procedural and administrative deficits. There is also a need to synergize CMS with other elements of the justice chain.

### ***Legal Research Units***

Results and Effectiveness	LOW
Sustainability Risk	HIGH

In order to enhance the capacity of the judiciary and court staff to perform legal research, the EU-Spanish project provided for the establishment of Legal Research Units. The goal was to increase the access of

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<sup>61</sup> RoL & Justice Evaluation at 13;

Iraqi judge's and legal professionals to Iraqi as well as international laws and jurisprudence via: i) the establishment of legal research units in the Erbil Investigative Judge's Court and the Basra First Instance Civil Court; ii) the establishment of a legal research unit at the Shura Council (which falls under MoJ authority); and iii) the establishment of a law library at the Al-Rusafa Civil Appellate Court in Baghdad.

Unfortunately, the initiative generated low levels of interest within the judiciary. As stated in the EU's evaluation of the initiative, "a main impediment to the realization of the initiative was a lack of commitment and interest by GoI counterparts." The legal research units at the Erbil and Basra courts encountered difficulties with the nomination of legal researchers by the HJC. Nonetheless, UNDP continued in its efforts and developed ToRs for training the legal researchers on the Iraqi Legal Database. Computers were delivered to the Basra and Erbil courts and a five-day training course provided in 2011; however, as of 2012 non of the computers was operational. In addition, with UNDP support over 400 books were delivered to the Erbil pilot court. The Basra court, however, lacked the facilities to receive the book and no books were delivered. Thus, to date, the impact of this particular output upon CPAP Outcome 2 remains minimal.

### ***Iraqi Legal Database***

<b>Results and Effectiveness</b>	<b>HIGH</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

The establishment of the Iraqi Legal Database (ILD)—an electronic encyclopaedia of Iraqi legislation—is one of the most significant achievements of UNDP Iraq in the legal sector.

Implementation of the Iraqi Legal Database was developed in a *phased process* beginning in 2004, that took 4 to 5 years to complete and launched and handed over to the Chief Justice in Iraq in 2008. It is "owned" by the Judiciary and has 40,000 documents (legislation, case law, etc.). ILD makes available to users 27,543 legal texts altogether, including 7,353 laws, 4,324 ministerial instructions, 3,285 regulations, 5,495 declarations, etc, which is to say every single Iraqi legal text that has been passed since 1917 to April 2011, in addition court decisions from all Iraqi and Kurdish courts. The ILD is entirely free-of-charge and does not require users to subscribe in any way. UNDP-Iraq is the source of most of the funding for the ILD.<sup>62</sup>

The various Phases of the initiative reveal what a massive undertaking this was for UNDP and the HJC:

**Phase I (2004-2006):** During this phase, a complete copy of Iraq's Official Gazette, which includes every law, decree and legal text that has been passed since the establishment of the Iraqi State, was retrieved and scanned with a view to making them completely searchable in an electronic database (through a "Reference Search" and "Free search" interface). That version of the ILD was made available online by the Iraqi High Judicial Council in 2006.

<sup>62</sup> See, generally, ILD website: <http://www.iraq-ild.org/AboutEn.aspx>

**Phase II (2006-2008):** During this phase, a number of improvements were made to the ILD, including but not limited to the following:

- For each law or legal text that has been modified or annulled through a subsequent text, full reference has been provided to the modifying text, and the modified text itself has been updated (which is the first time that this has been done in Iraqi law).
- All laws and regulations from the Kurdish Region were incorporated into the database. These texts were obtained from the Kurdistan Official Gazette (1992- 2008). In addition, a feature allowing users to compare Kurdish legislation with Iraqi legislation was incorporated into the ILD.
- All the legal texts in the ILD were linked together through the use of hyperlinks.
- Three thematic indexes relating to criminal law, criminal procedural law, and commercial law were created. Each article of the mentioned laws was linked to the appropriate title/titles from the related index as well as to court decisions that relate to its particular subject and makes them available in a single source.
- Officials from Iraq's judicial sector have been trained in the use of the ILD to ensure that the Iraqi State benefits from the work that has already been completed.

**Phase III (2009-2011):** UNDP launched Phase III in September 2009. A number of activities were implemented in that context, firstly with a view to completing the database and incorporating additional relevant sources that have not already been added, secondly with a view to ensuring that the benefits of the ILD are shared by as many practitioners and court users as possible, and thirdly with a view to ensuring the Project's long term sustainability. More specifically:

- Elaborating 21 thematic indexes related and grouped into 6 main areas of Code. The subject matter areas in which specific codes have been created include: - Civil Code (including 1- contract law and tort law, 2- civil procedure); - Commercial Code (including 3-commercial law; 4- companies law, 5- maritime law, 6- Trade and Commerce chamber law); - Criminal Code (including in addition to 7- criminal law and 8- criminal procedure law, 9- Military criminal procedure law, 10- Criminal procedure law for internal security forces, 11- Military Criminal Law, and 12- Criminal Law); - Property Code (including 13- real estate property, and 14- property registration law); - Banking Code (including 15- central bank law, 16- banking laws, 17- Stock Market Law, 18- Investment laws, and 19-money- laundering law); - Labor and Social Security Code (including 20- Labor Law; and 21- Social security law);
- Documenting 6 main areas of Code: During Phase III, 6 main areas of code as mentioned above including 21,000 articles of laws were documented. Each legal code groups together all the related laws, by-laws, regulations and other legal texts. Each article of law was linked to the appropriate titles/titles and annotated by the related court decisions;
- Updating the ILD: All Iraqi and Kurdish legal texts from 2007 to April 2011 were incorporated into the database, and linked together through the use of hyperlinks. Each legal text was modified and amended by inserting the amendment into each articles of law;
- Ensuring the Project's sustainability: An Iraqi company was trained and participated in the documentation of the legal texts and the court decisions. A number of Iraqi experts were trained to update the ILD on a regular basis and to ensure that, when the Project is finally transferred to the Iraqi authorities, it will be updated and maintained as future laws are promulgated and as courts issue more decisions. The Iraqi High Judicial Council committed to supporting the long term sustainability of the Project, and stated its



- intention to retain full time staff for this purpose;
- Training in the use of the ILD: In order to ensure that the ILD has the greatest impact possible on the Iraqi legal profession and the rule of law generally speaking, a series of training sessions was organized.

**Phase IV:** This Phase consisted of increasing the participation of the Iraqi experts in carrying the continuous updating and maintenance of the ILD by them-selves. More specifically:

- Completing the ILD: Completing the documentation of all remaining legal codes, which will be annotated by relevant court decisions. In addition to incorporating the updated and modified legal texts.
- Enhancing the ILD: A number of activities were contemplated in that context, mainly additional legal information was to be incorporated, such as the full texts of the bilateral/multilateral convention with a view to incorporate English legal texts into the database.

The increasing numbers of visitors to the ILD on a daily basis is an indicator of its success.<sup>63</sup> The Legal Committee of Parliament, judges and lawyers interviewed by the Evaluation all reported a heavy reliance upon the ILD in their work.

Yet, to date, the HJC's Division of Iraqi Legal Database, which is charged with the duty to perpetuate and update the database (by virtue of an administrative order of December 2012), has not effectively carried out its mission as originally envisioned. While, according to UNDP, the HJC is posting updates to the information on the ILD, this is being done on a separate website. The ILD website itself has not been updated since April 2011 and no new laws or judgments have been added to ILD directly since that date. UNDP states that it is now working with the HJC to merge the updates with the existing ILD website. **Going forward, the Iraqi Legal Database must be maintained as a single website that is updated monthly.** Otherwise, the significance of this output can be expected to recede over time.

Prosecutors, judges, lawyers and CSOs interviewed by the Evaluation stated that a lack of reporting and published court decisions in Iraq continues to makes it impossible for lower courts to apply the legal interpretations of higher courts. At present, most of the trial court sessions are open to the public, except in certain categories of cases (i.e. juvenile hearings) and individual lawyers and law firms sometimes send staff to attend such cases and record the decisions of the court. Individual judges are responsible for writing his decision himself, but these are often not published. Occasionally, individual lawyers or legal scholars will publish commentary on court decisions by way of the Bar Association magazine and one lawyer in Iraq actually maintains his own website to publish and comment upon court cases. But, there remains a serious need for court decisions to be officially issued, verified as true and correct copies, published and made readily accessible to the world at large.

Official publication of court decisions in Iraq ceased in 2003. The KRG Judicial Council has a Department of Publications, but it currently lacks capacity. The Chief Justice of Kurdistan stressed to the Evaluation that establishing an official case reporting system to report official versions of court decisions in KRG and Iraq should be an absolute priority for donors and one that the GoI and KRG should fund.

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<sup>63</sup> See EU final report; and the UNDP evaluation of the Iraqi Legal Data base.

**UNDP should support the HJC and KRG Judicial Council to publish court decisions and post these on the Iraqi Legal Database.**

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Despite the problems UNDP experienced with the pilot court initiatives, members of the judiciary interviewed, still view UNDP to be the central and trusted source of knowledge for rule of law. Members of the judiciary state that going forward, the key challenge is how to duplicate the success of the pilot courts nationally. **UNDP needs to become more strategic and present HJC with a detailed plan for rolling-out the pilot courts to areas of Iraq that are currently under-served such as Anbar, Mosel, Kirkuk, Ninawa and Diyala. Some members of the judiciary suggested that UNDP could do a better job of utilizing local assets and identifying the educated individuals in the governates who can serve as key interlocutors.**

As discussed in more detail below, **what is truly required on UNDP's part is a more comprehensive approach to court reform in Iraq and KRG than has occurred to date that identifies the weaknesses specific to different types and levels of courts in the country. A Strategic Plan for the Judiciary now being prepared by UNDP for consideration of the HJC may meet this recommendation.** A key question is why this approach is only now being undertaken by UNDP after at least four years of implementation under CPAP Outcome 2.

### **Promoting Accessibility of the Courts and Laying the Groundwork for Legal Aid in Iraq and KRG via Legal Aid Help Desks**

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

Iraqi law provides two mechanisms by which free legal aid or scaled-fee legal aid may be granted by a court: i) so called “Judicial legal aid” pursuant to Legal Practice Law No. 173 of 1965, whereby a committee of the court in partnership with the Bar Association (“Judicial Aid Committee”) seconds an advocate to a person who cannot afford an attorney or has not found one; and ii) Direct Secondment of an advocate, pursuant to Art. 144 of the Amended Penal Procedure Code of 1971, whereby the court appoints a lawyer to defend an indigent criminal defendant at the trial stage only for felonies (excluding the investigative stage of the process or representation for misdemeanours). CA Order No. 53 of 2004 extended such legal aid to all stages of the trial process and included both felonies and misdemeanours, but this was subsequently reversed by an order of the HJC to include only the trial stage and felonies. The HJC has issued a fee schedule for lawyers seconded to represent indigent defendants.

In practice, even the revised procedures for the secondment of advocates in criminal cases (as a result of CA Order No. 53 of 2004) and the HJC's revised tariffs for court appointed lawyers (HJC Res. No. 10891 (2010)) have not resulted in a viable legal aid system. Standards are not applied as intended or inadequately supervised by the court and Bar Association. Indeed, lawyers often provide only the

minimum level of representation necessary to collect their fees; fail to appear for hearings and in some instances have been known to request a court to apply even higher penalties so that the lawyers themselves can qualify for higher fees in direct contravention of the interests of their own clients.

UNDP's approach to filling the gap in legal representation to vulnerable groups was to establish Legal Help Desks for indigent clients under the EU funded project entitled, "Iraq Support to the Rule of Law and Justice Project". The original project design contemplated establishing legal help desks at the pilot courts in Erbil and Basra. UNDP didn't seriously mobilize until the EU project was nearly two-thirds over, which compounded HJC's misgivings about its legal aid and support to JTI components. As a result, the EU withdrew funding from the UNDP legal aid components for the Basra court at the halfway point of UNDP's implementation and re-allocated these funds to UNOPS. However, UNOPS was not able to devise a proposal for spending the funds that was acceptable to the HJC. UNDP continued support to the operation of the legal help desks in Erbil and Basra with EU funding and with UNDP's own core funds started new legal help desks in Dohuk and Sulaymaniyah.

As of June 2013, the Basra helpdesk was operational with UNDP TRAC funding. The helpdesk is housed within the Basra Court and run by a local NGO (Bustan Association) in close cooperation with the HJC/Federal Appellate Court and Bar Association in Basra. In addition, a helpdesk in Baghdad had been established, but not yet fully capacitated.

UNDP subcontracted with a local Iraqi CSO "Women's Empowerment Network" (WEO) to run the legal help desk in Erbil and with the INGO "Heartland" to run the legal help desks in Dohuk and Sulaymaniyah. Both CSOs were required by the terms of their agreements with UNDP to implement a variety of outputs including establishing viable legal aid schemes, documentation systems, policies and procedures and ultimately providing representation to clients. Lawyers and social workers were engaged for this purpose. Initially the legal help desks were designed to handle all types of cases, but with the passage of the KRG Law on Domestic Violence in 2012, UNDP made the decision to focus primarily upon only abused women and cases of SGBV.

Both CSOs also conducted public outreach, public service announcements and awareness-raising to make citizens aware of court services and how to access the courts. Such campaigns involved publications and radio and television spots on women's rights and domestic violence as well as the availability of legal aid. Buy-in for these campaigns was somewhat difficult to obtain from the HJC and KJC, but ultimately the media campaigns were conducted. It is difficult to assess the full impact of these public service announcements, but it seems that they did result in clients coming to the legal help desks. Overall numbers of citizens accessing the courts has risen within the past several years in both Iraq and KRG, which it can only be hypothesized is partially a result of the UNDP supported public outreach.

As stated, the Evaluation was able to assess in detail the legal help desks located in KRG. Despite logistical challenges, legal help desks are providing access to legal aid—including court representation and legal advice—to needy Iraqis in Erbil, Dohuk, and Sulaymaniyah.<sup>64</sup> In less than a year, the legal help desks benefitted over 2,200 individuals, thus surpassing the benchmark for legal aid provision set forth in the CPAP.<sup>65</sup> The helpdesks' locations within courthouses and specific outreach programs have been cited

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<sup>64</sup> RoL & Justice Final Report at 14-16; RoL & Justice Progress Report 4Q 2011 at 3.

<sup>65</sup> RoL & Justice Evaluation at 13; RoL & Justice Final Report at 16.

as being integral to these programs' success.<sup>66</sup> The assistance covered areas as diverse as criminal, civil and personal status cases, and the primary beneficiaries were female victims of GBV and other domestic problems.<sup>67</sup> In addition, UNDP has partnered with NGOs to reach out to women to inform them of their rights and encourage them to seek legal protection where necessary.<sup>68</sup>

The UNDP supported legal help desk in Erbil was inaugurated in April 2011, following extensive renovation work being completed inside the court. As of the end of 2012, the help desk has benefited over 2,200 individuals, including provision of 968 free legal counselling sessions (475 females; 493 males). In addition, legal aid lawyers engaged by the project took 180 cases to court. These represented 105 criminal cases and 75 other types of cases—mostly family law related.

The UNDP supported legal help desks in Dohuk and Suleymaniyah have seen over 2500 legal advice clients in the 1.5 year period from May 2011 to February 2012. Meanwhile, Heartland had conducted legal outreach sessions and other awareness-raising activities that reached an estimated 10,970 beneficiaries in KRG during this same time period.

The fact that large numbers of individual clients are being served by all three legal help desks in KRG represents a direct shift in CPAP Outcome 2. While UNDP's original intent was to focus on criminal legal aid, nearly 1/3 of the cases coming to the legal help desks have arisen under the Personal Status Law and involve the rights of women and children. Many of these cases have involved issues of domestic violence and SGBV similar to those presented at the KRG Women's Shelter.

The CSOs WEO and Heartland reported that the relationship with UNDP was overall quite good. UNDP consulted with them regularly and maintained open lines of communication. With UNDP technical assistance, the CSOs developed eligibility criteria in each location. UNDP also worked with WEO to develop a civil law manual for use by lawyers. In addition, UNDP helped the CSOs to resolve issues with the lawyers in the court and provide gender sensitivity training to judges and court staff.

In the opinion of this Evaluation, both WEO and Heartland performed in an exemplary manner in fulfilment of their terms of reference, effectively capacitating legal help desks that have ultimately served thousands of beneficiaries in KRG. Whether or not to house the legal aid desks in Erbil, Dohuk and Suleymaniyah within the court houses themselves, however, was a contentious issue with some initial resistance from the Judiciary and much hostility from the respective Bar Association offices in each location. UNDP consistently interfaced with each CSO, the KRG judiciary and Bar Association Offices in order to advocate for the location of the legal help desks inside the courthouses. Ultimately, UNDP and WEO were able to overcome the resistance of both the Chief Judge of the Erbil Court and the Bar Association in Erbil to house the legal aid desks within the Erbil Court. Unfortunately, despite their best efforts, UNDP and Heartland were unable to overcome the resistance of the Bar Association offices in Dohuk and Suleymaniyah; and legal help desks in those locations were housed not within courthouses, but at the offices of Heartland. After numerous meetings held by UNDP and Heartland with the Chief of the KJC in May 2011, a letter was issued by the Chief Justice of KRG, granting approval for opening legal help desks within both the Dohuk and Suleymaniyah courthouses. Meetings were further held with

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<sup>66</sup> RoL & Justice Evaluation at 22-23.

<sup>67</sup> *Id.* at 16-17.

<sup>68</sup> RoL & Justice Progress Report 4Q 2011 at 8.

the chief judges of each court who were receptive to the idea of having legal help desks at their courts. Yet, cooperation from the Bar Association was not forthcoming in Dohuk and Suleymaniyah. This has only recently changed. With the signing of a MoU between UNDP and the Bar Association, the legal help desks in Dohuk and Suleymaniyah are now housed directly within the courthouse.<sup>69</sup>

The Bar Association will increasingly play a key role in the expansion, supervision, staffing and funding of legal aid initiatives in Iraq and KRG. This is already begging to occur in KRG as a result of the planned “hand-off” of the UNDP funded legal aid help desks located in Erbil, Suleymaniyah and Dohuk from the CSOs WEO and Heartland to the KRG Bar Association—with an interim period of continued technical advice and mentoring being provided by WEO. A MoU has been negotiated for this purpose that stipulates that the KRG Bar Association will oversee and properly staff the initiative and maintain standards of professional responsibility with regard its representation of clients. UNDP has bolstered this MoU with its own risk mitigation strategy that includes on the job training, technical advice and mentoring by WEO, the establishment of a supervisory committee of senior lawyers at each legal help desk and requiring the lawyers who represent clients in court are qualified and adhere to professional standards. In order to facilitate its members representing legal aid clients, the KRG Bar Association has recently submitted a draft law to Parliament that recognizes “pro bono” representation.

UNDP’s rationale in transferring the management and supervision of the legal help desks in KRG to the Bar Association is to build the capacity of the organization, ensure national ownership and sustainability. The Bar Association is the most relevant national institution for providing legal services to vulnerable groups. Yet, despite the terms of the MoU and UNDP’s risk mitigation strategy, the handoff of the legal aid desks to the Bar Association can be expected to present challenges in its *implementation* going forward.

It is not clear to the Evaluation what steps UNDP took to *verify* that the KRG Bar Association possesses the *actual capacity* to assume responsibility for the legal help desks at this time. Significantly, both CSOs involved with the legal aid desks noted that they had not been consulted in advance of the UNDP decision to hand the initiative off to the bar association. In the opinion of the CSOs the sustainability of the legal help desks are at risk. It is not readily apparent that the KRG Bar Association has the *actual capacity* to take over the legal aid desks at the present time.

A possible risk is that the Bar Association could depart from the terms of the MoU and utilize the funds to employ bar association lawyers on “pro bono” or reduced-fee cases, but not staff the legal help desks with full time lawyers.<sup>70</sup> UNDP has retained WEO to continue to provide technical advice to the Bar

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<sup>69</sup> This Evaluation is not able to substantiate the conclusions of two EU and UNDP independent evaluations that lauded WEO for effectively overcoming resistance from the Erbil Court Chief Judge and the Bar Association in Erbil, but faulted Heartland for not being able to overcome the resistance of the Bar Association and secure a presence for the legal help desk inside the Suleymaniyah or Dohuk courthouses. The difference in results achieved by each CSO likely had as much to do with the individual personalities of the Chief Judges of the respective courts and the Bar Association offices in each location as it did with the respective competencies of WEO or Heartland. There are different branches of the Bar Association in Erbil, Suleymaniyah and Dohuk—each with their own sets of issues and viewpoints. Both WEO and Heartland were, in the opinion of this Evaluation, highly effective in their implementation of the legal help desks and representation of individual clients.

<sup>70</sup> To date the legal help desks under UNDP and CSO supervision have maintained a system where senior lawyers supervise lawyers working on the legal help desks, with a requirement that any legal counseling or advice to clients be given only by a lawyer who has attained the status of “counselor at law” (i.e. possesses 10 or more years of legal experience). The help desks have also maintained lists of qualified lawyers who rotate on a bi-weekly basis and are available fulltime at the legal help desks during these periods of service to provide legal consultation to clients. Meanwhile, cases that require representation in court are handled by outside lawyers who have agreed to be included on a roster of attorneys maintained by each legal help desk. Such lawyers are supervised and accountable to the supervisory committee of the legal help desks and the CSOs involved in the project.

Association; however, the Evaluation notes that the Bar Association has at previous times been resistant to outside advice. In addition, historically, the Bar Association has not proven that it has much capacity or understanding of women's issues. Although the MoU between UNDP and the Bar Association requires lawyers to visit women's shelters, prisons and other institutions on a regular basis and provide representation to victims of SGBV, WEO notes that female members of the Bar Association have in the past actually refused to travel to the KRG Women's Shelter located in Erbil or to represent women (i.e. prostitutes) who they believe to be shameful. These are but a few of the issues that UNDP will need to be alert to as the terms of the MoU are fulfilled on a daily basis.

**The Evaluation strongly recommends that UNDP continue to take steps to mitigate the sustainability risks involved with the “hand-off” of the Legal Help Desks to the KRG Bar Association pursuant to the MoU with the Bar Association. Such steps include: a) including WEO in the process and all communications between UNDP and the Bar Association; b) providing strong technical advice by experts during a transition year when the Bar Association senior officers and staff will receive intensive training on legal aid and best practices of client representation (i.e. ethics, record keeping, follow-up, etc.); c) developing certain conditions for the Bar Association (i.e. that the legal help desks will be staffed by full time lawyers, rather than rotating different lawyers each week); d) clearly defining what are UNDP's management and technical responsibilities and e) providing continuing technical support to the Bar Association's mechanisms for supervising the lawyers involved in the initiative.**

There are also some areas that should receive enhanced focus going forward. For example, the lawyers and social workers of each help desk have performed limited mediations as a first step to resolving disputes between clients and third parties; however, the UNDP legal aid initiative lacked any plan for institutionalizing mediation and other alternative dispute resolution (ADR) mechanisms at the legal help desks or within the court system at large. **Going forward, UNDP should enhance its focus upon mediation at the legal help desks. ADR should be part of any Donor-led legal aid initiative.**

When one considers that in 2003 to 2010 there was no mechanism such as the legal help desks available to Iraqi citizens—especially abused women, the numbers of clients served by the legal help desks represents a direct impact upon the Outcome. A culture of pro bono is virtually unknown in Iraq and the Bar Association has been highly protective of its fee structure. The fact that the KRG Bar Association itself is now behind the initiative is a major indicator that UNDP has managed to shift the Outcome. Both the HJC and KJC have given indications that they endorse the legal help desks and would like to see them ultimately duplicated system-wide in both jurisdictions.

In the end, there can be no better indicator of success than the \$6 million in KRG co-financing and the new UNDP KRG Rule of Law project. The courts and judges interviewed by the Evaluation in KRG stated that the legal help desks had been very beneficial to vulnerable groups—especially women—to get legal representation. The judges stated that the legal help desks had also eased the burden on the courts, as a result of the legal help desks assuming the costs of such representation in some cases. The legal help desks had also yielded other derivatives such as the Dohuk Investigative Court's decision to appoint a judge to deal *specifically* with SGBV cases.

At the end of the day, it is the women victims of domestic violence and SGBV that must be the central focus of UNDP's legal aid initiative. According to the website of the local Iraqi CSO WARVIN rates of

violence and extreme cases of violence against women are rising in KRG with many burnings.<sup>71</sup> There are recent cases in KRG of women committing suicide by self-emolliation that are passed off as “accidents” by both families and the police. Many of the honour killings that occur are in fact pre-meditated murder. CSOs in Iraq also report that violence against women committed by the police is on the rise. **Going forward, UNDP must maintain an urgent focus on abused women in Iraq and KRG. It is crucial that the medical community be linked with the legal help desks and family protection units in KRG and Iraq.**

It is clear that there is a significant need for additional legal aid activities throughout the country, and possibly even some creative interim solutions, such as capacity-building among public defenders.<sup>72</sup> UNDP’s additional legal aid and access to justice activities are in the initial stages.<sup>73</sup>

It appears, however, that so far UNDP’s approach to legal aid lacked a qualified analysis to determine what model of legal aid is appropriate for Iraq given its resources and legal system. There was no overarching strategic plan or truly comprehensive approach discussed for legal aid with the MoJ or HJC. UNDP legal aid has resulted in discreet legal victories for individual citizens to date. It is too early in the process to determine whether this has resulted in any greater “system” change on the part of the Iraqi justice system or legislation. It is hoped that in the aggregate, such legal aid clients are helping to change attitudes towards women and SGBV. [UNDP has also supported such initiatives under Output 2].

**A multi-pronged approach to legal aid is required that disaggregates the Constitutional duty of the Iraqi State to provide free legal aid to a limited set of criminal defendants and a broader system of legal aid for criminal defendants accused of minor crimes, as well as the general class of civil litigants and disputants who require legal aid and counselling.**

**Furthermore, UNDP should be playing a key role in gathering stakeholders together to design a comprehensive strategy for legal aid in the country. This is a politically sensitive area due to the fact that legal aid schemes usually intersects with private legal representation, which is the traditional province of the Bar Association and private lawyers. Such research on legal aid and the development of a strategic approach could be part of a “Bridging Phase” for the UNDP Rule of Law and Access to Justice Programme. The concept of legal aid is still not well understood by Iraqi Chief Justice and others (largely as a result of the way that it was pushed by the Americans).**

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<sup>71</sup> <http://www.warvin.org>, last accessed, 8 July 2013.

<sup>72</sup> Legal Aid Mapping Document at 2-4.

<sup>73</sup> Promoting Access to Justice and Legal Aid Project Document at 21 *et seq.*

### ***The Bar Association***

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

The Iraqi Bar Association is considered to be one of the oldest and most important professional associations in Iraq. The Legal Profession Law (No. 173) of 1965 has been amended several times and prohibits lawyers who are not members of the Bar Association to issue legal opinions or represent clients in court, except in very narrowly defined situations (i.e. representation of public sector institutions). The existing Legal Profession Law contains rules and standards of the profession that are in line with international best practice.<sup>74</sup>

The Discipline Council of the Bar Association is charged with the duty to police the profession and to discipline lawyers who violate ethical duties or the standards of the legal profession in the form of a) admonition; or b) prevention from practicing law for a period not to exceed one year; or c) permanently removing the lawyers from the role of advocates. While the Discipline Committee of the Bar is active and has acted upon a number of complaints against lawyers, there is no system of Continuing Legal Education (CLE) in Iraq to bolster and support lawyer skills and standards or a requirement of continuing certification (i.e. completing a minimum required number of CLE hours of instruction in every two-year period of time). The lack of a CLE system of instruction and bi-annual certification for attorneys undermines the integrity of the legal profession in Iraq.

UNDP has not programmed extensively with the Iraqi Bar Association to date other than some overseas visits for its leadership. In fact, UNDP has at various times during 2009-2012 encountered resistance from the Iraqi Bar Association to programming, especially with regard to UNDP support for legal aid. The Bar Association has traditionally opposed any challenge to its fee structures or “monopoly” on legal representation. UNDP managed to get the Bar Association in KRG on-board as a partner for free legal aid. The Bar Association in Baghdad is not yet fully on-board.

The Iraqi Bar Association and KRG Bar Association will increasingly play a key role in the expansion, supervision, staffing and funding of legal aid initiatives in Iraq and KRG. This is already beginning to occur in KRG as a result of the “hand-off” of the UNDP funded legal aid help desks located in Erbil, Suleymaniyah and Dohuk to the KRG Bar Association—with an interim period of continued technical advise and mentoring being provided by the local KRG-based CSO “Women’s Empowerment Organization”.

As discussed elsewhere in the Evaluation Report (See, discussion of Legal Aid above) entering into an agreement with the KRG Bar Association to manage the Legal Help Desks in Erbil, Dohuk and Suleymaniyah has benefits and risks. On the one hand the Bar Association and/or the courts are the logical partners to assume such a function, but it will require continued supervision on UNDP’s part to

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<sup>74</sup> A new Draft “Law on the Legal Profession” has lingered in Parliament for some time without much political will to pass it. The Draft legislation contains provisions that, if enacted, would require all Iraqi lawyers to perform a minimum number of hours of pro bono legal representation to indigent clients.



ensure quality control and standards of professional legal representation are delivered to legal aid beneficiaries.

The Evaluation met with the KRG Bar Association leadership who noted that Access to Justice is one of the Bar Association's own strategic objectives. The timing of the UNDP proposal to transfer responsibility for the initiative to the Bar Association is appropriate, as it aligns with the draft KRG law on Legal Aid. The Bar Association confirmed that at present, the only type of legal aid provided in KRG is for indigent criminal defendants under the provisions of the Criminal Procedure Code that has been subject to criticism as some lawyers provide negligent representation and attend only an initial hearing to collect their fee and provide no follow-up. Members of the Bar Association and young lawyers interviewed by the Evaluation in Basra and Baghdad, report that the numbers of citizens seeking legal representation is rising annually in Iraq.

As of 2013, the KRG Bar Association planned to assemble an Oversight Committee or Legal Aid Board that will supervise the legal aid initiative and is currently in the process of developing a workplan to implement the programme in all of its offices. Each case will be assigned a tracking code. The Board will decide on what level of representation the client needs and will monitor quality assurance. Ultimately, the Bar Association hopes to be able to roll-out the initiative to local communities and to include mobile legal aid clinics, depending on funding. The leadership of the Bar Association stressed that the capacity and success of the initiative will still depend in large part upon UNDP's continued contribution of technical expertise

The Iraqi Bar Association and KRG Bar Association lack management structures and capacity in many areas. While discipline and investigations committees currently exist there is a need to strengthen these oversight mechanisms. In KRG, there are approximately 7,000 lawyers on the KRG register of attorneys, but in reality only an estimated 1/3 of these actually practice law. The practicing lawyers are assigned to one of the KRG Bar Association's eight sub-offices in KRG, which has allowed the Bar Association to supervise them more effectively. There is a need to engage not only the central offices, but regional offices such as the Basra office of the Bar Association.

Meanwhile, as of 2007, the Iraqi Bar Association claims to have had 38,112 lawyers (70% male and 30% female), with the number of the young lawyers (from both genders) are forming more than 60% of the membership). It has offices throughout Iraq and where it has no office it is sometimes allocated a "lawyers room" by a court (i.e. Basra) for purposes of seeing clients, etc.

The KRG Bar Association organizes regular trainings for its membership (and has mandatory trainings for newly graduated lawyers taught by judges and lawyers with practical knowledge). Yet, there is no system of mandatory Continuing Legal Education (CLE) in place for *practicing attorneys* or any certification or compliance mechanism. Furthermore, the sub-offices of the KRG Bar Association (i.e. Dohuk and other locations) lack any mechanisms for self-financing and are completely dependent upon the training budget provided by the head office.

The senior officers of the KRG Bar Association interviewed stated that could benefit from exposure to foreign bar associations via study visits, teleconferences, etc. Members of the bar who had attended UNDP sponsored trainings reported that they were extremely useful and relevant their areas of practice, but that there is an on-going and continuing need for training on new types of courts, procedures,

legislative amendments and new legislation.<sup>75</sup> The KRG Parliament recently amended the draft Bar Association Law to permit foreign lawyers to register and practice in KRG.<sup>76</sup> This is in line with Article 5 of the existing law governing the KRG Bar Association that permits for foreign lawyers to argue in KRG courts under the principle of mutual reciprocity.

The Iraqi Bar Association and KRG Bar Association do not currently have websites of their own as is standard practice for most bar associations in the world (i.e. Jordanian Bar Association; American Bar Association, etc.). The Iraqi Bar Association currently publishes an official journal and sub-offices sometimes have their own local journals or newsletters. In addition, the Lawyers Union also publishes a journal. The lawyers interviewed by the Evaluation confirmed that political parties largely control the Iraqi press and that reporting on legal affairs or particular court cases is rare. The Bar Associations could also assist UNDP in conducting legislative analysis and studies.

**Overall, UNDP should support capacity building of the Bar Associations in order to strengthen their internal governance and management; to develop Continuing Legal Education (CLE) requirements and curricula and to strengthen its Disciplinary Committee. Ideally, there should be an office of attorney registration/CLE that will oversee a system of bi-annual CLE certification of all lawyers who are registered as “active” members of the bar, with a minimum number of CLE credit hours completed within every 24-month period.**

**In addition, concepts of professional ethics and licensing to practice law must be introduced. UNDP could also support the Bar Association’s knowledge and outreach activities in the form of support to publications and websites for the Iraqi and KRG Bar Associations. UNDP could also support the passage of the draft Law on the Legal Profession that is currently before the Parliament.**

**UNDP might wish to explore opportunities for organizing study visits for the leadership of the Iraqi and KRG Bar Associations in partnership with foreign jurisdictions and bar associations (i.e. International Bar Association; Canadian Bar Association; American Bar Association; Association of the Bar of the City of New York; Paris Bar Association, Istanbul Bar Association, Jordanian Bar Association, etc.). This could be a viable area for South-South cooperation.**

### *Legal Education*

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

<sup>75</sup> KRG has recently experienced a surge in foreign direct investment and registration of foreign companies, (largely as a result of the region's oil and gas industries), with an estimated total of more than \$26 billion dollars at the end of 2012 according to statistics by the Kurdistan Board of Investment.

<sup>76</sup> draft KRG Law on the Bar Association, Article 19, paragraph 1, subparagraph 3 (2012).

To date UNDP has not programmed extensively with law faculties and students in Iraq. The majority of universities in Iraq have a college of law. There were approximately 30 officially recognized state-owned universities in Iraq as of 2012, meanwhile approximately 22 of those had a college of law (19 law schools in the 14 governorates of Iraq and 3 in KRG). In addition, there has recently been a proliferation of private law schools in Iraq, which number from between 30 to 40 schools. It is generally perceived by senior judges and lawyers that the quality of legal education in Iraq has significantly declined since 2003, largely as a result of the many new schools that lack standards or quality control. There is currently no bar exam in Iraq.

A partial list of officially recognized law schools is as follows:

- University of Baghdad / College of Law
- Al-Nahrain University / College of Law
- Al-Mustansiriya University / College of Law
- University of Mosul / College of Law
- University of Basrah / College of Law
- University of Babylon / College of Law
- University of Kufa / College of Law
- University of Anbar / College of Law
- University of Tikrit / College of Law
- University of Sulaimani / College of Law
- Al Qadisiya University / College of Law
- Salahaddin University / College of Law
- Wassit University / College of Law
- Misan University / College of Law
- University of Koya / College of Law
- Kirkuk University / College of Law
- University of Kurdistan - Hawler / College of Law
- Karbala University / College of Law
- Thi Qar University / College of Law
- Diyala University / College of Law
- University of Dohuk / College of Law

The Evaluation interviewed representatives from three officially recognized institutions: the University of Baghdad College of Law, Misan University College of Law, Salahaddin University and the University of Kurdistan, Hawler College of Law (including faculty members in charge of its clinical legal education programme). As of the date of the Evaluation, none of the universities and law faculties had benefited from UNDP support or technical assistance. Among these, the University of Baghdad College of Law was the pioneer in clinical legal education, beginning with the establishment of its law clinic in 2009 with USAID and EU support. Since that time, approximately ten more law schools in Iraq have initiated clinical legal education programmes. The University of Kurdistan established a clinical legal education programme in 2012, with USAID support, but the funding stopped and the programme was not continued. Salahaddin University has a Human Rights Centre with a law clinic.

Enrolment at these institutions is high, with many female students pursuing legal studies. For example, the University of Kurdistan currently has a total of 1000 students, offering both morning and evening

programmes. Meanwhile, the University of Baghdad, College of Law has approximately 1200 total students with females comprising 69% of the student population.

The needs of the institutions and their students are numerous. For example, the University of Baghdad, College of Law requires assistance with the physical construction of a new library and capacity building for its staff, as well as enhanced Internet and connectivity and the continued enhancement of its collection (i.e. EU provided the college of law with 50 volumes on decisions of the French Court of Appeals—*cour d'appel*). Meanwhile, the University of Kurdistan reports that it needs enhanced bandwidth/satellite uplink; internet servers; wireless networks; additional foreign and Arabic language titles in library; English language sources and periodicals; and support for a reading hall.

Both the University of Kurdistan and the University of Baghdad are interested to explore enhanced partnerships with UNDP to foster their clinical legal education programmes. **UNDP should to the extent possible, include law school clinical legal education programmes in its legal aid, human rights, advocacy and public awareness programming. Possible areas of UNDP support to law schools in Iraq going forward could include curriculum reform; research grants for faculty in clinical legal education or human rights; support to publishing articles, studies and white papers on emerging issues in Iraq; support for the establishment of law journals; guest lectures; capacity building for libraries and foreign language sources.**

### *Enhancing Media and Journalists*

Results and Effectiveness	MEDIUM
Sustainability Risk	HIGH

Journalists in Iraq are severely challenged by an inability to obtain accurate information from officials and GoI. The financially and technically powerful media are these supported by the political parties and many journalists and news outlets that claim to be independent are in fact only the voice of one political party or another. Moreover, legislation to protect journalists is inadequate or not implemented. Some laws and regulations related to the media are inherited from the previous regime have not amended or abolished. In addition, journalists have been subjected to violence, targeted killings and death threats—especially if they attempt to report on the activities of political parties or religious groups. The relationship between the media and the security forces remains extremely tense.

Some local newspapers occasionally have pages on legal issues and there are also programmes on television and radio in Iraq that discuss legal issues. Yet, overall media in Iraq currently do not give sufficient attention to juristic, legal and constitutional issues. Incidents of press coverage of court cases are rare and the media do not publish abstracts of high-profile court cases. Most journalists who attempt to report on the law often fail to undertake any in-depth analysis or research, even when they themselves possess legal training. One lawyer in Iraq maintains his own privately maintained website devoted to judicial and legal affairs, but the site requires support and development.

The Evaluation interviewed five leading journalists in Baghdad. Most of the journalists interviewed had previously had some contacts with UNESCO, but only limited contact with UNDP. They were not aware of the details of UNDP's rule of law engagement in Iraq; but a few of the journalists reported that they had benefited from UNDP supported trainings. They were of the opinion that **UNDP could support educating Iraqi journalist to be neutral, professional and aware of their rights. UNDP could also support mechanisms to promote dialogue between journalists and the security forces for a common understanding on the journalist's mission. Empowering CSOs to defend journalists' rights and concentrate on bringing legal affairs to the forefront of the media and programmes on peace and reconciliation could also improve the situation.**

### Judicial Investigative Offices

Results and Effectiveness	MEDIUM
Sustainability Risk	HIGH

Investigations of crime in Iraq (federal level) are to be conducted by Judicial Investigation Judges, and only in exceptional circumstances by police per the Amended Penal Procedures Law No. 23 of 1971. Yet, in practice most investigations continued to be conducted by police commissioners until recently. This prompted the HJC to establish Judicial Investigation Offices (JIO) to take the investigation function away from the police and thereby reduce opportunities for torture and coerced confessions. The JIOs were also meant to bring a greater level of professionalism to the investigative process. The JIOs typically comprise two Investigative Judges, between four and eight judicial investigators, between four and eight police officers and a limited number of administrative support staff.

The second component of the UNDP (U.S. Department of State funded) project "INL-Strengthening the Administration of Justice in Iraq" sought to provide support to the newly established criminal "Judicial Investigative Offices" during 2010-2012, with a no cost extension to 2013. The goals of the project component were to capacitate at least two JIOs, with a focus on support to their administrative and operational functions (i.e. office equipment, IT, human resources, training needs). It was envisioned that UNDP would select the JIOs in close consultation with HJC and DoS/INL and would work closely with the JTI/JDI to develop training curricula for the JIOs. The initiative was in alignment with the HJC Strategic Plan 2009-2013. The project was to be closely coordinated with a parallel DoS INL-I project implemented by the National Centre for State Courts.

As of 2011, the total number of JIOs in Iraq (excluding KRG) stood at 29, two in Baghdad and the rest being allocated to different governates. Yet, apparently, UNDP was slow to begin work on the JIOs and chose to focus more attention on the above-described "Dubai twinings" and capacitating the Rusafa pilot court complex and its accessibility. According to reports of INL-I, as of end-Q4 2011 UNDP was still in discussions with the HJC and the Chief Justice and Head of the Rusafa Court (Baghdad) to identify the pilot JIOs to be supported and was planning to undertake a needs assessment to identify priorities of the JIOs. The needs assessment was completed by Q2 2012 and a set of recommendations established. The

assessment also explored the JIOs legality and functions under the current criminal and civil procedure laws.

By end-2012, UNDP had presented a summary of the needs assessment to the Iraqi Chief Justice and its main recommendations had been endorsed. These were: the project should focus on providing light investigative equipment to selected JIOs and on training Judicial Investigators which could be held jointly with trainings conducted for Iraqi Police. Regarding the light equipment to be provided, the CJ asked UNDP to propose a list of equipment for his consideration. A meeting was held in Baghdad during Q4 of 2012 with a number of relevant stakeholders from the international community to discuss synergies between on-going efforts to support the investigative process in Iraq. During this meeting, which was attended by UNDP, INL, EUJUS-LEX and the EU, it was agreed that UNDP would use the curriculum developed jointly by INL and EUJUST-LEX as part of the Federal Investigative training to train judicial investigators through the Judicial Development Institute (JDI).

Given the delays in UNDP's implementation of the initiative and the many other INL partners involved with the JIOs under INL-I's parallel initiatives during the programme period, it is difficult for this Evaluation to attribute improvements in the functioning of the JIOs to UNDP. Although, what is clear is that UNDP clearly mapped out the needs of the JIOs that will lay the groundwork for their development going forward.

As noted previously by UNDP and INL-I, the requests of the HJC for support to enhance the investigative capacities of the JIOs, thereby reducing the reliance of the JIOs upon the investigative capacities of the police, has raised concerns among some members of the international donor community. The concern is that the inter-agency duplication of mandates/authority for investigations may lead to further tensions and rivalries between the police (under the authority of the MoI) and the Judicial Investigators (under the authority of HCJ). Iraqi statutory law does not define the division of roles and responsibilities for investigations between the police and judicial investigators, due to the fact that the JIOs were created by an executive order of the Iraqi Chief Justice.

**Ultimately, the friction between the HJC and MoI as to whether JIO or the police have jurisdiction to conduct investigations may call for a political settlement that is beyond the scope of a development agency such as UNDP. UNAMI and the international donor consortium in Iraq may have a role to play. In the meantime, UNDP and other donors, including INL, UK and EUJUST-LEX agreed that UNDP's efforts should focus on improving lines of communication between the JIOs and the Police.** UNDP has recently suggested the organization of a national conference (under the auspices of the Prime Minister) to discuss how the two institutions can better work together and to agree on the specific steps and measures that need to be undertaken to make division of authority and cooperation between the two institutions effective and sustainable.<sup>77</sup>

As of 2013, the JIOs are not yet fully capacitated and are challenged by corruption, lack of transparency, lack of respect for the rights of the accused and low capacity, training and education of staff. According to judges interviewed at the Investigative Courts in Iraq and KRG, UNDP should focus on the jurisdictional basis (i.e. KRG Domestic Violence Law) and related procedures that the JIOs must follow. The process by which the Investigative Judges refer case files to the police, the quality of police investigative reports

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<sup>77</sup> UNDP INL-I Project Progress Report 4<sup>th</sup> Quarter 2012.

back to the Investigative Judge, arrests of defendants upon probable cause and subsequent reports of the Investigative Judge to the Criminal Court are all areas that UNDP could focus upon in its training curricula.

## **Criminal Justice Data Management**

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>HIGH</b>

As stated above, the UNDP US Department of State funded project “INL-Justice Data Management” project (March 2012-March 2014) is designed to support the timely and secure data management and exchange between justice institutions via a pilot system based on a justice data integration strategy. The project is meant to build upon UNDP’s previous work with the CMS and the outcomes of the INL-I Iraqi Justice Integration project supported by DoS between 2005-2011. Among the outputs of the project as designed are: UNDP technical support to the Inter-Agency Working Group (IAWG) established for the project; the design and undertaking of a justice data needs assessment to identify the gaps at the various institutions and in processes for data exchange; the development of a comprehensive justice data exchange strategy and workplan to be approved by the IAWG and the piloting and implementing of the justice data exchange strategy.

The initiative was fraught from the beginning with tension between the MoI and MoJ. UNDP was not initially successful in getting GoI ownership over the database—especially since approval of any UNDP draft plans for the justice data needs assessment, etc. are subject to approval of the IAWG. In addition, initially, MoI and HJC officials were not readily available to UNDP. For example, in February 2012, the UNDP international project manager were prevented from meeting with the Head of the IAWG and told that this required formal approval of the MoI. In addition, UNDP received no feedback or comment on drafts of the project document sent to the Head of the IAWG and Head of the HJC’s IT Department, although UNDP’s partner INL-I did provide suggestions for minor alterations that were incorporated.

UNDP addressed these difficulties by organizing roundtables of the IAWG to discuss development of the criminal justice data information exchange network and to present a draft workplan. UNDP also provided IAWG with a variety of foreign and comparative models, with Turkey’s experience and inter-agency data exchange platforms being suggested by IAWG as the most relevant model for Iraq. Yet, the draft workplan and plans for the assessment survey remained largely in the planning and discussion phase during the first half of 2012.

A noticeable improvement in the pace of implementation occurred following the recruitment by UNDP of a national Programme Specialist in May 2012, with relevant legal and technical background as well as an international IT officer to be based in Baghdad. UNDP’s approach became more strategic and participatory. For example, this led to UNDP successfully reaching a consensus between IAWG member to discuss a regulatory framework for justice data management in Iraq and further discussions and preparation for undertaking the gap analysis. UNDP also witnessed a heightened level of political will

on the part of MoI and HJC following meetings of the IAWG held in Amman and Baghdad in the Fall of 2012, where a draft technical workplan for the system architecture was approved.

According to UNDP, the lesson learned from the project implementation thus far is that direct engagement with the local counterpart is vital in order to ensure “ownership” over the initiative. UNDP’s donor INL (U.S. DoS) is very satisfied with UNDP performance to date. The main challenge for the initiative as of 2013, is moving from the initial planning phase consisting of discussions, workshops and roundtables with the IAWG and into the next phase of project implementation that will consist of the *actual collection and ground analysis* needed to build the system architecture.

Given the fact that the project is already at its mid-point and the enormity of the task of actual implementation that lies ahead, it is very difficult for the Evaluation to predict with certainty whether a *real and operational* system of criminal justice data exchange between the MoI, HJC and other institutions will ultimately be achieved as a result of UNDP’s engagement. *All that can be said at this point is that a foundation has been laid, which has the potential to advance the Outcome at some future point in time.*

If eventually implemented, the system architecture has great potential for improving the efficiency of the criminal justice system in Iraq. **UNDP should continue to provide technical advice to the process of establishing a Criminal Justice Data Integration System going forward, but UNDP and INL may wish to negotiate agreements for collection and ground analysis with the intuitions in advance of any subsequent phase of the initiative, as well as explore mechanisms for GoI co-financing.**

## Strengthening the Management and Reform of Prisons and Juvenile Detention Facilities

Results and Effectiveness	HIGH
Sustainability Risk	MEDIUM

The CA administered the Iraqi Correctional Service (ICS) until 2010 when it was formally transferred to the GoI. At the Federal level in Iraq, two authorities now administer ICS: the MoJ, which is concerned with all types of prisons and detainments and the MoLSW, which is only concerned with juveniles. By way of contrast, at the sub-National level in KRG, the KRG MoLSA has authority for all correctional facilities.

An output indicator in the CPAP document called for a focus on penitentiary administration in line with human rights standards. Indeed, early on, detainee rights were an important component of UNDP activities focused on rule of law and human rights. In conjunction with the “Justice Network for Prisoners” (JNP), UNDP sought to increase the prevalence of rights-based management of correctional facilities in Iraq.<sup>78</sup> But as a result of an inability to reach an agreement with the GoI on monitoring procedures, formal and sustained monitoring on detainee rights was carried out only in KRG; similarly, efforts to extend successful programmes to train prison staff on human rights and international standards

<sup>78</sup> RoL & Justice Programme Document.



regarding detention conditions were blocked by the GoI.<sup>79</sup> In both instances, the Government objected to the involvement of NGOs that it said might not have been genuine.<sup>80</sup>

The UNDP funded project “Strengthening the Capacity of the Government of Iraq to Reform and Manage Prisons and Juvenile Pre and Post Trial Detention Facilities in Line with International Standards” that was an off-shoot of the EU funded “Iraq Support to the Rule of Law and Justice Project” has supported studies on the legal framework of Iraq’s prison system, actual conditions of detention and training needs against international standards. The project also included piloting of prison management procedures in Iraq and KRG. The project was outstanding in terms its detailed design and planning, as well as the GoI partnerships and follow-up that were facilitated by UNDP consultants DMI.

UNDP was initially faced with a challenge of gathering comprehensive and accurate data on Iraq’s penitentiary system, given the security situation and internal turnover within the Iraqi Correctional Service, as well as visiting some locations. UNDP effectively overcame this hurdle by pursuing a CSO/NGO based strategy as a way to gather information on the actual state of the Iraqi corrections system.

During the Assessment Phase of the project, UNDP conducted an overall assessment of the Iraqi penitentiary system. UNDP effectively engaged with the ICS, JoJ, MOI and KRG prison authorities to prepare assessment studies in three areas: i) the legal framework of the ICS; ii) actual conditions prevailing in Iraqi correctional facilities; and iii) training needs for all categories of personnel involved in the ICS. In line with the project document, UNDP maintained a focus on juveniles in detention and detention of vulnerable groups including, but not restricted to, women.

*UNDP’s assessment studies were groundbreaking*, highlighting the fact that there are many laws pertaining to the prison system and prisoners, with a resulting duplication of jurisdiction and authority within the prison system. UNDP catalogued provisions of the Penal Code, Criminal Procedure Code and laws pertaining to female and juvenile prisoners that are in need of amendment.

UNDP’s assessment study of the actual conditions of confinement in Iraq revealed that conditions for detainees in penitentiaries have continued to fall far behind international standards, in large part because of overcrowding and a lack of due process due to crowded judicial dockets, but also because authorities turn a blind eye to allegations of torture and abuse.

On paper, the laws and regulations pertaining to the prison system in Iraq comply with international human rights and best practices, including the conditions of confinement, length of pre-trial detention, separation of juveniles from the adult population, sanitation and health standards and prohibition of torture, etc. In reality the Iraqi prison system remains plagued by overcrowding, torture, corruption, lack of access to monitoring agencies, mixing of the adult and juvenile prison populations, etc.

Female detainees are particularly hard-hit; women whose husbands are detained on grounds of terrorism have been trapped in detention with their children for years without recourse to the courts or due process.

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<sup>79</sup> RoL & Justice Final Report at 38-43; 45-46; 53-54; Development of Justice & RoL Final Programme Report at 20.

<sup>80</sup> RoL & Justice Final Report at 43, 46; Development of Justice & RoL Final Programme Report at 18. It should be noted that UNDP and its NGO partners were able to work with the regional government of Kurdistan to provide both training and monitoring in the relevant timeframe.

At mid-2010, ICS was operating at near 100% of its actual capacity, with an estimated 35,653 prisoners housed in Iraq's detention facilities, with a theoretical capacity of 37,146. Meanwhile, Iraq has one of the highest percentages in the world of pre-trial/post-trial detainees with an estimated 59.0 percent of detainees awaiting trial. By way of contrast USA had only 20.7 percent pre-trial detainees, Russia 15.2; France 27.5 and U.K. 16.1. Other sources report that the numbers of deaths in prisons increased dramatically between 2010 and 2012 in both Iraq and KRG.

Based upon its review of ICS management, UNDP documented the fact that there is a general lack of communication between different GoI ministries and within the management structures of the prisons themselves as well as their internal hierarchies. UNDP was able to map-out how each GoI agency (i.e. MoJ and MoLSW) currently contribute to training the ICS, current training infrastructures (i.e. the new Iraqi Corrections Training Centre in Baghdad) and the ICS's current training format.

Meanwhile, UNDP's research revealed that in the last decade of violence, instability and war has brought unprecedented numbers of juveniles in contact with the law who are not necessarily delinquents. These juveniles are likely to be subjected to the same conditions as adults including: coerced confessions, torture and mistreatment, lengthy periods held in pre-trial detention in violation of international standards, lack of psycho-social support services, denial of education and rehabilitation.

UNDP synthesized the three assessment studies and devised a Strategy for Reform and Enhanced Management of Prisons and Juvenile Pre- and Post-Trial Detention Facilities, resting upon the overall objectives of executing sentences of imprisonment for the benefit of society and facilitating rehabilitation and positive return to society of detainees. UNDP's goal was to present the GoI with a matrix of possible initiatives to reform and manage the ICS in line with the Constitution of 2005 and international standards. The Strategy presented to GoI by UNDP consultants stressed the need to improve interactions between the prosecution, trial authorities, relevant stakeholders and the detention centres, as well as the need to provide authorities with reliable management tools allowing them to define and implement a penitentiary police that is both efficient and respectful of human rights.<sup>81</sup>

As the final step in the intervention, UNDP devised three innovative pilot projects to further acquaint Iraqi officials with the recommendations of the draft Strategy and to test various outputs of its recommended components. These were: i) Pilot 1: a benchmarking/study tour in France; ii) Pilot 2: pilot project on the admission procedures in Suleymaniyah Prison; and iii) Pilot 3: pilot project on cooperation procedures in Fort Susa Prison. According to UNDP's final review of the project, the benchmarking study tour in France facilitated discussion among ICS, MoJ, MoLSW and other stakeholders as well as fostering an on-going internal communications dynamic between various categories of actors and within the facilities themselves.

The pilot project on admission procedures implemented by UNDP at the Suleymaniyah Prison was able to identify and clarify the role played in the admissions process by each respective section within the prison (i.e. Legal Office, Social Workers and the Health Centre) and to eliminate unnecessary and overlapping

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<sup>81</sup> UNDP Final Project Report (31 August 2012). The draft Strategy had four central components: A) Detention: Violence in detention is reduced; overcrowding and repeat offences are reduced; B) Professionalization of Correction Services Staff and Technical Human Resources: Central administration strengthened; facility management is improved and subcontracting of services is planned/implemented with a reliable legal basis; C) Leading and Monitoring changes: ICS is modernised, compliance with internationally recognised norms and standards is enhanced, and Iraq administration and public services are strengthened; and D) Reducing Overcrowding: Exploration of alternatives to detention sentences and Developing Systems of Early Release.

steps in the process, as well as identify crucial gaps that were not being tracked by the prison (i.e. health concerns, suicide risks and emergency contact info). As a result, UNDP was able to streamline the admissions process and reduce the time required to process each inmate by 50 minutes. UNDP also conducted extensive trainings of prison staff to ensure that adherence to the newly devised forms and processes would take effect.

Meanwhile, the pilot project on cooperation procedures at the Fort Susa Prison resulted in an improved balance between the duties of guards and social workers, based upon interviews with the various departments involved and with the prisoners themselves who were the subjects of the system. UNDP was also able to fully document and assess the prison's risk assessment and sentence planning procedures in line with U.N. standards. UNDP concluded that the Fort Susa Prison was compliant with international standards—indeed exemplary among Iraqi prisons and for that matter prisons in other post-conflict environments in the world—but that at the national level ICS was still hindered by a lack of vision, goals and values.

While UNDP's interventions in Prison Management and Juvenile Detainees have not yet resulted in *system-wide* change, they have provided many examples and lessons learned that can inform future efforts of ICS (MoJ and MoLSW, as well as KRG entities) to conduct reforms. This Evaluation was unable to independently obtain data and statistics from the ICS to verify the continuing impact of this initiative post-2012; however, the Evaluation met with the Director of both the Suleymaniyah Prison and Fort Susa Prison. Each director validated the contribution of UNDP as having improved processes at their respective institutions and stressed the need for on-going training.

The Director of the Fort Susa Prison highlighted a number of on-going issues facing the ICS. Overall, there is a continuing lack of stability in the ICS itself with a high turnover of staff. Many prison officials and directors come from military backgrounds with very little training in corrections methodologies. Directors of prisons are changed and/or reassigned frequently and nepotism is rife within the system. There is a need to institutionalize the ICS's human resources and the staff of its Directorate. There are no uniform sets of instructions at the National level for Directors of Prisons. Budgeting, procurement and logistics processes are also major areas that need analysis. Special trainings are needed for the prosecutors who work within the prisons, as well as social workers. Rehabilitation opportunities could also be enhanced via partnerships with CSOs.

Another area in need of national attention is the current ICS system of tracking movements of prisoners between institutions. Inmates are often transferred between prisons in the middle of the night without any prior notice, which impedes classification of inmates and tracking them within the system. Such practices also prevent case management, obtainment of necessary court orders, papers, processing and review. According to the Director of the Fort Susa Prison, when an inmate is transferred without notice he is effectively "lost" and the new prison has to begin the classification process *ab initio*. Despite the fact that ICS maintains a centralized database and a CD-ROM is sent on a weekly basis to various branches and prisons, the ICS database is not updated accurately and frequently; therefore, local prison directors can't rely upon it in many cases.

UNDP has also worked during the CPAP period to facilitate legal aid efforts for this particularly vulnerable population. Through an NGO and the GoI, UNDP has carried out Mobile Legal Clinic outreach sessions in the prisons.<sup>82</sup> Similarly, UNDP has provided training and coordination for the establishment of prisoners' rights centres that provide legal aid to detainees.<sup>83</sup> As a result, in 2011, 463 prisoners (including 74 female detainees) received legal representation through UNDP-supported initiatives, and 513 prisoners utilized a rights hotline.<sup>84</sup> These numbers, though relatively low, represent a real accomplishment and forward momentum towards providing justice to a particularly vulnerable population that is often neglected. There is currently a continuing component of delay in local courts that is fuelling citizen protests and complaints. Pre-trial detention without sufficient evidence is a serious issue.

**UNDP should continue to work with the Iraqi Correctional Service (ICS) to improve its human resources and management practices with the goal of reducing the high-rate of turnover and frequency of reassignment of prison directors; to improve inmate registrations and tracking in the ICS computer system and improve conditions for juvenile detainees. UNDP could provide further technical assistance to the MoJ and MoI in tandem with the goal of streamlining procedures for arrests, police custody and pre-trial detention.**

The application of the death penalty was not a focus of UNDP's work thus far. In light of recent UN findings on the application of the death penalty in Iraq, UNDP might wish to support research and advocacy in death penalty in conjunction with other UN agencies and departments having a mandate in this area (i.e. UNODC, UNICEF, UNOHCHR and UN-DPA).

### **Improving Confidence Levels Between Citizens and the Police**

<b>Results and Effectiveness</b>	<b>LOW</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	<b>MEDIUM</b>	N/A (No targeted UNDP programming)

UNDP also aimed to support the Iraqi Police Service (IPS) in the Al Basra Governate to reach higher standards of efficiency and productivity in service delivery and improve confidence levels between citizens and police via the "Refined Architecture for the Al Basra Enforcement Project BLUE", which had elements of Community Policing as part of its design. UNDP has not worked extensively with the Iraqi National Police to date (with the exception of the highly successful FPU's noted above and "Project BLUE", which did not achieve its expected results).

**Going forward, UNDP could support the Iraqi National Police and Police Academy to develop a strategy for Community Policing and integrate training on human rights into the training for**

<sup>82</sup> *Id.* at 9.

<sup>83</sup> RoL & Justice Final Report at 48-51.

<sup>84</sup> *Id.* at 51-53.

**police. In the context of conflict, UNDP should also consider shifting the dialogue from “Security” to one of “Human Safety”. UNDP programmes with community policing and human security in other conflict/post-conflict zones (i.e. Sudan) may provide a reference point.**

As of 2013, other members of the UNCT are beginning work on Community Policing that may present synergies with UNDP’s support to justice sector reform, access to justice and human rights.<sup>85</sup> At the time of this Evaluation UN IOM in Iraq was implementing a US DoS DRL-funded Community Policing project, “Supporting Human Rights and the Rule of Law in Iraq through enhanced cooperation between police and communities”. The project aims to expand channels of communication between police and communities to increase trust, promote civic engagement in crime prevention and early intervention, and ensure victims of crime are provided with timely referral to services. To do so, IOM is rolling out Community Policing Fora in an initial 15 / target 30 communities in Baghdad, Basra, Babylon, Ninewa and Erbil, utilizing community representation structures developed through IOM’s Community Revitalization Programme (Community Management Teams and Women’s Empowerment Groups), as set forth in a concept paper entitled, “A Multi-Level Model of Community Involvement”. Specific topics to be discussed will evolve over the coming months and will of course reflect the concerns and priorities of communities – as now being assessed – but the MoI has expressed interest in using Community Policing techniques in their handling of cases of GBV, trafficking, and delinquency.

Ultimately, IOM hopes to get better insight into what works and what doesn’t with regard to Community Policing in Iraq and channel this back into decision-making at the central level. IOM will also work with the MoI to design and deliver more contextualized and practicable Community Policing training curricula, integrating topics such as the above.

The project contains a second component focused on enhancing civilian oversight of the security sector; IOM has recently sought cooperation with UNDP on this, given UNDP’s extensive engagement with Iraqi Parliament and, in particular, the Security and Defense Committee. In addition, IOM is planning to conduct local-level awareness raising on the functions of parliament and mechanisms for complaint – hoping communities will convey actionable issues affecting local security to their elected representatives. This may present synergies with UNDP’s support to CSOs, Bar Association, women and legal empowerment.

### **Continuing “gaps” in Judicial System Reform in Iraq identified by the Evaluation**

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

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<sup>85</sup> The EU and British Council recently supported Community Policing initiatives in Basra.

As part of this Evaluation, a comprehensive analysis of the Iraqi judicial and court system was undertaken in order to fully assess the choices made by UNDP during the relevant programming period. Based upon this analysis the Evaluation was able to identify a number of areas regarding court reform and reform of legislation pertaining to the judiciary and criminal justice system, that were either underserved or not served by the current rule of law programme. While resources and time will limit the extent to which UNDP will be able to address these issues going forward, UNDP would be well advised to take these issues into account in designing its next rule of law programme.

The principal of the independence of the Judiciary is enshrined both in the Iraqi Constitution and in law in Iraq. Yet, despite this and much international support to the sector, the Iraqi Judiciary continues to be faced with issues that interfere with and preclude it from exercising a truly independent and unfettered jurisdiction and open the door for corruption of process. Such issues include: lack of reforms, application of old laws of the ex-regime, a highly centralized control under the ultimate authority of a single individual (the Chairman of the HJC), lack of accurate selection standards, central management of court budgets, political interference and intimidation of judges, non-transparency and lack of publication of judicial decisions and low quality of analysis in written opinions. The Amended Judicial Regulatory Law No 160 of 1979 that effectively still governs most of the work of the Judiciary, notwithstanding the fact that CA Order 35 of 2003 reshaped the HJC and removed it from the MoJ jurisdiction and the Constitution of 2005 that places the HJC under the Chairmanship of Supreme Court.

Although the law of the Supreme Judicial Council (HJC) has given it authority to propose legislation, the HJC had not submitted any draft laws as of April 2013. Laws relating to the Prosecution and Judiciary are currently out-dated (i.e. Judiciary operates under the Judiciary Regulatory law No. 160 of 1979, which emphasizes strong central control, rather than capacitating local court management and finance mechanisms; the Prosecution is still working within Law No. 159 of 1979, etc.).

**UNDP should continue to support the HJC, JTI and JDI. In particular, UNDP should foster dialogue on how the Iraqi federal Judiciary can be made truly independent, including debate on the continuing applicability of Amended Judicial Regulatory Law No 160 of 1979 that still effectively governs the workings of the Judiciary, despite language in the Constitution of 2005 that enshrines the principal of judicial independence in Iraq.**

**UNDP should support the judicial administration to implement the HJC Law (Law on the Supreme Judicial Council) No. 111 of 2012, including the drafting of other laws related to the affairs of the Judiciary (i.e. the long awaited Judicial Authority Law, Law on the Prosecution; Law on the Judicial Supervisory Board, etc.). Going forward, UNDP should focus on the Investigative Judges; judicial independence and execution of judgments as key areas for the Judiciary. There is a need in the whole of Iraq for enhanced training on judicial ethics, judicial misconduct and discipline, court management and forensics.**

The various levels of courts within Iraq also pose their own sets of issues. The Supreme Court of Iraq acts as both a trial court and court of appeal its jurisdiction includes interpreting the Constitution; deciding on cases arising from the application of federal laws, regulations and instructions and, among other areas, ruling on disputes between the federal government and the governments of the regions, governates, municipalities and local administrations and among and between those entities. The administrative adjudicatory powers of the Supreme Court is extremely important in terms of checks and

balances. The Supreme Court can be expected to play a more important role within the context of decentralization in Iraq. **UNDP should support the Supreme Court's knowledge and competency via enhanced trainings on issues of federalism and decentralization and the allocation of authority among the various levels of state and local administration in Iraq.**

The Federal Cassation Court has the authority to try cassative appeals (i.e. on the application of law only, not on the facts) on all types of judgments and decisions issued by various courts in Iraq, penal and civil, including family courts. Yet, the Cassation court has had trouble staffing the number of judges specified, with the Parliament only recently appointing new judges in 2012. **UNDP should target the Federal Cassation Court and its judges for specialized training in appellate jurisdiction, reasoning and opinion writing either directly or via supporting the JTI and JDI to develop specialized curricula for appellate judges.**

In addition to the other courts, there are three courts within the Ordinary court system of Iraq that have a disproportionate role to play in the lives of women and children, namely: i) The Family Court (which hears family cases for all Iraqi Muslims and for foreigners if the provisions of Islamic jurisprudence or Shari'a apply to them); ii) The Personal Status Court (which has jurisdiction over family cases for non-Muslim Iraqis and foreign Muslims); and iii) The Juvenile Criminal Court (that try crimes attributed to juveniles between the ages of 9 and 18). The Family Courts currently suffer from a lack of knowledge of international human rights obligations (i.e. CEDAW), lack of observance of gender equality, inefficient case systems and rates of adjudication and low staffing. To date, UNDP has not had any targeted programming with these courts.

**UNDP should explore ways in which to support those courts in Iraq that have a disproportionate role to play in the lives of women and children, namely, the Family Court, the Personal Status Court and the Juvenile Criminal Court. UNDP should seek to raise the awareness of judges and court staff within these courts of international human rights law and the rights of women, children and juvenile defendants. UNDP should support capacity building initiatives to improve the processes within such courts with the goal to reduce case backlog and improve efficiency and transparency of such courts. Family (Shari'a) courts often play a vital role in the lives of women and children within Muslim societies addressing such issues as marriage, divorce, custody, child support and inheritance. UNDP should include Family (Shari'a) courts in its situational analysis and consider programming points going forward.**

There are several courts in Iraq that have jurisdiction for Administrative law and procedure, namely, i) The Administrative Causes Court (within the Federal Shura Council), which reports to the MoJ and has jurisdiction over cases brought to challenge the validity of administrative orders issued by the State; ii) The Public Discipline Council (that hears appeals from public employees against management for penalties imposed upon related to their job performance); and iii) certain Specialized Courts (i.e the administrative court of the Ministry of Planning that deals with complaints and disputes related to public contracts awarded by the government). UNDP has not programmed with the Shura Council(s) to date and has had no targeted programming with the administrative courts. **UNDP should develop a plan for strategic engagement with the Shura Council as it forms both quasi-judicial and quasi-legislative functions. Iraq's Shura Council is modelled on the Conseil d'Etat of France. Thus, it fulfils basic roles of reviewing administrative regulations for conformity with the Constitution as well as**

**hearing cases of administrative violations of state agencies. The Shura Council informed the Evaluation that it currently has no mechanism for soliciting the views of CSOs in Iraq. UNDP should strategically programme with the other administrative courts.**

Meanwhile, the various ordinary Iraqi Penal Courts are faced with a number of challenges and issues including: low numbers of judges; corruption; lack of proper attention to due process of law and criminal procedure; ruling on indictments against accused persons without consideration to the availability of factual evidence; disregard of clear procedural violations such as excessive pre-trial detention and the failure to order release of detainees; adoption of confessions obtained by torture; failure to inform criminal defendants of their rights; lack of available mechanisms for criminal defendants to communicate with their legal counsel or families; lack of quality control or supervision of court appointed lawyers for indigent defendants; failure of the judiciary to protect lawyers who are threatened; delays in process; disregard for due process and fair trial in accordance with international best practices and the provisions of Iraqi Penal Procedure Code No. 23 of 1969; lack of transparency and judges' disrespect for the functions of their office and ethics (i.e. duty of confidentiality).

**Overall, UNDP needs to approach the criminal courts and criminal justice in Iraq in a holistic manner. In other words, UNDP needs to look at each point at which an individual criminal defendant comes into contact with the criminal justice system and penal courts and to map-out the provisions of the Iraqi Constitution, Iraqi Penal Procedure Code No. 23 of 1969 and other procedures that apply to that point in the process, as well as each GoI Ministry or agency that must become involved and ascertain “gaps” in procedures or “roadblock” that are occurring and make recommendations to the HJC and GoI for reform. The Bar Association, academia and civil society could be enlisted in such an initiative. UNDP should use roundtables, conferences, radio, television and social media as forums in which to discuss and highlight these issues. UNDP legal aid initiatives should strictly police the quality of lawyers undertaking representation of criminal defendants. The JTI and JDI should be supported to devise a special curriculum geared to overcoming the deficits in Iraq’s criminal justice system.**

The KRG Judiciary is governed by the Kurdistan Judiciary Authority Law (No. 23 of 2007) that created a fully independent KRG HJC that is disengaged from the MoJ, but the KRG Public Prosecution remains under the control of the KRG MoJ. While more viable and independent than the Federal Judiciary, the KRG judiciary continues to face a number of challenges many them tied to low levels of knowledge and lack of transparency. The KRG Judicial Institute is a relatively new institution, having only opened its doors in 2012 with its first class scheduled to enter the judiciary in 2013.

**UNDP should support the KRG Judiciary to build its capacity in terms of its knowledge of current legislation and to become more transparent. UNDP should continue to support the KRG Judicial Institute to develop a curriculum that is responsive to the needs of the judiciary and that supports notions of judicial independence, judicial ethics and transparency and efficiency of courts in KRG.**

The percentage of women serving as judges within the Iraqi Judiciary and prosecution services remains low. In 2010 there were a total of 925 judges, including 15 female judges; there were 338 prosecutors, of whom 52 were women. At end-2012, there were a total of 1375 judges and prosecutors, including 26 female judges and 51 female public prosecutors. In KRG the total number of judges in the KRG Judiciary as of 2012 was 186, with only 5 female judges. The total number of prosecutors in KRG as of



2012 was 145, with 43 female prosecutors. **UNDP should support trainings for female members of the Judiciary and ways to promote and increase appointment of female judges in Iraq and KRG.**

There are instances where lack of political will and/or political rivalries are presenting road blocks that may exceed the capacity of any development agency to resolve. **The continuing political divisions within the rule of law institutions may dictate that donors meet with the Prime Minister to encourage the GoI to better align the justice institutions with each other, become more inclusive of all Iraqi citizens and accommodate local-level viewpoints and constituencies.**

The Judicial Supervisory Board is designed to have responsibility for monitoring and enforcing judicial ethics and discipline and to police incidences of corruption within the judiciary. In reality, the Judicial Supervisory Board is currently operating at a vastly under-capacitated level as a small section within the HJC, reporting directly to the HJC Chairman, and without the objectivity or independence required of such an office to effectively act on complaints. This is of special concern considering that the rates of complaints filed with the Judiciary Supervisory Board have been steadily increasing in recent years. There is evidence that the Board is being used as a tool to intimidate judges and to influence their judgments. **UNDP should support an analysis of the way in which the Judicial Supervisory Board is being utilized by the HJC. Beyond this, UNDP should foster dialogue, legislative reforms and the development of a comprehensive system of judicial ethics and discipline in Iraq. The Bar Association and civil society should be included in such initiatives. UNDP should support CSOs and media that are engaged in court monitoring.**

The decisions of the Iraqi judiciary are not currently published in a regular official format, as was the case during the former regime. The Bar Association has a magazine and individual lawyers and legal scholars regularly write articles and case summaries. In addition, all laws are published in Iraq's Official Gazette. Yet, while laudable, such publications do not equate with an official reporter system for reporting all Supreme Court decisions, Court of Cassation decisions and selected decisions of importance of the Ordinary (civil and criminal) courts. The lack of availability of officially published court decisions impacts negatively upon judges, lawyers and their clients. It also negative repercussions for legal scholarship and even impacts upon the climate for foreign direct investment in Iraq. If citizens and interested parties cannot find out what the law is, then they cannot predict how courts will rule and courts are not transparent and accountable when their decisions are not made known to the public at large in the form of an official reporter. In fact, the entire relationship of the judiciary towards society is potentially disrupted by a lack of publication of court decisions. **UNDP and bi-lateral donors should prioritize supporting the publication of court decisions in Iraq. The importance of publishing court decisions to the rule of law and access to justice in Iraq cannot be understated. Publication of court decisions will pay dividends across the judicial system, practice of law, academia and the media.**

As a result of a lack of access to justice Iraq citizens have lost confidence in the Judiciary both at the Federal level and in KRG. Despite the fact that a previous phase of UNDP Rule of Law support (i.e. Erbil pilot court component) included legal awareness activities that are still in operation, there continues to be a need to increase access to the courts and raise awareness of citizens' rights.<sup>86</sup> There are currently no standards or systems for performance appraisal and measurement of people's trust in the Judiciary of Iraq or in KRG. Yet, despite this fact, number of cases within both the civil and criminal courts has risen

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<sup>86</sup> Previous awareness raising activities included posters, leaflets, radio, TV and two kiosks that are still in operation.

since 2010. It remains very difficult, however, to make a correlation, however, between these increasing numbers and court efficiency or citizen's confidence in the Judiciary. **UNDP should continue to support awareness-raising of citizens and mechanisms to make the courts more open (i.e. information kiosks, legal help desks, forms, signage, etc.). UNDP should work with the Federal HJC and KRG HJC to create a viable system of judicial performance and discipline.**

#### Public Prosecution Service

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

The Public Prosecution Service in Iraq at the Federal level, among its other duties, has a strong role to play in protecting the rights of women and children. The office may appear before the family courts or civil courts in cases related to minors to protect the interests of the family and the child. The Public Prosecution also has important functions regarding enforcement of judgments in Iraq. The Prosecution is still unable to carry out its role in Iraq due to a number of factors including the fact that it is controlled by the Judiciary according to laws dating from 1979 and its lack of resources. **UNDP should support the Public Prosecution to re-build its capacity, especially with regard to its role with the family courts and in the protection of women and children and in the enforcement of judgments. UNDP should foster dialogue on the interpretation, continued validity and application of the Public Law No. 159 of 1979 and the Judicial Regulatory Law No. 60 of 1979.**

KRG Prosecution remains part of the MoJ and fulfils a number of duties in the proper application of the laws, detection of crime, prosecutions and regarding the protection of families and children. Yet, the KRG Prosecution faces a number of challenges including lack of independence, lack of staff, weak accountability levels and transparency, lack of codes of conduct for prosecutors, etc. **UNDP should support the capacity of the KRG Prosecution—particularly with regard to codes of conduct for prosecutors and in respect to the Prosecution's role in the protection of the family and children. UNDP's support to the KRG Judicial Institute should include such elements in its curricula for the training of prosecutors and legal staff.**

#### MoJ and the Shura Council's Administrative Court

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

The Iraqi Federal MoJ fulfils a variety of functions pursuant to the Federal Ministry of Justice Law No. 16 of 2008 including the codification of laws and providing opinions on matters of state law, documenting real property, etc. MoJ also has ultimate authority for prisons in Iraq. Meanwhile, the Shura under the MoJ contains several administrative courts. The MoJ is in need of continuing capacity building for its staff particularly in the Legal Department, Judicial Planning Department, Legal Department, JTI and Iraqi Reformation (Prisons) Department. KRG MoJ and Shura Council fulfil similar roles and face similar challenges and contain an administrative causes court. To date, UNDP has not worked with the Shura Council in Iraq or KRG.

**UNDP should continue to support both the Iraqi federal MoJ and the KRG MoJ in the development of the capacity of its staff going forward. The Shura Councils at both the Federal and KRG levels play a fundamental role in ruling on the legality of state administrative acts and awarding compensation to citizens harmed by administrative action.**

## Participatory Governance and Anti-Corruption

Results and Effectiveness	MEDIUM
Sustainability Risk	MEDIUM

Participatory Governance and Anti-Corruption were not the subject of this evaluation *per se*, but each intersects with UNDP Rule of Law, Human Rights and SSR clusters. They are discussed herein, due to the close synergies with CPAP Outcome 2 and with a view towards future programming.

UNDP's project, "Enhancing Transparent Participatory Governance and Human Rights" funded with US \$3.09 million from the Iraq UNDAF Fund (February 2012 to February 2014) is designed to promote transparent participatory governance and strengthen human rights in Iraq. The project has four main outputs: 1) Support to the mandate and organisational structure of the Independent High Commission for Human Rights (IHCHR), including the establishment of sub-national commissions; 2) Support to the long term institutional development of the IHCHR and its outreach capabilities through participatory governance mechanisms; 3) Ensuring that frameworks, institutions and processes are in place to promote integrity, transparency and accountability at all levels of government, including support for the on-going roll out of the Government of Iraq's National Anti-Corruption Strategy and strengthening the capacities of key parliamentary committees (Integrity, Finance) to address corruption issues, enhancing the engagement of civil society organisations and media in addressing corruption and providing technical support for the establishment of a new KRG Commission of Integrity; and 4) utilizing CSOs in Iraq to promote participatory and transparent governance. This involves financial and technical support to civil society organisations with a focus on enhancing their engagement with parliament and relevant parliamentary committees.

### ***The Committee on Integrity of Parliament and Anti-Corruption***

Iraq's Committee on Integrity is a parliamentary committee that fulfils an important function of oversight over all GoI Anti-Corruption bodies (i.e. Inspector General) and supports their legislative mandates. Formerly, Iraqi officials could not be prosecuted without a waiver of immunity being granted by their superior reporting officer. With the support of UNDP and other donors, the Committee on Integrity was successful in obtaining the deletion of an article of the Penal Code granting such immunity to officials. This procedural bar to personal jurisdiction has now been removed from the law. UNDP and other donors also supported the drafting of the Law on Integrity, but the political process effectively blocked the law.

The Committee member interviewed by the Evaluation stated that in regard to Anti-Corruption **UNDP could work jointly with media outlets to promote awareness of corruption and to train the Committee in partnership with UNODC to make Parliament more effective. UNDP can assist the Committee on Integrity to prepare evidence-based reports; to train Parliamentarians, Committee staffs and journalists to report on corruption and support CSOs to serve a “watchdog” function over GoI. UNDP and UNODC can partner to support the passage of laws related to UNCAC implementation in Iraq such as: i) a law to govern the Committee on Integrity; ii) a Law on Audits; iii) a Law on the Inspector General's Office; and iv) other legislation to support the UNCAC. UNDP can also support workplans for the implementation of such legislation by various GoI agencies.**

Judicial corruption is one area where UNDP's Participatory Governance and Anti-Corruption programming can intersect with Rule of Law. The Anti-Corruption Committee has noted that several recent high profile corruption cases have “collapsed” due to judicially imposed delay or simply because a judge has dismissed the case and released the defendant. It is perceived that in such cases, the judges succumbed to political pressure. In some instances, judges who do not cooperate are retaliated against.

### ***The Legal Committee of Parliament and Participatory Legislative Processes***

The Legal Committee of Parliament is one of 26 parliamentary committees in Iraq. Its functions include reviewing draft legislation for conformity with the Constitution of 2005 and identifying any conflicts with existing legislation. It also performs an oversight function of the MoJ and provides assessments to Parliament on particular decisions of the MoJ and other ministries.

The Directorate of the Legal Committee prepares commentary and revised drafts of laws before they are sent to the President's Office. The Directorate also fulfils a general coordinating function for the other parliamentary committees, heads of political parties and anything to do with parliamentary affairs. The Directorate's work is organized within approximately five departments, that include among others the Legal Department (legislative review, analysis and drafting); Research and Analysis; Personnel Department (to support the needs of members of Parliament with identification, etc.); Governates Affairs (dealing with all provincial councils in Iraq and KRG and effectively acting as a liaison office between the federal Iraqi and the KRG Parliament); and Press and Media Department (dealing with documentation, agendas and press releases).

The Committee's legislative analysis and drafting is performed by Legal Advisors who review draft legislation proposed by Members of Parliament and various Committees, by drawing upon their own legal expertise and the Iraqi Legal Database. Currently, most of the Legal Advisors lack opportunities for training and the Legal Committee needs to develop a continuing education programme for its staff—especially to improve its technical legislative analysis and drafting skill.

The Legal Committee regularly consults CSOs and independent experts from academia and elsewhere by for in-puts on draft laws. According to the Directorate of the Legal Committee, experts were consulted in the drafting of recent legislation such as the draft Protection of Media Workers Law (i.e. many journalists and member of the press were invited to comment), the draft Law on Elections and the draft Law on Political Parties—all of which are examples of highly participatory legislative process. Increasing such contacts and opportunities for CSOs to comment on draft legislation is an objective of the Legal Committee.

The Directorate of the Legal Committee acknowledges the key role that UNDP played in drafting the Iraqi Constitution of 2005. The Committee informed the Evaluation that UNDP technical assistance had also been crucial on a number of other laws including the “Federation Council Law” surrounding which UNDP had supported a number of regional events. Yet, the legislative process is by definition a highly political process and the Legal Committee is experiencing increasing demands on its staff. There is currently a vast disparity in the relative strengths and capacities of different committees. The Legal Committee, as well as the entire Committee structure of Parliament, is in need of capacity building and evaluation.

**The Evaluation identified a number of areas of potential UNDP support to the Legal Committee of Parliament going forward that include the following: i) Providing training and technical expertise to the Legal Committee's Department of Research and Analysis to prepare legislative impact statements; ii) Provide technical support and expertise to the Legal Department regarding its work with the Governorates and local/provincial leaders. The Parliament has entered into an agreement with the EU to support the provincial councils, but the Legal Committee's Department of Governorates Affairs needs training and capacity support.; iii) Providing support to the implementation of the “Federation Council Law” and strengthening mechanisms of communication between the Governorates and Parliament, as well as between Parliament and the Shura Council are also areas of need. Currently, many pieces of draft legislation get “stuck” in the Shura Council as a result of political roadblocks.**

## Promoting Transitional Justice and Peace

Results and Effectiveness	N/A (No targeted UNDP programming)
Sustainability Risk	N/A (No targeted UNDP programming)

Despite the fact that the CPAP states that all UNDP interventions are “designed to support the transition towards national reconciliation, peace and stability,” the “Transitional Justice” component of Output 1 has been *underserved* by UNDP to date. This has strong linkages to human rights (Output 2) and security sector reform (Output 3). Certainly, UNDP’s rule of law, access to justice, human rights and security programming in Iraq both in its design and implementation has contributed to delivering security and access to justice for women, improving human security and increasing access to justice for all. UNDP Iraq has also pursued innovative and highly inclusive approaches in its support to legal aid, women’s protection, prison management and juvenile detention and security sector reform.

UNDP’s highly inclusive approach to the drafting of the new National Security Strategy for Iraq; its successful support to the formation of the IHCHR and KRG Board of Human Rights; its support to DEVAW and women’s shelters in KRG and the Family Protection Units and Legal Help Desks all have dividends for the promotion of peace. UNDP’s SALW initiative is geared to improving human security in Iraq, which is a key component of Transitional Justice and Peace.

Yet, none of these initiatives has been *specifically geared* to deal with the *legacy of conflict*. Furthermore, UNDP Iraq’s SALW initiative is currently stalled. There has been no comprehensive attempt within any of the three clusters of the current UNDP Rule of Law programme to identify the drivers of conflict in Iraq (i.e. inequality, discrimination, accountability gaps, etc.) that transcend the obvious political and sectarian divisions; or to map out legislative reforms from a conflict mitigation perspective.

All stakeholders agree that Transitional Justice and Peace Consolidation in Iraq is a highly politicized and sensitive issue, but that there is room for UNDP to programme in this area going forward. Recent Sunni demands in the Anbar protests and recent elections involve: 1) accountability and rule of law; 2) the Amnesty Law; and 3) the Anti-terrorism law. Each of these is relevant to Transitional Justice in Iraq.

UNDP BCPR has a rich practice policy to draw upon concerning Transitional Justice and Peace. Much of this work focuses on the demand-side of the justice equation, with a focus on legal empowerment, legal aid and dispute resolution mechanisms at the local and community level. The UNDP Global Programme Annual Report for 2011, entitled, “Strengthening the Rule of Law in Crises-affected and Fragile Situations” offers many examples and lessons learned from UNDP’s transitional justice programming in such contexts.

**Going forward, UNDP should explore in conjunction with UNAMI possibilities for creating politically neutral spaces for people to engage constructively along non-sectarian lines—particularly for youth in line with UNDP’s rich global practice and comparative experience in transitional justice.**

**2. Output 2: Key government and non-governmental institutions have strengthened capacities to better protect human rights in relation to international standards**

Results and Effectiveness	HIGH
Sustainability Risk	MEDIUM

Output 2 CPAP indicators and sub-indicators
<b>4. Number of proposals and recommendations concerning Iraq's accession to international human rights treaties and conventions submitted (2010: 0; 2014: 5)</b>
<b>5- Referral system for the High Commission for Human Rights in line with International Human Rights Standards is functional (Baseline 2010: No, Target : Yes)</b>
Number of Human Rights Commissioners with improved capacities to promote and uphold human rights (2010: 0; 2014: 14)
% of trained High Commission for Human Rights staff in place (2010:0; 2014:100)
Number of NGOs with improved capacities in advocacy and monitoring of human rights (2010: 350; 2014: 700)
Number of legislations in force examined and evaluated by the High Commission for Human Rights (2010: 0; 2014: 5)
Annual Report submitted by High Commission for Human Rights to the Council of Representatives and published widely (2010:0; 2014: one report each year)

***Overview of Relevant Projects for Output 2***

UNDP's support to the drafting of Iraq's new Constitution in 2005 must be counted as a seminal contribution to Human Rights in Iraq. Other early UNDP support to Iraq included limited institutional capacity building and developing civil society. UNDP also lead the UNDAF Priority Working Group for Human Rights.

The primary vehicle for UNDP support to the Independent High Commission for Human Rights (IHCHR) and COR Committee at the federal level has been the project "High Commission for Human Rights in Iraq: Capacity Building and Technical Support". This 18 month project from 01 July 2010 to 31 December 2011 had a total budget of \$1 million US Dollars and was designed to support the process of selecting Commissioners for the IHCHR pursuant to the enabling law (Law No. 53)(2008) and to provide bridge funding to capacitate the IHCHR Secretariat until the IHCHR could be fully funded with GoI resources in a subsequent phase. UNAMI HRO served as the technical lead of the project and it was implemented by UNDP.

UNDP's support to participatory governance through the project "Enhancing Transparent Participatory Governance and Human Rights" intersects with human rights, anti-corruption and civil society. This

\$3,091,526 million US Dollar project spans from February 2012 to February 2014. It is designed in part to provide support to the IHCHR's mandate and organizational structure; establish offices for the Human Rights Commission in all governorates; support the Council of Representatives (COR) Human Rights Committee and establish sub-national commissions in KRG, within the overall regulatory framework of the IHCHR at the federal level. Other components of the project are designed to support participatory governance (i.e. strengthening human rights-holders perspectives via support to civil society); anti-corruption (i.e. supporting Iraq's National Anti-Corruption Strategy; key parliamentary committees having an anti-corruption mandate; and the establishment of KRG's Commission of Integrity, as well as support to the KRG Board of Supreme Audit) and the enhancement of citizen's monitoring of their government (i.e. budgeting/public procurement oversight and investigative journalism).

Meanwhile, the UNDP project, "Family Protection, Support, Justice and Security for Survivors of Domestic and Gender Based Violence" is an innovative project designed to build upon UNDP's early support to the development of a GoI strategy to ensure that victims of domestic and gender based violence are offered refuge, reintegration and access to justice. The \$3.97 million US Dollar project spans 36 months (February 2012-February 2015) and provides support to the Ministry of Labour and Social Affairs, Ministry of the Interior, the Ministry of Women, Committee No. 80 of the GoI, the High Committee on Women in KRG, the Family Protection Directorate and Directorate for Tracing Violence Against Women. The project is designed to build upon UNDP's previous use of core funds to support the establishment of Family Protection Units and facilitate law enforcement and access to justice for victims of domestic violence, women and children both in Iraq and KRG. The project seeks to enhance the ability of these justice service providers to document and deal with cases of SGBV, including supporting the upgrading of existing women's shelters in KRG and the development of a shelter strategy at the central level.

At the time of this Evaluation, UNDP was in the process of approving a new Legal Aid and Access to Justice project at the national and regional level. UNDP was also discussing ways in which to work on transitional justice and, possibly, truth and reconciliation related issues, given the tribal system, sectarian conflict and diversity in Iraq.

The impact of the above projects and other UNDP technical support in advancement is assessed as follows by area of engagement below.

## Human Rights Institutions

### Human Rights Committee of Parliament

Results and Effectiveness	HIGH
Sustainability Risk	MEDIUM

Human Rights Committee of the Iraqi Parliament is a permanent committee of the Parliament with jurisdiction to follow-up on rights, monitor violations of human rights and follow up on the affairs of



prisoners and detainees. The most important duties of the Parliamentary Human Rights Committee are to propose laws related to its jurisdiction and study draft laws and follow-up. For example, as of 2013 the Committee is considering the draft Law on Handicapped Persons and the draft Law on Freedom of Expression.

In its report of its activities between 11 Jan 2011 to 1 May 2012 the Committee took on the issue of overcrowding in prisons and recommended juveniles be segregated in some locations from the adult population as well as speeding up the hearings for detained persons. Yet, apart from that interim report, the Committee did not fulfil its other reporting obligations to Parliament and had issued no serious report on the overall state of human rights in Iraq. The Committee had not developed any system for such reporting.

UNDP support to Human Rights Committee of Parliament took the form of technical expertise to the Committee in regard to the formation of the High Commission for Human Rights, including drafting and passage of law on Human Rights Commission and the formation of the Committee of Experts for purposes of overseeing the selection process. As a result of this support the law on the Human Rights Commission was passed, the Committee of Experts was assembled and the process of appointing Commissioners to the High Commission of Human Rights was completed.

#### **Independent High Commission for Human Rights (Iraq)**

<b>Results and Effectiveness</b>	<b>HIGH</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

The Independent High Commission for Human Rights (IHCHR) of Iraq is one of the most important agencies contemplated by the 2005 Constitution. Early UNDP support began in 2005 with technical assistance on drafting the High Commission of Human Rights Law. UNDP held many meetings with the Ministry of Human Rights and assisted in assembling a total of 73 different persons to consult on the drafting of the law, representing all branches of government. The law ultimately passed in 2008. It provides that the IHCHR shall enjoy autonomy as a separate corporate body with financial and administrative independence with duties to report regularly to Parliament on its activities.

The IHCHR is charged with a variety of duties including the protection and enhancement of human rights in Iraq; ensure Iraq's compliance with its international human rights obligations and to develop human rights culture. Furthermore, the IHCHR is to coordinate with other agencies of the GoI and civil society on human rights; receive complaints from individuals, groups and civil society about rights violations; carry out investigations; monitor Iraq's prisons; and take necessary action on human rights violations by making reports and/or referring serious violations to the public prosecutor.

The UNDP-supported Commissioner selection process for IHCHR was, on the whole, positive, and reflected largely successful efforts to comply with the minimum international standards of independence, autonomy, and equity established by the Paris Principles and the parameters set by the Iraqi law

authorizing the Commission.<sup>87</sup> The GoI received over 3000 applications for the Commission upon which 49 finalists were identified after a detailed assessment phase. The Commission Council members were selected, approved and elected by Parliament, but the process of forming the Commission was delayed due to the death of one of the elected Council members and the need for a replacement.<sup>88</sup>

While the IHCHR selection process was challenging, it is clear that international and national stakeholders, including UNDP, worked together in a collaborative manner to integrate international standards into the creation of a critical national human rights institution. IHCHR fulfilled a required quota of 30% women members (currently, 5 of the total of the 14 appointed commissioners are women). To the extent that the selection process was less than perfect, internal reviews indicated that the fault lay in part with the international partners' "under-resourced, disorganized, ad hoc" efforts. This less-than-cohesive approach resulted in lack of consensus on strategy, lack of clarity on the part of key Iraqi stakeholders regarding their role and responsibilities, and a failure to meet some requirements of the underlying legislation for the High Commission (including failing to meet the minimum quota established for women).<sup>89</sup> Nevertheless, the process was largely successful, especially given the many constraints and uncertainties that have plagued the IHCHR from the outset. And, in fact, the value of the experience was not limited to the IHCHR context: Iraqi partners reported that the lessons learned during the process would be applied to other committee and commission selection procedures.<sup>90</sup>

UNDP has also provided technical support to the IHCHR on electing a Chairman of the IHCHR. The IHCHR Commissioners interviewed by the Evaluation stated that UNDP support had enabled IHCHR to form a vision and strategy. UNDP trainings on prison monitoring were also viewed as particularly beneficial. UNAMI has also supported the IHCHR with study visits to Morocco and Egypt, provision of computers and office equipment and technical support.

It is important to note that the IHCHR is not yet fully operational and has not yet been able to begin its work because it doesn't have staff or has not been able to begin its work. The Commission did not receive any financial appropriations in the budget of 2012, but the GoI later appropriated funds to the Commission. UNDP effectively lobbied the Parliament for funds. Yet, at end of 2012, the Commission was still experiencing difficulty negotiating the MoF's complicated budget procedures and only three employees had been hired by Commission.

The IHCHR Commissioners themselves confirmed that UNDP support had been crucial. All commissioners were elected and appointed in 2012. The study tours were viewed as especially valuable

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<sup>87</sup> HCHR Selection Process Report at 1. The Paris Principles list a number of responsibilities for national human rights institutions, under five general headings: (i) the institution shall monitor any situation of violation of human rights which it decides to take up; (ii) the institution shall be able to advise the Government, the Parliament and any other competent body on specific violations, on issues related to legislation and general compliance and implementation with international human rights instruments; (iii) the institution shall relate to regional and international organisations; (iv) the institution shall have a mandate to educate and inform in the field of human rights, and (v) some institutions are given a quasi-judicial competence. See United Nations Human Rights Commission Resolution 1992/54 (1992) and UN General Assembly Resolution 48/134 (1993).

<sup>88</sup> Note: Some CSOs that attended the Stakeholder meeting held in Baghdad for this Evaluation were highly critical of the fact that all of the IHCHR Commissioners were based in Baghdad and that not a single Commissioner had been selected from Basra or other smaller cities in Iraq.

<sup>89</sup> HCHR Selection Process Report at 1-2. It should be noted that four of the selected Commissioners were women

<sup>90</sup> *Id.*

to increasing the IHCHR's knowledge of human rights, but IHCHR desires more international experts to visit Iraq. UNDP was the only donor to advise the IHCHR in the recruitment of its staff.

The key issue for the IHCHR is spending the money that they are receiving from the GoI in a strategic way. If they use the funds that they are being given strategically, then they should be able to capacitate themselves. At the moment, IHCHR remains a bit overly ambitious. It is important that this be built out in stages. UNDP and UNOHCHR will perform a needs analysis soon that will focus on training needs. An additional challenge is to maintain the integrity of the IHCHR. Its many bottlenecks: structural issues; nomination and operational periods. For example, there is no dedicated building that is adequate to their needs. IHCHR has a continuing need to raise public awareness regarding human rights in Iraq.

Going forward, IHCHR expects that it will need 1) training for Staff of the IHCHR Secretariat; 2) capacity to generate statistics and report to the Cabinet of Ministers—as an independent Commission, the IHCHR needs to have proper administrative capacities to fulfil the day-to-day processing of complaints, investigation, tracking, monitoring, follow-up., etc.; 3) research capabilities (to research points of international human rights and domestic law, dedicated email servers, etc.). 2013-2014 will be a period of further recruitment. The Commission plans to appoint 110 employees during 2013. As of 2013, the GoI had not yet designated a building to house the Commission, but had set aside some rooms in the Parliament building for its use. As of 2013, the Commission members had developed a strategic vision, message and objectives for the Commission, as well as an organizational chart and a system for hearing categories of cases by Commissioners. Building better channels of communication between IHCHR and the MoJ and national security agencies is also a priority for IHCHR.

As of 2013 the IHCHR had received a few cases on an ad hoc basis, and had consulted with the Parliament and political parties informally to solve some issues. In the view of the Evaluation, the fact that IHCHR is hearing individual cases on an ad hoc basis is potentially troubling. The risk is that individual IHCHR Commissioners will begin to resolve individual complaints under the authority of IHCHR, but not according to regularized procedures and without adequate support staff in place. This could undermine the integrity of the HRC. But, to be realistic in order for the IHCHR to be operational and fully hear cases it will be 2014 at the earliest. IHCHR suggests that priority should be given to cases of SGBV and also victims of terrorism.

**UNDP should continue to support IHCHR going forward. The next phase of UNDP support can involve greater (and earlier) planning to create a more effective division of labour within the IHCHR staff, with UNDP assisting with interpretation of international standards for the IHCHR, and national partners working to implement them in the unique Iraqi context. UNDP can assist the IHCHR to open sub offices and focus on legislative reforms, including the re-drafting of 9 Iraqi laws related to human rights that were identified as priority areas by UNDP in 2012. UNDP should further support IHCHR to perform outreach within vulnerable communities and to build a social media presence (IHCHR currently has none). Finally, UNDP might wish to explore forming an Advisory Board on Human Rights that could serve as a forum for the IHCHR, Human Rights Committee of Parliament and the KRG Human Rights Board.**

In terms of emerging and continuing issues of human rights in Iraq, the list of issues is endless. The U.S. Department of State's Human Rights Report for 2012, as well as U.N. reports and the reports of INGOs as well as this Evaluation's interviews with stakeholders in the field, indicate many areas that require

urgent action: IDPs, refugees and stateless persons (especially the fall-out from the Syrian conflict and the large number of Syrian refugees in KRG); prisons, pre-trial detention, juvenile defendants; torture, coerced confessions and the death penalty; human trafficking and SGBV (including honour killings, FGM, and suicides). As stated elsewhere in this Evaluation report, the element of Transitional Justice in Iraq has been very limited in U.N. and UNDP programming to date. **Going forward, UNDP should explore mechanisms to promote peace and reconciliation (especially responding to the demands raised during the Anbar Awakening).**

### Human Rights Board (KRG)

Results and Effectiveness	HIGH
Sustainability Risk	MEDIUM

The Independent Kurdistan Human Rights Commission (KRG Human Rights Board) was established by law in 2010 it has duties and functions similar to the Iraq Human Rights Commission (i.e. monitoring, maintaining human rights, setting standards and conducting outreach and public awareness of human rights). The KRG Human Rights Board is still in a preparatory stage as of 2013. Unlike the selection process that occurred with the commissioners of Iraq's federal Human Rights Commission the commissioners of the KRG Human Rights Board are appointed.

The jurisdiction of the KRG Human Rights Board is designed to be complimentary with that of the KRG Public Prosecutor. The Board does not have the capacity to file cases or to make arrests, but informs violating institutions that a complaint has been received against them. The Board then conducts an investigation and makes a report of the violation that is delivered to the relevant ministries and published in the media. In serious cases the Board forwards information to the Public Prosecutor for further action. The Board also has a role to play with preparation of Iraq's response to the Universal Periodic Review and prepares reports on KRG that are forwarded to Baghdad for incorporation in its reports to the U.N.

UNDP's support to the Human Rights Board of KRG in the form of capacity building and technical advisory support is only just beginning (with a project start date of 01 February 2013), but the UNDP support is perceived by KRG to be highly relevant. The overriding challenge of the KRG Human Rights Board is its capacity to report effectively to the UN. **Going forward, UNDP support to the KRG Human Rights Board should continue in line with Law No. 4/2010. UNDP should work to ensure that all aspects of these institutions mandates (i.e. advising, monitoring and reporting on human rights issues as well as public outreach) are addressed in a strategic manner.**

As with the federal Iraqi Human Rights Commission, of special concern to the KRG Human Rights Board will be women's rights, child rights, freedom of expression, rights of prisoners and pre-trial detainees, education and health rights and persons living with disabilities. The KRG Human Rights Board, with UNDP assistance, is currently developing a policy framework to work on such issues as well as to support the GoI to reform legislation and take up such issues as the death penalty and the development of a draft law on human trafficking. The Board also has a regional cooperation plan that it wants to implement.

Involving civil society organizations in the work of the KRG Human Rights Board will also be important, especially in terms of conducting outreach.

As of 2013, there were indications that the KRG was willing to explore cost sharing to support the Human Rights Board. **Going forward, UNDP should continue its support to the KRG Human Rights Board with a focus on its internal policies and procedures as well as its investigative and outreach capacities. UNDP should provide technical assistance to the KRG Human Rights Board to conduct legislative “gap” analysis and to support legislative reforms on such issues as the death penalty and human trafficking. The influx of Syrian refugees to KRG has raised a special set of human rights concerns that the KRG Human Rights Board should closely monitor.**

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On the whole, despite the fact that the US Department of State and INGOs continue to document serious deprivations of human rights in Iraq,<sup>91</sup> the establishment of the national HRC and KRG Board of Human Rights represents a significant and fundamental advancement of the Outcome. Coming from a “zero baseline” in 2007, of no national institution and a limited engagement by the Ministry of Human Rights and other actors in Parliament, UNDP’s involvement in the sector has played a crucial and facilitating role.

## Domestic Violence/SGBV

### Family Protection Units

Results and Effectiveness	HIGH
Sustainability Risk	MEDIUM

The Iraqi federal MoI formed Family Protection Units (FPUs) beginning in 2010. These units—which are common in international practice, including in Arab countries—are first points of contact for cases of domestic violence, and include legal, police, and social work staff specifically trained to deal with domestic violence and GBV issues. The FPUs are designed to respond quickly to incidents of violence within the family, to carry out limited investigations of such violence and to promote the peaceful settlement of family disputes and provide protection to women. It was intended that the FPU would be staffed primarily by female police officers and female judges, but the experience has been undermined in Iraq by the lack of supporting legislation.

In 2010 UNDP in conjunction with Iraqi stakeholders, finalized the development of the Family Support, Justice and Security Programme to support the Government’s efforts in creating a strategy to ensure that victims of domestic and gender-based violence are offered refuge and support. The project addresses child protection in cooperation with UNICEF and other synergies will be established with various on-going UNDP/UNCT and agency initiatives. UNDP in partnership with key stakeholders in Iraq including

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<sup>91</sup> See, US DoS Human Rights Report: Iraq (2012); Human Rights Watch and other INGO reports.

Ministry of Interior, Ministry of Labour and Social Affairs, Ministry of Woman as well as with non-governmental and civil society organizations and international support missions has worked to enhance the capacity of formal and informal institutions to establish family protection systems and result in improved law enforcement and access to justice. The project seeks to empower victims and target groups and communities and assist with their reintegration back in the communities. In KRG the FPU's fall under the supervision of the Directorate to End Violence Against Women (DEVAW). UNDP support to DEVAW and its strategic plan are discussed *infra*.

The first FPU was formed in Baghdad (al Salam Police Station Building) in 2010. Plans were made as early as 2010 to expand the number and scope of the Family Protection Units and other efforts aimed at family protection. As of end-2011, UNDP supported Family Protection Units had been established in six locations in Iraq—two in Baghdad, and four in Iraqi Kurdistan. As of 2013, a total of 16 FPU's had been formed in Iraq, some at the GoI's own initiative, under the authority of the MoI. Meanwhile, an additional 7 FPU's had been established in KRG under the authority of DEVAW. (A complete listing of the FPU's by location appears in Annex 1 of this Evaluation Report).

In addition, UNDP supported the Family Protection Directorate of MoI to implement the Domestic Violence Law and establish a Draft Action Plan. The Draft Action Plan of January 2012 set forth a vision for UNDP support to building the capacity of the Family Protection Directorate and Family Protection Units pursuant to Order No. 80 of 2009 with a goal to reduce incidents of violence within Iraqi families. This work focuses on training of Family Protection Directorate staff; instilling a sense of best practices for key personnel and building the capacity of the Family Protection Units. The Action Plan places emphasis upon enhanced research of the drivers of domestic violence in Iraq, dispute resolution mechanisms at the local level, improvement of FPU's operating procedures and the development of clear and coherent legal frameworks to combat domestic violence and support Iraqi families.<sup>92</sup>

A UNDP workshop in Erbil and the ToT training capacitated the staff. The evidence exists in the quality of documenting responding to cases at the FPU. UNDP also introduced a software and database. Having statistics with disaggregated data is highly important to the work of the MoI and FPU. The MoI's Director of FPU's has noticed an improvement in the work of his staff as a result of the training provided by UNDP. Staff is able to report better. Staff is professional now and either reconciles a family or can advise family on how to follow-up on the legal actions.

In the short time that the FPU's have been established, they have managed to give systematic attention to the needs of women and families. FPU's have increased the culture within the police of women reporting domestic violence. The entire FPU protection initiative benefited females at the MoI. Formerly, the female police officers could not see their role. The FPU's appear to be successful and operational, except they continue to face challenges with their locations at some courts and police stations.

A possible indicator of the FPU success is the rising number of women who are reporting violence. Yet, the management of the FPU's has changed too frequently and there is some political tension between MoI and other ministries over who controls the FPU's. Referral systems for SGBV between the police, hospitals and courts, etc. continue to have large gaps. There is no formalized referral system for SGBV. A fundamental need is awareness on the part of the communities as to the existence of the FPU's. It is

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<sup>92</sup> Draft Action Plan for Family Support, Justice and Security (19 January 2012).

debatable whether or not the FPU should be located within the police stations or at dedicated sites at courts.

It was generally perceived by all stakeholders interviewed by the Evaluation that the FPU is working well. Although based at the MoI the MoSW is involved. This is an excellent example of systematic engagement of UNDP, but they require a sustained and proactive approach to keep them alive. FPU has the full support of the GoI and has institutional support. The female police officers (who hold relevant academic training and who staff the FPU) are operating with a degree of independence. In 2010, there were very few reported cases due to the fact that the FPU was only in 2009. For 2012 there were 1998 cases received by FPU (Karkh to the west of Baghdad); in Rasafa (also in Baghdad) 567 cases received by FPU. The MoSW is also pushing for such statistics. Rough figure: about 60% of the FPU cases are referred by police stations. [Note: The Evaluation requested comprehensive and detailed figures from the MoI for performance of all FPU (i.e. cases, clients, etc.), however, these were not made available to the Evaluation at the time of drafting this report].

UNDP also succeeded in building linkages between FPU and the Judiciary. There are 16 FPU and 16 judges who are specially assigned to hear SGBV cases. UNDP offered a large number of specialized trainings to the police officers in the FPU on how to prosecute cases and preserve evidence. From the HJC's perspective, having specialized judges for SGBV as advocated by UNDP who received specialized training to give verdicts based upon the evidence submitted by the FPU. The weak point in the chain is the lack of a law to give protection to the victims. The judges have discretion at will to ignore and be arbitrary or to protect victims. The MoSW legal advisor can now see perceptible difference between the normal criminal court judges and those who have received specialized training from UNDP. The same holds true for the policewomen who received UNDP training.

Some stakeholders were of the opinion that UNDP's support to FPU could have been much more inclusive of civil society. UNDP conducted no ascertainment research in advance of the initiative to ensure its sustainability. No uniform templates were adopted for the FPU and trainings were not linked to the gaps in legislation. For example, UNDP could have prepared a handbook for lawyers and presented it at workshops making reference to international conventions and gaps in Iraqi legislation, but such technical support from UNDP itself was apparently absent from the initiative.

Another area going forward that is ripe for support is to increase and strengthen the links between the medical community and hospitals and the FPU. By law in Iraq, if a woman goes to the hospital with bruises or if the medical personnel suspects abuse, they can inform the police or the FPU, but in practice this is not happening. The key factor in ensuring that the process works is for the GoI to adopt the new Law Against Domestic Violence (discussed in more detail below). This is the missing link. The prosecution cannot file a case without the consent of the victim. But with the new law, it empowers police and prosecutors to take a case forward and also has provisions to establish certain courts.

**UNDP should continue to support the MoI in its management of the FPU going forward. The GoI should begin to co-finance such support. UNDP should support the MoI to enhance the FPU capacities and office space; to develop a common set of standards and templates for operating FPU; establish and strengthen links with Iraq's medical community and hospitals; provide on-going trainings to FPU staff and to support legislative reforms, particularly the Law Against Domestic Violence.**

## Legislation for the Protection of Women

Results and Effectiveness	HIGH
Sustainability Risk	MEDIUM

UNDP in particular supported the Ministry of Women and Social work with training and technical assistance with the establishment of the legal help desks and FPU's, as well as legislation. MoWS is engaged in developing the draft National Strategy Against SGBV and UN Women and UNDP provided comments on the draft. UNDP experts also attended the meetings related to developing the strategy. UN Women is the main counterpart that has funded the Legal Advisor 's office at MoWS. UN Women supported legislative development, South South cooperation and technical aspects of legislative work; however, UNDP provided technical advice on a daily basis and UNDP also followed up with key stakeholders such as the Shura council, etc. to introduce legislation.

There are two priority legislative issues for MoWS going forward that UNDP can continue to support: i) the Law Against Domestic Violence (the draft is now before the CoM); and ii) the Draft Strategy on SGBV is now before the CoM. One of the most important issues according to MoWS is that the draft Law Against Domestic Violence contain provisions for establishing shelters for victims of the family violence and SGBV. Yet, this aspect is not yet covered in the draft law and UNDP should focus on this issue.

As of Q1 2013, the Law Against Domestic Violence was fast tracked. It took the CoM only one week to endorse the draft law and it is, however, now with the Shura Council that is traditionally slow to move on legislation, but UNDP is advocating for the law's passage. MoSW spent two years developing the draft with UNDP support in a process that included reviewing laws from 30 different countries for comparative references. This is very high quality legal drafting work that sought to include international best practices. Additional support was provided by USA via the International Institute for Law and Human Rights. IfLHR had much experience in drafting such legislation and DC. provided an analysis. At the core of this huge intervention, however, is UNDP.

UNDP engaged with the GoI and civil society on the draft "Protection from Domestic Violence Law" which clearly stipulates that control of the FPUs is under MoI, but shelters are the responsibility of the MoLSA. Currently there is political controversy within MoLSA as to whether and how the women's shelters are going to be established. As of 2012, in contrast to KRG that passed a law on Domestic Violence in 2011, Iraq at the federal level had not passed the draft Anti-Family violence law. Discrimination against women and domestic violence remain severe problems throughout Iraq and KRG, with many incidences of rape, suicide, murder, abduction, injuries and beatings.

KRG issued a Law Against Domestic Violence (Family Violence Law) No. 8 of 2011 that constituted a very significant step in addressing family violence problems in KRG. Women Protection Directorates (DEVAW) were created in KRG beginning in 2007. The directorates accept and investigate complaints of domestic violence, conduct public information and awareness raising on family violence, provide counselling to victims of domestic abuse in cooperation with CSOs and coordinate other activities with women's' organizations.



UNDP supported a number of events geared to the drafting of the Law Against Domestic Violence. Now that the law has been passed, UNDP is working to raise awareness about the law. UNDP identified many gaps and inconsistencies in the draft law that would make implementation difficult. **Going forward, UNDP should continue to work with GoI and KRG to support legislation and legislative reforms to conduct detailed legislative “gap” analysis—especially legislation that impacts upon women’s rights and equality in Iraq such as the draft Iraqi federal “Law Against Domestic Violence”. Such analysis should draw upon lessons learned from UNDP’s legal aid, outreach and legal empowerment work at the grassroots levels and other data such as citizen perception surveys conducted by UNDP. The results of such analysis should be widely publicized and circulated by UNDP. Beyond this, UNDP should support GoI in the development of a strategy for implementation of the Law Against Domestic Violence when the law is passed and takes effect. This will require assembling groups of stakeholders from across the justice chain (i.e. judges from civil, criminal and family courts, line Ministries, lawyers, doctors, etc.).**

#### **The KRG Directorate for Eliminating Violence Against Women**

<b>Results and Effectiveness</b>	<b>HIGH</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

DEVAW (the KRG Directorate for Eliminating Violence Against Women) is part of the MoI General Directorate for all KRG. The Directorate performs the investigation of violence against women and has a direct link KRG’s Special Court for Domestic Violence. DEVAW enforces the rulings of the court and is vested with powers of arrest. In addition, DEVAW has general authority to enforce the KRG Law on Domestic Violence. DEVAW’s current director has a background in law, police and human rights and holds the rank of Major in the KRG Police.

UNDP has supported DEVAW since 2011 to develop its strategic plan for 2011-2014. The DEVAW Strategic Plan included a general outline of the work of the directorate and UNDP arranged many meetings between the Directorate and other stakeholders in KRG. UNDP-led discussions were devoted to improving the Directorate, to establish a new Directorate and the kinds of support UNDP could provide. The plan states that UNDP will support DEVAW and establishes the Directorate’s vision, developing the capacity of the governmental institutions, to build trust between the police force and the judicial authorities, assisting the victims of SGBV and A2J for victims of SGBV and establishing 15 sub-offices of the Directorate and linking them to the central office. Trainers an information centre and a database to record the domestic violence cases are also being established with UNDP technical support. The Strategic Plan also contains a budget and procedures for operating the new database.

Another positive indicator is the fact that KRG is co-financing the UNDP support to DEVAW, brining \$5.5 million US to the table, in contrast to \$1.5 million in UNDP/Donor funding. DEVAW itself has purchased 39 cars for use of its staff and investigators, demonstrating its enhanced ability to procure. Unfortunately, the UNDP contribution of \$1.5 million was never allocated. Despite this particular

criticism, DEVAW is extremely positive about UNDP's contribution and views the comparative strength of UNDP as connecting DEVAW to a larger community of practice and international treaty bodies, etc.

UNDP's support to DEVAW has significantly increased its ability to monitor and take action in cases of domestic violence. The board of DEVAW now meets frequently. Largely as a direct result of UNDP support, as of Q1 2013, DEVAW had opened even more offices than in fact called for in the Strategic Plan. Although, not included in the Strategic Plan, DEVAW is even opening sub-offices in rural areas. DEVAW has also already exceeded additional goals set forth in the Strategic Plan, such as training. With UNDP support DEVAW had arranged 47 seminars and hundreds of workshops as of 2013 (many more than in the plan) and also has produced four publications (the plan set a goal of two). Many of the workshops were held in locations such as schools and mosques. UNDP has in effect provided a road map for DEVAW operations going forward. DEVAW states that its needs going forward are to continue trainings with increasing elements of ToT, undertake study visits and to continue to review and implement the Strategic plan. DEVAW's training section can be capacitated to train in techniques of investigation and report writing.

UNDP supported the development and publication of DEVAW's annual report by conducting a training on how to design a form and collection of information. The annual report contains statistics for violence against women in Erbil, Dohuk, Kirkuk that is disaggregated by age, financial background, marital status, perpetrator of the violence, etc. The statistics show that DEVAW is receiving more cases of domestic violence. For example, the annual report shows that DEVAW's Erbil office (established in October 2007) during the 3 months of 2007 had 300+ cases; in 2008 (1416); in 2009 (1594); in 2010 (1585); [See DEVAW website for additional figures].

Stakeholders interviewed by the Evaluation stated that it is difficult to know whether this is due to increased levels of domestic violence or simply reflects that women feel increasingly emboldened and are reporting incidences with greater frequency. INGOs active in the field reported to the Evaluation that overall levels of SGBV in KRG have declined recently, but there continue to be shocking incidents of extreme violence perpetrated against women including murder, self-emolition (often at the tacit encouragement of husbands and family members), etc.

According to DEVAW, continuing weak points in the system include low awareness on the part of KRG citizens on the Domestic Violence Law and establishing and strengthening links between the health system. As the incidents of Islamic fundamentalism rise in the region continue to rise, DEVAW hopes to approach religious leaders to convince them to take on the issue of domestic violence, but this is still a controversial (and even dangerous) topic in Iraq and KRG.

**Going forward, UNDP should provide technical expertise to DEVAW, especially with regard to its enforcement of judgements from the KRG Special Court for Domestic violence and establishing and strengthening the lines of communication and procedures followed by DEVAW, the police, the Special Court for Domestic violence and the KRG Public Prosecutor. UNDP should support DEVAW in the establishment of its sub-offices and mechanisms for linking the sub-offices to the central office.**

## Women's Shelters

Results and Effectiveness	HIGH
Sustainability Risk	HIGH

Perhaps UNDP's biggest contribution to the CPAP Outcome was in developing the KRG Shelter operating policy and identifying gaps (staffing issues) and UNDP is now working with UNICEF to identify possible candidates for hire and to train them, but this is not yet finalized. UNDP support to women's shelters in KRG has made an impact, including the establishment with UNDP support, of a policy to run the shelters.

The KRG government-run Erbil Women's Shelter was established in May 2009. In October 2009 it began receiving cases of abused women. There was a problem initially with staff and it expanded its staffing in 2010. The Shelter with the support of UNDP developed a system of internal procedures, operating procedures, receiving cases and referrals, filing, etc. For example, the operating procedures defined the number and types of cases that the Shelter could receive. UNDP also supported the design of standardized forms and referral papers. This support has facilitated the Shelter and government institutions' abilities to make timely referrals in a standardized way. As of 2013, the Shelter still has an on-going issue with the composition of its staff as some came from a different centre that dealt with a different target group Cf. the shelter that deals with abused women.

UNDP was perceived by DEVAW and the Women's Shelter as having provided technical support to the individual cases, but especially, in developing the Shelter Operating Policy and identifying gaps (staffing issues). UNDP is presently working with UNICEF to identify possible candidates for hire and to train them, but this is not yet finalized.

As of March 2013, the Women's Shelter had 30 women and this includes about 7 children. The operating procedure limits the stay of any women to 6 months, but this has not been enforced due to the realization on the part of the Shelter that some women need to stay longer in order to avoid abuse.

Since 2009 until January 2013 the Shelter has received 786 serious cases and the Shelter has solved all of them. In KRG the problem is a cultural problem and whether or not the cases are serious or not, depends in large part on the reaction of the family. For example, the Shelter had a case of a girl who had a relation with her boyfriend and she became pregnant, but the family accepted this and was not judgemental and we solved this in 3 days and the couple is now happily married with the kid and the family totally accepts it. Yet, by way of contrast, in another case a girl bought a mobile phone and her father threatened to kill her for this. It took the Shelter eight months of intensive talks with the father to convince him to settle the matter. The father came to the Shelter and admitted that he was wrong and the girl is back with the family.

Most of the Shelter's cases are domestic violence cases. Many of the cases have, as in the case described above, resulted from perceptions and attitudes towards the use of mobile phones and smart phones by women. The culture forbids women to have a phone, Internet chat, etc. It is not the device of the mobile phone and Internet technology per se that is at issue, but the fact that women are having

communications *outside of the family unit* without the permission of their husbands, fathers or brothers. For example, the Shelter recently had a case of an 82-year-old woman who was abused because she had a mobile phone.

The Shelter has also received many cases of women who have attempted suicide, some by self-emolition or who have been the victim of extreme abuse and violence. For example, in one recent case a girl was raped by her own father when she was 10 years old. The father was a professor in the university. The girl sought refuge at the KRG Shelter where she remained for more than a year and a half. Then she was transferred to a shelter outside of the country and the father was arrested and received the death penalty. There was another recent case of a girl who was raped by her brother and she became pregnant. She delivered the baby and the family accepted the baby and the child was given up for adoption. The brother was arrested and he received life in prison.

Going forward, a goal of the Shelter is to establish a centre for the families of women. According to its original design, the Shelter is supposed to fulfil such a function, but has not yet occurred.

The Shelter has realized that certain aspects of the new operating procedure are actually unworkable in practice. For example, the policy states that the Shelter cannot accept certain cases (i.e. persons with certain diseases, mental problems), but many times in practice there is no other alternative open to these victims and the Shelter accepts them. Some women are pregnant when they come to the shelter. Additionally, most KRG judges do not yet understand what cases properly fall within the Domestic Violence Law and which do not. As a result, courts sometimes refer women to the Shelter (i.e. prostitutes) that need to be properly screened for STDs.

Thus, meeting the psychosocial and health needs of the women at the Shelter is a key issue. As of 2013, the Women's Shelter had 6 social workers and an additional social worker contracted. The Shelter also had a psychologist on-call. The Shelter formerly had a gynaecologist in 2012, but lacked any medical personnel on staff as of 2013. The Shelter has asked the MoH to supply it with a doctor. At present, the Shelter arranges medical care at a nearby hospital. DEVAW has asked Ministry of Health to open a shelter for such women.

The Women's Shelter links women to legal aid services via a contract with the Women's Empowerment Organization (WEO) for the cases where a victim has no lawyer. The Shelter sometimes refers cases to private lawyers. As of 2013, the contract with WEO for legal services had ended and the Shelter was not sure whether it would be renewed. The Shelter stated that it had one lawyer under the WEO contract, but that this had not proved sufficient and that going forward the shelter.

UNDP has indicated to the Evaluation that it considers the sustainability risk of this initiative as "High" in part due to the lack of shelters and shelter policy in most governates other than KRG. Thus, while the sustainability of the Erbil shelter is a Medium risk, overall there is a High risk to women's shelters in Iraq.

**UNDP should continue to support KRG's Erbil Shelter for Women and use the lessons learned at the Shelter to assist KRG (and Iraq at the federal level) to duplicate such shelters in a nation-wide network of women's shelters. UNDP should provide technical assistance to KRG to revise the Shelter policy to resolve such issues as accepting women with severe physiological or medical issues.**

**UNDP should work with DEVAW and the KRG Ministry of Health to explore the establishment of a shelter that is properly equipped to accept women who require on-going medical supervision or care. UNDP should also ensure that the judiciary in KRG is fully aware and educated about the existence of the shelter, its capacities and mission and the procedures to be followed in referring women to the shelter. UNDP should work with CSOs and/or the KRG Bar Association to supply much needed legal aid services and counselling at the Shelter. In addition, there is a need for developing a shelter policy and shelters throughout Iraq in other Governates besides KRG.**

## Civil Society Organizations and Youth in Iraq

### *Civil Society Organizations*

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

UNDP has supported human rights CSOs in Iraq and KRG—particularly focusing upon abused women, SGBV and children. Previously there were many women being killed without their identities being known when their bodies were mutilated and dumped in rural areas around KRG. This practice has recently stopped as public awareness of SGBV has increased. Yet, incidents of family violence and SGBV have continued to rise in KRG—with a marked increase in reported incidents of suicide and self-emollitions.

A variety of laws and legislation govern CSO formation and activities in Iraq and KRG respectively. The CA (2003) issued an order permitting CSOs to organize without any permission from any official authority, but this was reversed subsequently by the GoI “Non-Governmental Organizations Law” of 2010 and various CoM instructions that required GoI approval for the establishment of a NGO and also defined thematic categories for purposes of classifying NGOs according to the type of work that they do. A similar law was passed in KRG in 2011. CSOs remain challenged by both Iraqi federal authorities and KRG authorities, especially with regard to freedom of expression and their attempts to monitor courts and places of detention. CSOs are in need of continuing support to monitor human rights abuses, conduct outreach an legal aid and to fulfil a “watch dog” function over GoI and KRG.

There has recently been an upswing in the presence of civil society organizations, but the government remains convinced that many of these CSOs are merely fronts for profiteering—or worse, criminal or terrorist activity.<sup>93</sup> The GoI has acknowledged the need to verify the existence and value of existing and proposed CSOs, given the potential for fraud and abuse. At the same time, planning documents call for the inclusion of legitimate CSOs to play a part in planning, monitoring, and follow-up of governance and rule of law activities.<sup>94</sup> The National Development Strategy called for an Iraqi-owned human rights regime that would uphold and protect human rights, establish rule of law, and overcome the legacy of past

<sup>93</sup> RoL & Justice Evaluation at 4; UNDP RoL Draft Strategy at 8; RoL & Justice Programme Document at 6.

<sup>94</sup> NDP 2010-2014 at 179.

abuses.<sup>95</sup> Mention is made, albeit scant, to the role of civil society throughout national planning documents, but as is discussed elsewhere in this Report, the general attitude of the GoI towards NGOs and other civil society organizations is one of scepticism.

The Evaluation interviewed a number of CSOs in Baghdad, Basra, Erbil, Sulaymaniyah and Dohuk that are involved with human rights, women and children, environmental issues and legal aid. These included the following: Iraqi Women League (IWL), Um al Yateem Foundation (“Mother of Orphans”)(YUF), Samawa Organization for Human Rights (“Samawa”), Hadiya, Al-Namaa, Harikar and the Democracy and Human Rights Development Centre. UNDP had partnered with all of these organizations, except the Democracy and Human Rights Development Centre, in some form to date—either by way of providing training and/or funding by way of grants (i.e. for legal aid, human rights outreach, etc.).

Some of these are large and well-established CSOs. For example, the Iraqi Women League (IWL) is the oldest NGO in Iraq with 11 branches in Iraq and elsewhere (Holland, Sweden Australia) legal advice to most vulnerable groups. The entire group works for women’s rights. Um al Yateem Foundation (Mother of Orphans) is based in Baghdad and has partnerships across Iraq, with a main focus to do outreach and democracy building. Meanwhile, Samawa Organisation for Human Rights is based in the south of Iraq, but has partnerships and networks throughout the country. They participate in drafting of shadow reports and the drafting of the UPR. The Samawa attorney has formerly served as consultant for UNAMI). Samawa is dedicated to monitoring abuse by the security sectors and offers trainings. Hadiya is a CSO geared to women’s rights and legal aid provision. While, Al-Namaa is an organization focused mainly on environmental issues, but also engaged in the promotion and protection of human rights in rural areas. Harikar is a well established CSO in Dohuk that focuses on combatting SGBV, promotion of women’s rights, youth and civic education and political participation. Harikar is especially involved with issues of Syrian refugees in KRG and offers some legal aid services provided by its own attorneys.<sup>96</sup>

CSOs interviewed that had participated in UNDP sponsored trainings attested to the fact that the trainings had increased their capacity to perform monitoring, reporting and outreach. For example, UYF stated that it had applied for a grant from UNDP in 2010 for \$7,000 USD to target teachers in the schools for training on international human rights standards. Another component of UNDP/UNAMI support was to hold a consultative workshop with CSOs to determine ways in which to best support CSOs. UYF had a very good experience working with UNDP on the process of applying for grants.

Meanwhile Samawa stated that its work with UNAMI HRO has been very beneficial--especially trainings that were held in partnership with the University of Birmingham (U.K.) on leadership, report writing,

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<sup>95</sup> NDS 2007-2010, Section 8.3.

<sup>96</sup> As of Q1 2013, there are approximately 140,000 Syrian refugees in Iraq. 93,000 refugees are in Dohuk. 40,000 of these are living in Dohuk, the other 50,000+ are in the U.N. refugee camps. The refugees have negatively impacted the economy with the overall price of labour and wages decreasing as the Syrians crowd-out the local Iraqi labor force. The rent of houses in Dohuk has recently increased by up to 30% or more. The refugees are also impacting upon human safety (i.e. theft has recently increased, prostitution has recently increased, etc.). Refugees themselves lack housing and can’t afford money to pay rent, education (i.e. Kurdish language) or food. WFP is providing food only to those refugees that live in the camp. In the camps themselves, there has been recent documented incidents of Syrian refugees fighting, as well as, prostitution, trafficking in children, child labour and exploitation. The IRC established a centre to review such cases, but obtaining data is difficult. There have recently been many arrests for drug dealing and using drugs.

human rights, etc. As a result of the trainings, Samawa is now recognized by the Human Rights Commission (Iraq) as a certified human rights organization. Between 2003-2008, the presence of UNAMI in the sector was very strong, but as this faded, UNDP took predominance in training 2008 to 2012, hosting a number of workshops and trainings on human rights (i.e. July 2012 ToT for Women's A2J that empowered their organization). UNDP also worked with the Ministry of Women's Affairs. Samawa also has a ToT workshop with UN Women devoted to educating women on how to run for office. And there are many new initiatives in the pipeline about coordination for trainings on legal issues.

According to another CSO IWL, the UNDP training shed light on IWL's work on GBV. As part of the training IWL visited the FPU in Erbil and met with a judge in the pilot court. The unique experience in Erbil was the training that capacitated IWL to be a trainer at the governmental level. IWL complimented UNDP on assembling a heterogeneous group for the trainings. The attractive part of UNDP's trainings was that UNDP was able to access top-level stakeholders in Erbil and bring them to the training sights. All CSOs interviewed stated that the UNDP trainings had served as a vehicle for CSOs to share information with each other, with the result that as of 2013 CSOs are much better coordinated and are sharing information at a much higher rate.

Those CSOs that had received grants to perform legal aid and awareness-raising activities reported that UNDP had required them to regularly make progress reports, keep minutes of meetings, document activities and issue final reports on project activities to UNDP. The clients served by these CSOs included low-income women in rural areas to either connect the women to agencies offering assistance and legal aid or to provide such services. Many of the women are war widows and/or IDPs that faced issues regarding support for their children, obtaining necessary documents, marriage and property issues.

The CSOs interviewed by the Evaluation stated that the situation with regard to human rights has improved between 2008-2012 as a result of the efforts of INGOs, CSOs, GoI and the international donor community, including UNDP support to sector. Before 2003, the term human rights didn't even exist in Iraq. Within the last 5 years the trend is positive. For example, the IHCHR is being established. Also, the Human Rights Action Plan for the country (2011) confirmed that CSOs should develop a more robust monitoring activities in human rights; and in 2012 they appear to have done so. There are now a number of networks and groups of CSOs with their own workplans and strategies.

The entire human rights community in Iraq and KRG continue to be faced with a lack of good statistics on human rights. The Iraqi Central Office of Statistics conducts a number of surveys with disaggregated data. In general, the data sets are too small, however, and are not representative enough for the whole country. Some CSOs use the databases of ministries and UN reports, but overall, there is still a culture of secrecy among the Iraqi ministries. And, the GoI does not want to release certain statistics (i.e. women in prisons). Most CSOs are, therefore, forced to collect anecdotal information in an *ad hoc* manner using their own contacts with government ministries.

Meanwhile, CSOs interviewed by the Evaluation reported that there is a serious problem with the media in Iraq. The media treats women dismissively and often fails to take on serious issues such as incidents of suicide, SGBV and FGM. Journalists don't go out of the way to meet the actual victims of human rights violations. The CSO community has had a big clash with the government over the past years in this regard. The media shows up at all the events, but they never broadcast or make reports. There is

also nothing going on with the implementation of many new laws. Journalists need training on how to report on human rights.

Most CSOs interviewed by the Evaluation were also strongly critical of tribal and traditional justice mechanisms as being potentially rights-violating, but did see opportunities for CSOs in Iraq to perform outreach with the tribal justice system to bring it in-line with international human rights standards and best practices.

**There continues to be an urgent need in Iraq and KRG for UNDP to support CSOs engaged in the protection of abused women and children and combatting SGBV. Such support should include supporting CSOs in the following areas: monitoring of courts and places of detention; freedom of expression and the right of peaceful dissent against the GoI and KRG; trainings on international human rights; conducting gap analysis of Iraqi legislation and administrative processes impacting upon human rights; implementation of the GoI Human Rights Action Plan (2011); strengthening networks of CSOs; supporting the participation of CSOs in government policy, debate and compliance; collection of statistics and data on human rights. UNDP should explore possibilities for implementing a robust small grants scheme for CSO advocacy on the most urgent human rights issues (i.e. pre-trial detention; honour killings; death penalty; human trafficking, etc.) and strengthening CSOs and media. UNDP should also enlist CSOs in an initiative geared to aligning Iraq's traditional justice with international human rights obligations.**

## *Youth*

Results and Effectiveness	MEDIUM
Sustainability Risk	HIGH

Iraq is one of the most youthful countries in the world—nearly half of its population of 30 million is less than 19 years old. In 2011, approximately 41 percent of all males and females were under the age of 15 years, while the total percentage of the adult population over age 65 was only 3.3 percent.<sup>97</sup> Unemployment among Iraqi youth is 30%, double the national average among all Iraqis. Meanwhile, overall unemployment in the in the Middle East is around 10% on average.

In July 2011, a group of 22 Iraqi youths joined five development specialists from UNDP Iraq at a five-day workshop to develop Youth Communications and Networking skills, in preparation for the issuance of the youth-focused Iraq National Human Development Report (NDHR). The workshop was an opportunity for the organisers to tap into the dynamism and creativity of Iraq's youth and enable the participants to contribute to the Iraq NHDR for 2012. The workshop trained the attendees in conducting, arranging, and participating effectively in Focus Group Discussions and how to apply communication strategies. The training sessions included presentations and working groups to discuss how youth can advocate for the

<sup>97</sup> See, generally, "Multiple Indicator Cluster Survey" (MICS)(2011)(Vol. 1); and, "Iraq Women Integrated Social and Health Survey" (I-WISH)(March 2012).



Iraq NHDR and promote its key messages when it is launched later this year. The workshop complemented the broader efforts of the NHDR team to ensure the report is aligned with youth priorities.

UNDP also supported the drafting of Iraq's 2012 National Development Report. A team of Iraqi and international officials and experts concluded a two day consultation in Istanbul to finalize the preparations for producing Iraq's 2012 National Human Development Report. The Report, the third so far, has a thematic focus on Youth, a topic which is highly relevant in the context of current events in the Arab Region and the many challenges that are confronting Iraq youth. Iraq had previously prepared two National Human Development Reports. The first was prepared in 1995 highlighting the impact of the international sanctions on the Iraqi population. The second, published in 2008, focused on Human Security in Iraq and aimed to assess the development situation in the country following the regime change in 2003. It supported the reconstruction and development process and made a key reference to the National Development Plan for 2010-2014.

UNDP support to the Ministry of Youth and Sport and youth CSOs in Iraq and KRG has been limited to date. The Ministry of Youth and Sport has a number of activities geared towards youth such as the Youth Parliament (with a participation of over 500 youth), running local centres for youth, liaising with regional organizations devoted to youth such as the Arab Centre for Youth (a coalition of 17 Arab states). The MoYS also runs Youth Centres for Volunteers that is a cooperation between MoYS and the Council of Ministers Secretariat. In addition, MoYS has conducted workshops and outreach for youth on such topics as "how to initiate your job" (that reached 11,000 youths) and "women leaders" (a series of workshops with approximately 1000 total participants).

There are also a number of CSOs in Iraq geared towards youth and youth issues. Basically, these fall into three categories: CSOs run by political parties, CSOs that work for profit and organizations that work on a non-profit basis or through GoI. The Evaluation interviewed several youth CSOs in Baghdad including Iraq's Youth Parliament; Peace Ambassadors; the Iraqi Council for Peace and Solidarity (ICPS), and the Civic Centre for Studies and Legal Reform (CCSLR). In Erbil, the Evaluation met with representatives of a dozen youth CSOs. Some of these organizations such as the Youth Parliament are organized under the umbrella of the GoI Ministry of Youth and Sport. These organizations stated that their contact with UNDP had been limited to date, but some of the organizations had attended UNDP supported workshops on CSOs and training in Baghdad and Erbil dealing with such topics as organizing CSOs and the draft Iraqi National Strategy on Youth Development.

The Youth CSOs Interviewed by the Evaluation criticized UNDP's approach towards youth as having been focused too much on "supply side" aspects of youth (i.e. such as the drafting of the Iraq Strategy on Youth Development) and tending to programme in broad of terms to "youth" in general, rather than taking on more specific issues such as the comparatively high divorce rate for married youth in Iraq, specific issues of the criminal justice system, youth who are Syrian refugees, etc., etc. UNDP was also criticized for having engaged to date with only a few large and established CSOs in Iraq, rather than empowering and building the capacity of smaller CSOs.

Youth links with justice system reform regarding juvenile courts; personal status courts; the Iraqi penal system and juvenile defendants; as well as civic education, opportunities for youth to participate or make their voices heard within government, and legal empowerment schemes for youth. Youth as a component of UNDP's access to justice initiatives has, however, been underserved to date. None of the youth CSOs

are currently providing legal advice or settling disputes, but there was wide agreement that youth CSOs could play a role in outreach and education on issues related to tolerance, diversity, reconciliation and peace, including building bridges among the various sectarian groups. UNDP recently supported Iraqi youth to compete in a HuriLab competition in Armenia devoted to building Internet and mobile solutions to social challenges, which is an example of how such grants might be used.

**UNDP should urgently increase its components on youth CSOs in Iraq. Among the youth CSOs interviewed by the Evaluation there was wide enthusiasm for UNDP to initiate a small grants scheme specifically aimed at youth CSOs to enable them to compete for small grants to conduct work on specific issues facing youth. In the opinion of the Evaluation, such initiatives could indeed play a central part of any UNDP outputs for Transitional Justice and Peace Consolidation.** UNDP recently supported Iraqi youth to compete in a HuriLab competition in Armenia devoted to building Internet and mobile solutions to social challenges, which is an example of how small grants to CSOs could be used.

### *Persons with Disabilities*

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

The Evaluation notes that thus far, UNDP has not focused on Persons with Disabilities (PWD) as contemplated by the CPAP 2011-2014 (i.e. see CPAP document, paragraph 4.5.4) other than the few disabled women that have benefited from the KRG Erbil Women's Shelter. PWD (and families caring for PWD) could certainly be given greater attention by UNDP going forward. The Convention on the Rights of Persons with Disabilities, ratified in January 2012 by the Iraqi Government, covers a number of key areas such as accessibility, personal mobility, health, education, employment, habilitation and rehabilitation, participation in political life, and equality and non-discrimination.

WHO is supporting the Ministry of Health to strengthen and improve its disability registration system, to ensure health systems are more inclusive and responsive to the needs of people living with disabilities. In June 2011, in connection with the publication of the WHO/World Bank World Report on Disability, the Iraqi Ministry of Health announced that it planned to expand the GoI's community-based rehabilitation services, which will relieve the current load put on the estimated 123 disability and rehabilitation centres in Iraq.

### *“Other Vulnerable Groups”*

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
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<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)
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The Evaluation notes that UNDP’s human rights programming has to date not given mention to the rights of other vulnerable groups in Iraq, including religious minorities, ethnic minorities, LGBT persons, etc. The CPAP 2011-2014 specifically mentions “other vulnerable groups” (CPAP document, paragraph 4.5.4).

In November 2011, the United Nations Office for the High Commissioner for Human Rights released a study documenting discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, and how international human rights law can be used to end violence and related human rights violations based on sexual orientation and gender identity.<sup>98</sup> The report found that in every region of the world, LGBT individuals are subject to hate-motivated violence—including murder, so-called “corrective” rape, and torture—as well as discrimination in jobs, health care, and education. In 2011 the United Nations passed a historic resolution endorsing LGBT human rights.

**While UNDP’s resources are limited and abused women are expected to continue to be the CPAP Outcome 2’s primary focus, given language in the CPAP document relating to “Persons With Disabilities”, UNDP might wish to strengthen its programming to include PWDs. In regard to “Other Vulnerable Groups”, the recent U.N. resolutions concerning the rights of LGBT persons and the continuing extreme violence and targeted killings against such communities in Iraq, UNDP should ensure that such vulnerable groups are mentioned and included in such initiatives as UNDP support to Iraq’s central human rights institutions and legal aid initiatives. According to reports of INGOs and UNAMI many of the victims of such violence in Iraq are youths.**

## **Tribal and Traditional Justice in Iraq and its impact upon human rights**

<b>Results and Effectiveness</b>	N/A (No targeted UNDP programming)
<b>Sustainability Risk</b>	N/A (No targeted UNDP programming)

According to the statistics of the HJC, the judicial system has in the past decade become more efficient with increasing numbers of people choosing to utilize the formal system and its courts to resolve their disputes (i.e. the number of divorce cases filed in the courts has increased). At the same time, however, Iraq is a tribal society and traditional justice still plays a very prominent role.<sup>99</sup>

<sup>98</sup> U.N. Gen. Assembly, A/HRC/19/41

<sup>99</sup> According to the “Iraqi Knowledge Network Survey” (IKNS)(2011)(Central Statistics Organization, KRG Statistics Office and U.N.), family, religious community, tribe, village and ethnic group enjoy higher levels of confidence than the formal justice institutions and police. Religious leaders enjoy the most confidence (ranked 8.0 on a 10 point scale), whereas the Judiciary was ranked lower (6.6). There continued to be a high prevalence of bribery within the court system and law enforcement. The IKNS documented that 6 percent of all citizens having contact with judges had given a bribe in some form and 12 percent of citizens having contact with the police had given some form of bribe.

This is true particularly in the South and West of Iraq and in certain rural areas; where stakeholders view the impact of tribal justice as largely favourable due to its focus upon dispute resolution and reconciliation, rather than punishment. Yet, traditional mechanisms of dispute resolution are often problematic and not in conformity with Iraq's domestic law or its international human rights treaty obligations. For example, tribal justice often does not observe equality between men and women and adopts traditional solutions (i.e. forced marriage, etc.) to solve disputes. Traditional authorities are not always respectful of women's rights. The tribal authorities often use a vague mix of Sharia and tribal custom; and for cases of SGBV custom has tended to prevail over even Shari'a and religion.

To date UNDP has not programmed with the informal justice (tribal) system to the same extent that it has with the formal justice system, despite the fact that nearly one third of Iraqis prefer the informal justice system over the formal justice system. There remains a need for UNDP to engage with tribal and traditional justice mechanisms in Iraq to ensure that these align with international human rights standards and support the formal justice sector to the extent possible. GoI stakeholders interviewed by the Evaluation stated that tribal law is a very special case. In their opinion UNDP can play a role in reforming the tribal justice system only if it uses the GoI ministries and with a nationally designed strategy that uses national tools and approaches. It requires a highly tailored approach implemented by GoI and Iraqi institutions.

**UNDP should programme with traditional authorities and religious leaders in Iraq going forward to explore ways in which to better align traditional mechanisms of dispute resolution with Iraq's international human rights obligations. UNDP needs to play a more instrumental role in getting the informal justice sector on board. Need to look at shortcomings and assess complementarity with Iraq's formal justice system. The common denominator that can potentially accommodate both informal and informal justice in Iraq is mediation. UNDP could build upon the existing knowledge of tribal leaders about mediation and build linkages and mechanisms for mediation both within the formal court system and traditional systems of justice.**

**3. Output 3: Enhanced GoI capacity to ensure accountable and effective security sector with civilian oversight**

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

<b>Output 3 CPAP indicators and sub-indicators</b>
6. Review of security sector conducted and presented to the GOI (2010: no; 2014: yes)
7. Database of small arms and light weapons created and managed (2010: no; 2014: yes)
GoI provided with effective options in defining security sector policies, technical assistance and capacity development needs (2010: no; 2014: yes)
National Small Arms and Light Weapons database created and managed (2010: no; 2014: yes)

**SSR: The New National Security Sector Strategy**

<b>Results and Effectiveness</b>	<b>HIGH</b>
<b>Sustainability Risk</b>	<b>MEDIUM</b>

The de-Ba'athification policy of the US in Iraq, while necessary to erase the vestiges of the Saddamiyya regime, created a vacuum in security sector leadership. American efforts and resources focused on international terrorism, leaving longer-term strategic architecture and planning for self-defence, policing, and internal arms control largely unaddressed. The GoI has acknowledged this need, and has prioritized internal security sector planning and reform in concert with the withdrawal of the US military.<sup>100</sup> This new focus is absolutely necessary, given the on-going security crisis.

Early on, UNDP was involved in supporting the disbandment of the 103,000 strong Sawa militia under a CA programme. The US seconded a military officer to work with the UNDP consultant over a four month period of time; and although other UN agencies were meant to get involved in this initiative, the overall success of the mission was achieved only with the support of coalition forces. UNDP also provided a consultant to the Office of the Prime Minister to work on reconciliation issues. Originally, the UNDP consultant was supposed to draft a strategy for national reconciliation, but was re-tasked with the job of working with the GoI to develop 242 councils to work with tribal leaders to do reconciliation work at the local level with the involvement of local sheiks.

In keeping with this new focus, the Office of the National Security Adviser (ONSA) requested that UNDP provide capacity-building support to carry out a National Security Review and draft a National Security

<sup>100</sup> Support to Security Sector Reform Revised Project Document at 2.

Strategy in a post-US occupation environment.<sup>101</sup> In response, the UNDP and the ONSA created a six month \$250,000 US Dollar project entitled, “Support to Security Sector Reform in Iraq” aimed at meeting the NSA’s requests, with the additional goals of enhancing parliamentary and civilian oversight of the security sector and strengthening the research and analytical capabilities of the ONSA.<sup>102</sup> The project envisioned a highly collaborative and participatory assessment of Iraq’s SSR needs in partnership with the ONSA, academics and civil society, with the ultimate outcome of a new strategy that adheres to international best practices and is more highly tailored to Iraq than the first National Security Strategy (2007-2010) that was largely designed with U.S. support and assistance during the US occupation.

Pursuant to the GoI’s request, UNDP supported the provision of an expert consultant to the Office of the National Security Advisor to assist Iraq to draft a new National Security Strategy. Phase One of the project occurred during 27 February to 31 December 2012. The consultant hired by UNDP had previously been working on SSR related issues for the British Embassy. UNDP also supported a national risk assessment plan. The ultimate goal of the initiative was to have a new National Security Strategy in place before the next election, with processes for implementation actualized.

The UNDP consultant also advocated with GoI for the ONSA to develop more capacity within itself. This took the form of building the capacity of the Al Naharain Centre for Strategic Studies (A-NCSS) as part of Iraq’s National Defense College that was established by the Americans. The UNDP consultant’s approach was to build up the A-NCSS as the effective outer office of the ONSA, which included a number of items such as putting in place policy and procedures for its infrastructure, recruitment of analysts and the training of analysts to analyse information and to train analysts to feed information up to the ONSA. The secondary function of the analysts is to serve as the intellectual capacity to develop the new National Security Review. The Review will include opinions on each of the 21 areas from GoI and civil society then the A-NCSS will synthesize the opinions and feed up to the ONSA.

The initial work on the Draft Strategy has been completed and a novel approach was introduced with participation of both GoI and Civil Society. A high-level steering committee has been assembled to conduct a review of 21 key areas of hard and soft security issues. As of 2013, the process of the Review had been put on hold, however, because the NSA has failed to appoint the people to the committee. But the reason for this is the sectarian violence and NSA’s need to negotiate with the Sheiks to mediate is drawing attention away from the Review. This is only the initial phase of development and each of the various sectors covered by the strategy must be analysed and further developed. The ONSA is, however, extremely satisfied with UNDP’s work

UNDP to date has developed several papers and lists that support a plan for development of the new National Security Strategy, as well as a workplan. UNDP also prepared a national threat and risk assessment. UNDP has also attended meetings of the Provincial Stability Assessment working group; held a national security workshop and met with other partners.

While the overarching need to establish comprehensive security sector reform is of the utmost importance, the final National Security Strategy will not be complete without appropriate provisions for civilian oversight and specific strategies aimed at protecting the rights of women and other vulnerable

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<sup>101</sup> NSA al Fayadh Request Letter; Support to Security Sector Reform Initiation Plan at 2.

<sup>102</sup> Support to Security Sector Reform Initiation Plan at 2; Support to Security Sector Reform Revised Project Document at 6-7.

groups in all security sector activities. In this regard, UNDP has already articulated excellent ways to incorporate these critical goals into security sector reform efforts.<sup>103</sup> Placing human rights and rule of law at the centre of all interventions in the Iraqi security sector will be a critical challenge and essential goal of all efforts under this Outcome/cluster, and evaluating efforts in this regard thus far will be an important goal of this Evaluation. As observed in the Final Report of the Support to Security Sector Reform project it is imperative to have legislation to define the roles and responsibilities of the ONSA.

The ONSA is very satisfied with UNDP's work and feels that the process of involving academia and civil society in the process of drafting the new National Security Strategy for Iraq is a large improvement over the current strategy that was drafted by the U.S. CA without much input from the Iraqi's and certainly not with such a broad representation of stakeholders. ONSA was consulted by UNDP even at the stage of selection of expert consultants, which resulted in a higher level of national ownership and impact.

ONSA feels that going forward, UNDP can continue to build the ONSA's ability to draft the strategy and other analysis. Certain areas such as water management play a key role in Iraq's national security and need to receive special focus. UNDP can also play a role in SSR via the support to drafting of legislation in the areas of anti-terrorism and building the capacities of courts to try terrorist cases fairly and with correct application of the law. In terms of justice, the UNDP support to establishing a Criminal Justice Database links to SSR. UNDP could, however, do a better job going forward of synergizing with UNODC in the area of Transnational Organized Crime, Anti-Money Laundering, Cybercrime and Anti-corruption—all of which link to SSR. Part of the challenge for the international community is to better assist GoI to identify its own needs and priorities.

UNDP's principal donor for SSR, the British Embassy, is also highly satisfied with the performance of UNDP and its consultants. UNDP had frequent contacts with the donor. The U.K. perceives that UNDP's comparative strength in the sector is its ability to act as an a-political implementer. UNDP has also facilitated dialogue within the donor community on issues related to SSR. The U.K. believes that the hallmark of entire process of drafting the new National Security Sector is that it has been Iraqi-led, by Iraqis.

UNAMI's role and coordination with UNDP in regard to the drafting of the New National Security Strategy has been rather sparse to date. It is felt that UNAMI could play a much greater role in the process.

**In light of the progress achieved to date by UNDP in SSR, in particular with drafting a new National Security Strategy for Iraq, it is recommended that UNDP develop a follow-on project for SSR Phase Two that would be focused upon implementation of the new National Security Strategy. UNDP should focus on four main priority areas for the next phase of its SSR programming: (1) Advice and assistance in developing the national security review process and resultant national security policy; (2) Support to capacity building in the A-NCSS/ONSA; (3) Support to the A-NCSS/ONSA from similar international 'think-tanks'; and (4) External support from consultants to support the development of the NSP process and product, and support to capacity building in the A-NCSS/ONSA. UNAMI should be encouraged to take an enhanced role in the drafting of the new National Security Strategy and SSR.**

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<sup>103</sup> Support to Security Sector Reform Revised Project Document at 7-10; SALW Project Document at 11-16.

## Small Arms Light Weapons (SALW)

<b>Results and Effectiveness</b>	<b>MEDIUM</b>
<b>Sustainability Risk</b>	<b>HIGH</b>

The GoI has struggled for years to put in place a workable strategy on SALW. In 2007, the MoI established a National Focal Point on SALW in line with the UN Programme on small arms. This was followed by the formation of a Demilitarization Committee in 2008 to deal with SALW that included the MoI and representatives from Iraq's defense, intelligence and security services. Yet, due to lack of political support the Demilitarization Committee became defunct and the SALW Committee at the MoI and National Point of Contact on SALW remained largely symbolic and never carried out any activities. As of 2011, the MoI had not yet been able to fulfil its mandate for implementing a SALW strategy; but had received minimal support for study tours from UNDP, the US military and US Department of State. On the basis of this early support the MoI was able to develop a list of its immediate capacity needs for SALW.

UNDP Iraq was requested by the GoI to provide support to efforts aimed at reducing the proliferation of small arms and light weapons (SALW) among the populace in light of continuing political and sectarian driven violence in the country following the formal conclusion of the American military mission in Iraq on December 15, 2011.<sup>104</sup> UNDP approved the "Small Arms and Light Weapons (SALW) Preparatory Project" in March 2012. Designed to be an 18 month project (June 2012 to March 2013), the \$150,000 US Dollar initiative sought to strengthen GoI capacities for an effective design, planning and coordination of national SALW proliferation; to conduct a capacity assessment of available SALW mechanisms and resources and assist Iraqi authorities to develop policies for tighter control; and improve the policy and regulatory framework for SALW in Iraq. As such, the project built upon UNDP's prior contributions to SALW in Iraq, including technical advice and a previously attempted (but abandoned) effort in 2008 to establish a database and registration system in Basra.<sup>105</sup>

At global level, UNDP's SALW intervention aims also at supporting the Government of Iraq to comply with the instruments, frameworks and international decisions related to SALW control:

- The United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts, Components and Ammunition, effective since June 3, 2005;
- The International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, adopted by the UN General Assembly on December 8, 2005;

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<sup>104</sup> SALW Project Document at 1.

<sup>105</sup> An earlier (2006-2008) UNDP JICA funded pilot in Basra "Project BLUE" had attempted to establish a SALW registration data base and system and construct two Community Police Stations along with an awareness campaign in that governorate that were placed on hold for strategic reasons after discussion with the MoI, Basra Police and the donor.



- The United Nations Convention against Transnational Organized Crime, which entered into force on September 29, 2003;
- The Program of Action of the United Nations to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, July 2001.

UNDP's SALW initiative is on-going, having launched in June of 2012. The situational analysis in the 2012 project document is largely based upon 2008 data collected by the US Embassy in Baghdad, but most persons interviewed stated that notwithstanding a recent spike in violence the overall security situation in Iraq has improved since 2008 and the laws pertaining to SALW are enforced with more regularity. Senior members of the Office of the National Security Advisor interviewed by the Evaluation opined that the numbers of SALW are less now than in 2008. The possession of firearms in Iraq is currently governed by the Law on Firearms (No. 13 of 1992). Additionally, there are CA orders still in place issued in 2003 that are being applied by law enforcement. There is also a draft law on SALW that was recently approved by the Cabinet and is awaiting discussion in Parliament. Moreover, Iraq has acceded to the Protocol on SALW in 2007.

Stakeholders interviewed agreed that UNDP's impact to date in SALW was limited. The capacity assessment of SALW issues contemplated by the project was not completed, but there are now some national efforts on this issue as a result of UNDP advocacy. Representatives from the MoI felt that they had gained experience on issues related to SALW as a result of UNDP's initiative, but that UNDP had not managed to create a foundation for a long-term fight against SALW in Iraq. Also, UNDP could have been more effective in gathering together a broader coalition of stakeholders around SALW. While UNDP did contact the sub-committee of Parliament for SALW, no other GoI actors were invited to attend the National Committee on SALW meetings.

GoI officials stated that the number of meetings actually held between the UNDP consultant and the GoI were relatively infrequent (i.e. as little as once in a four month period of time). Yet, the UNDP consultant did supply GoI counterparts with much relevant information and documents translated into Arabic as well as a detailed questionnaire developed by the consultant containing over 90 questions designed to feed into the "report on SALW perception by the population" contemplated by the project. The report, however, was not yet produced.

Yet, the principal reason for the low impact of the SALW initiative was the lack of capacity of the GoI and a competition of mandates between GoI Ministries themselves. UNDP advocated with the GoI for the establishment of a focal point on rule of law, yet this was subject to delays, challenges of political will and funding. This was supported with UNDP BCPR funding and implementation was always difficult due to difficulties in accessing the "Red Zone". Like all areas of the UNDP Rule of Law programme, UNDP's efforts in SALW suffered from the fact that they were "siloed" into a single project, rather than integrated into an overall UNDP strategy for RoL. The discussion about how RoL programming fully aligns with the UNDAF hasn't taken place. This has also impacted upon cost efficiencies, as the individual projects cannot capitalize upon synergies that possibly could've been derived from a more strategic approach.

A new focal point was recently appointed that works within the MoI and falls under the umbrella of the National Committee on SALW that is headed by the MoI and the Ministry of Defense. Thus far, the

Committee has drafted a national project for surveying SALW this is approved and waiting for implementation. The Committee is actively coordinating with neighbouring countries on issues relating to SALW and has coordinated with international authorities on treaties and protocols. A plan for the registration of weapons of militia (not actual collection) was developed by UNDP. Collection of weapons is deemed impracticable in Iraq's current security situation. UNDP is linking SALW to the SSR and new National Security Strategy for Iraq (discussed below).

Much of the above work was currently on hold as of mid-2013, however, as the GoI had been distracted by the Anbar protests and elections. To date, the GoI has still not committed its own resources to SALW and is perceived to be in the process of adjusting to the U.S. drawdown and reduced donor funding in the sector. Overall, as mentioned elsewhere in this Evaluation, the GoI lacks the ability to procure effectively and does not have good capacities in accounting, payroll, human resources, etc. The Office of the Prime Minister of Iraq also lacks the ability to fund initiatives directly.

Stakeholders interviewed stated that going forward, UNDP needs a bit more resources to tailor its approach to the government. The ONSA and the MoI are supportive of the cooperation with UNDP on SSR and SALW to continue. UNDP also needs to be flexible until the GoI fully understands what SALW is and SSR strategy develop. There appears to be a good working relationship between the MoI and ONSA on SALW. The Iraqis at large, however, have a problem of not fully understanding at a working level what are the value of these plans.

MoI suggests that UNDP explore mechanisms to enhance cooperation between Iraq and the Coordinating Mechanism on Small Arms (CASA)—the small arms coordination mechanism within the UN.<sup>106</sup> SALW is, according to the Office of the National Security Advisor, also highly dependent and linked with public awareness. Violence is on the rise again in Iraq. Since the beginning of 2012, an average of 300 attacks and between 240 and 330 deaths have occurred each month.<sup>107</sup> Controlling and accounting for this violence is made far more difficult by the fact that there is still no system for tracking the 9.75 million firearms spread throughout the populace.<sup>108</sup> Current security forces—which number over 100,000—have resorted to a reactive, rather than preventative, approach to internal security. The result is often repressive policing, which drives a wedge between security forces and Iraqi citizens, fosters corruption and impunity, and disproportionately impacts women and other vulnerable groups.<sup>109</sup>

**UNDP should continue to support the National Focal Point on SALW at the MoI. UNDP should explore mechanisms for GoI to support SALW with its own resources. UNDP in partnership with GoI and civil society should support continued public awareness-raising on SALW and mechanisms to enhance cooperation between Iraq and the U.N.'s Coordinating Mechanism on SALW.**

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<sup>106</sup> Applying the wealth of expertise of its members, CASA is able to frame the small arms issue in all its aspects, making use of development, crime, terrorism, human rights, gender, youth, health and humanitarian insights. Collaborative initiatives under CASA include fact-finding missions, capacity-building projects, workshops and technical assistance to support Member States in the implementation of the Programme of Action, the International Tracing Instrument and the UN Firearms Protocol. Recently, CASA has decided to embark upon developing international standards for small arms control just as the UN system has done with landmines (the International Mine Action Standards) and DD&R (IDDRS). UNODA is the designated focal point of CASA.

<sup>107</sup> SALW Project Document at 1.

<sup>108</sup> *Id.* at 4.

<sup>109</sup> Support to Security Sector Reform Revised Project Document at 2.

## **B. Cross-cutting themes**

All projects implemented by UNDP within the programming period incorporated elements to ensure gender equality and human rights based perspectives and to support civil society. Indeed, it could be said that more than half of UNDP's programme has, in some form, targeted women and children and the impact of domestic violence (i.e FPU's, law on Domestic Violence; the formation of the IHCHR and KRG Human Rights Board, DEVAW, women's shelters, Investigative Judges, Legal Help Desks).

Beyond this, a UNDP Gender Advisor within the Country Office provided technical guidance and advice to the cluster heads on SGBV, women and children, legal aid and legal empowerment. For example, she provided technical advice and assistance on trainings for the SGBV database and shelters for women both at the Federal level and KRG. The Gender Advisor was shared within the Governance Unit's Rule of Law and Human Rights projects and the Early Recovery pillar. The Gender Advisor was initially funded in 2009 at the P-5 level with BCPR funds, but even after these funds ended, UNDP Iraq maintained the Gender Advisor's position using core funds. All projects were designed and implemented from a human rights based perspective with the ultimate goals of making Iraq's justice system more accessible to its citizens, with a strong focus on the rights of most vulnerable groups.

Yet, despite its best efforts and those of other Donors and local CSOs, all the judicial systems in Iraq remain "male dominated" and the need for continued gender sensitivity training is acute. According to the CSO Women's Empowerment Network (WEO), there is a need for a specialized framework within GoI on monitoring gender sensitivity. UNDP interventions going forward, might wish to explore synergies with the UNDP Public Sector Modernization Programme.

**UNDP should continue to approach gender as a cross-cutting theme within UNDP and UNCT. A strong need remains for technical advice to GoI and KRG at all levels with regard to promoting equality of women, combating domestic violence and SGBV (including FGM) and protecting women and children who are victims of violence and sexual exploitation.**

## **C. Programme Oversight and Management**

### *Capitalizing Upon Synergies within UNDP*

UNDP Iraq Democratic Governance programming to date has tended to exist within individual "clusters" and individual and highly "siloed" projects (some with very small budgets). There has been relatively little strategic coordination between the clusters or projects. This has deprived UNDP of the benefit of capitalizing on potential synergies within its own Country Office programme during the CPAP period. The CPAP document mentions a number of areas that intersect with UNDP rule of law, human rights and security sector programming. These include local development, economic recovery, employment, private sector partnerships, the environment, water resource management and climate change.

**There are many areas where UNDP can more closely coordinate its programming within the Governance Unit going forward.** For example, UNDP support to strengthening the capacity and functioning of the Council of Representatives to improve its legislative and oversight functions has

potential linkages with support to CSOs, advocacy and human rights and security sector reform. Anti-Corruption has potential linkages with judicial ethics, criminal justice and security sector reform, civil society, and human rights.

UNDP support to the reform and modernization of the public sector, including civil service reform to improve the quality of basic services provided to Iraqi citizens has potential linkages to judicial and court reform (including administrative courts and lower level/local courts), access to justice, environmental law (i.e. water management); civil society and human rights. Finally, UNDP's work in Economic Recovery and Poverty Alleviation is focused on promoting pro-poor and inclusive growth and private sector development, which has obvious links with legal empowerment, women's rights and access to justice.

### *Moving towards "One UN"*

Throughout the CPAP programming period, UNDP has led the UNDAF Priority Working Group on Human Rights within the UNCT. Going forward, the UNDAF review and a new posture of "One UN" offer many possibilities to change the structure of UNDP Iraq management and to exploit programmatic synergies across UNDP's current projects and the UNCT as a whole. UNDP has to date been an effective partner with UNAMI's Human Rights Office (HRO) in the establishment of the IHCHR, as well as the UNAMI Gender Advisor in the areas of SGBV. UNAMI and UNDP have also worked in parallel with regard to the drafting of Iraq's new Constitution in 2005 and subsequently with support to the HJC and judicial structures in Iraq.

There is certainly more room for enhanced cooperation between the political wing of UNAMI and UNDP in governance and rule of law. UNAMI acknowledges the challenges that UNDP has faced in Iraq with the security issues and having to operate within a "remote access" posture. Rule of law in Iraq will call for a long-term engagement in the sector with enhanced coordination across the UNCT among all UN agencies. UNDP could compliment UNAMI's continuing efforts to foster dialogue on such issues as federalism, decentralization and support to Parliament. For example, UNAMI is particularly interested to engage with UNDP on issues related to migrant workers in Basra and on Transitional Justice programming. Meanwhile, UNICEF states that it would like to expand its cooperation with UNDP on children and youths.

**Within the context of the next UNDAF and a "One UN" framework, UNDP can better synergize its programming with UNICEF, UN Women and UNOHCHR—especially with regard to legal aid and legal empowerment. At a minimum all UNCT members engaged in any form of legal counselling, dispute resolution or representation should agree to a standard set of guidelines for interacting with clients, professional ethics and confidentiality, case monitoring and client follow-up.**

### *Overcoming the challenges of "remote access"*

UNDP's oversight and coordination of the Rule of Law and Human Rights Programme—as with every other facet of its engagement—has been challenged as a result of the extreme security situation in Iraq and the posture of "remote access" that has forced most UNDP Iraq international staff to remain largely based in Amman, Jordan throughout the programming period. Despite the fact that much money was spent between 2007-2010, much of this went to security and staff costs with little if any effective impact on the Outcome. Until the American military forces withdrew in 2012, UNDP staff in the "International Zone" in Baghdad couldn't leave the "D2" or "Tamimi" compounds (i.e. the heavily fortified U.N. office

and residential compounds located deep within the International Zone) in order to undertake visits to Iraqi counterparts located in the “Red Zone”.

In 2010, the security situation begun to improve and, UNDP Amman-based staff began to travel to Baghdad, Erbil and elsewhere in Iraq with greater frequency and as of end-2012/early-2013 UNDP Iraq. This was a turning point in the office and UNDP has witnessed more ownership at the federal and the regional level as a result. As of 2013, UNDP was laying the groundwork (i.e. entering into negotiations for expanded staff housing within the International Zone/Amber Zone in Baghdad, etc.) for the full transitioning of the Amman office to Iraq. All Amman based Governance programme staff have been given an ultimatum that they must be based in Iraq by January 2014 or be terminated. There are currently several reviews underway—including this Evaluation—that will inform the design of the new 2014 UNDAF and 2015 programming cycle, including the form of the new CPD.

Yet, at the time of this Evaluation a new wave of sectarian violence was occurring that has returned Iraq to a security posture not seen since pre-2010. This begs the question as to whether UNDP could have effected the transition from Amman to Baghdad sooner and what could have been the possible impact had it done so. The levels of violence occurring throughout Iraq in 2013 make the time period 2010-2012 look calm in comparison. At many points during this Evaluation both UNDP’s Donors and Iraqi partners and stakeholders hypothesized that had UNDP international staff been present in Iraq with greater frequency prior to 2012, then perhaps UNDP’s interventions would have found more fertile ground with a higher level of political will and national ownership. For all intensive purposes, however, this is now “water under the bridge” and UNDP must adjust anew (as it always has) to a quickly evolving security situation.

**Going forward, UNDP needs to press forward within a context of shrinking donor resources. Concomitant with the planned relocation of Amman-based staff to Baghdad, UNDP Iraq must begin explore ways to extend its reach beyond Baghdad and into Anbar, the disputed areas and other underserved geographic regions and communities in Iraq. As KRG continues to enjoy the fruits of a comparatively stable security environment, foreign direct investment and oil, it should offer UNDP an opportunity to “incubate” and pilot programmes that can then be rolled-out in other areas of Iraq. It is possible that Basra may offer a similar setting in Iraq where programmes and practices can be piloted and then extended to other areas and communities.**

#### ***The Structure of UNDP Governance Unit’s Rule of Law Programme***

When evaluating the current configuration of the Outputs/ Clusters of the Programme it must be remembered that previously rule of law and human rights was handled as a single cluster at UNDP *managed by a single manager*. Currently two international staff –each of them a P-4 level hire—manage the rule of law and human rights projects separately and generate their reports, but no one is above them (i.e. at a senior P5 or above level) to lend overall coordination, technical expertise or guidance to the Programme or, for that matter, to manage them. Thus, what has happened is that UNDP Senior Management—specifically the Governance Cluster Manager—has had to manage the Project Manager for Rule of Law, Human Rights & Access to Justice and the Project Manager for Rule of Law and Justice separately, but these are two components of a *single* UNDAF outcome. The projects should be more closely coordinated and managed together by a single manager. There is a need for much greater clarity with regard to management and lines of reporting in any new Rule of Law Strategy.

**The Evaluation encourages UNDP to consider having only one (1) Senior Programme advisor at the P5 level to cover both Rule of Law and Human Rights (eliminating the two P4 positions) and then support the P5 with one or more P3s. At the moment, the UNDP Iraq office assembled largely with ITF funding is top-heavy with too many senior project managers and too few programme managers. This solution would combine the Rule of Law, Human Rights and Security Sector**

**Reform clusters as a single outcome managed together by a International at P5-level (there would be a P3 assigned to each cluster who would be technical expert advisor in nature, but not managing). The P5 hire must be an international expert with strong background and academic training in international, foreign and comparative law with publications and the gravitas to interact with the Iraqi counterpart; and, preferably, with some knowledge of Arabic. Unfortunately, the on-going sectarian divisions at every level within Iraqi society more than likely will preclude national staff from assuming management positions during the next programming cycle due to political considerations. UNDP Iraq is now awaiting the results of a UN review of its organogram. The final result will require an examination of UNDP's available resources and priorities.**

### ***UNDP's In-house Technical Expertise and Capabilities***

Rule of law programming within a context such as Iraq should be based upon detailed and qualified professional analysis. It should offer national counterparts something more than mere templates imported from the Internet, other UNDP country offices or the programmes of other donors. All projects and support must draw upon international best practice, but at the same time be sufficiently tailored to the context of Iraq, its legal culture and institutions. UNDP as the leading U.N. agency for rule of law, access to justice and human rights programming, must be able to deliver highly technical advice, analysis and opinion on a day-to-day basis when interfacing with its Iraqi counterparts.

As mentioned elsewhere in this report, in the opinion of the Evaluation there were several instances during the CPAP programming period where Iraqi counterparts seemed dissatisfied with deliverables (i.e. Desk Books for judges; proposals for legal aid, etc.) or where UNDP appeared unable to obtain the political will of HJC and other institutions until extremely late in the life of particular projects (i.e. Case Management System). There were also some notable "missed opportunities" in UNDP's rule of law programming and approach (i.e. the lack of engagement with the Shura Council (regarding its administrative law function); Family Courts; law schools and traditional authorities as beneficiaries) that would have seemed obvious opportunities.

Moreover, in the opinion of the Evaluation, UNDP Iraq could have supported much more research, publications and white papers on key issues in Iraq (i.e. legislative and court reform, etc.) around which communities of practice could be built. This Evaluation has identified numerous issues within Iraq's court and corrections systems that could have been the subject of UNDP supported research and in-depth analysis and around which UNDP could have gathered stakeholders to debate. Such publications and knowledge products are relatively inexpensive outputs, fall within UNDP's corporate goals of becoming a knowledge-based organization, contribute to UNDP's global practice policy and contribute to legal and judicial reform in country. They are good entry points for bringing a broad spectrum of stakeholders together.

The Evaluation was also concerned to find that at the time of this Evaluation a relatively high percentage of UNDP Iraq staff involved in rule of law and human rights programming in fact did not possess a graduate-level law degree and/or equivalent experience. Rule of law and human rights are *highly technical* fields. The argument that UNDP project managers and officers are only *implementing* the projects and can always supplement their lack of technical expertise by hiring outside consultants or partners has its limits. The risk is that without advanced professional legal training and/or experience UNDP international and national staff might not spot obvious gaps in a project's design or its implementation or be able to lend the level of day-to-day technical expertise expected by UNDP's Governmental partners and interlocutors. For example, this could mean that draft project documents are

not sufficiently tailored to the national context or legal culture or that comparative models from foreign jurisdictions are not made available or even discussed with UNDP's counterparts.

**The Evaluation strongly recommends that in advance of any new UNDP Iraq rule of law programme that all current *international staff* contracts be reviewed for professional qualifications. Where existing *national staff* members do not possess legal training, they should present a clear plan to UNDP for obtaining continuing education and certification in justice and human rights going forward. UNDP should support this effort to upgrade its in-house technical capabilities.**

### ***Monitoring and Evaluation: Measuring UNDP's Results and Effectiveness***

It is the assessment of this Evaluation that the PMSU of UNDP Iraq has performed admirably in terms of its monitoring and evaluation activities throughout the programming period. PMSU has provided inputs to UNDP Iraq regarding baselines and data for evaluations. PMSU staff has effectively recruited and monitored consultants and overcome to the extent possible the challenges of remote access utilizing national Iraqi interlocutors and building local capacity. UNDP is certainly in a much better position than it was in 2009 to pursue results based budgeting as a result.

One area where the PMSU could be of great assistance to UNDP in the future is in redesigning detailed indicators for all projects and strategic frameworks going forward—especially for M&E. PMSU has recently engaged a former member of the Iraqi judiciary to collect baseline statistics related to courts and the judicial system in Iraq. More could be done, however, by UNDP Senior Management to institutionalize the on-going collection of baseline statistics and data across all clusters of the programme. **UNDP could also do a better job of documenting its institutional memory. Going forward, PMSU can play a leading role in shaping the knowledge products produced by UNDP in the rule of law and human rights sector; helping UNDP shift to an advocacy organization that provides high-level technical advice; and assisting UNDP to mobilize increasing levels of GoI co-financing and support.**

## **D. National Ownership, Partnerships and Cooperation**

The CPAP 2011-2014 Partner Strategy states that the Ministry of Planning is the national apex counterpart for UNDP. The Ministry of Planning is supposed to support UNDP to strengthen its engagement and dialogue with technical departments within respective line Ministries, and to strengthen its interactions between the ministries of GoI and KRG. In turn, UNDP is supposed to support the GoI to lead discussions on policy and policy design in line with the GoI National Development Plan. A key element of the CPAP is for UNDP to support this process at both the national and sub-national/local levels.

Engagement with civil society and partnerships with CSOs, NGOs and INGOs, as well as cooperation with other UN agencies to effect development goals at both national and sub-national levels is also part of the CPAP design. In addition, the Partnership Strategy envisions that UNDP will explore public-private partnerships in line with the Iraq NDP's emphasis upon the private sector's responsibility to contribute financially to Iraq's development—especially economic opportunity and job creation for vulnerable

populations. A key function of UNDP under the strategy is to mobilize donor and UN resources technical expertise on behalf of its Iraqi partners, as well as global and comparative knowledge such via South-South partnerships and UNDP's own global practice policy (i.e. via the UNDP Regional Bureau for Arab States and Partnerships; UNDP BCPR, etc.). In addition, individual project documents, as well as the evolving practice of the UNDP Iraq Country Office together supplement this "partnership strategy".

Due to the limitations placed upon the Evaluation in terms of access to UNDP's GoI partners (i.e. Ministry of Planning) and limited statistical data, not all aspects of the CPAP Partnership Strategy were able to be assessed. The Evaluation's was able to assess the overall partnership strategy, however, as detailed below.

UNDP's individual projects and partners were appropriate and in line with the NDS. There are indeed some notable success stories that are a reflection of UNDP's close GoI partnerships in some areas. UNDP Senior Management—most prominently its outgoing Country Director—have consistently exercised their influence and "soft-assistance" to obtain national ownership and political will for programming with line ministries both at the Iraqi federal level and at the sub-national (KRG) level. UNDP has in some instances (i.e. SSR reform and its support the drafting of a new National Security Strategy for Iraq) engaged a broad coalition of stakeholders from GoI/KRG, academia and civil society. In many instances (i.e. FPU's; SSR; SALW), UNDP has managed to assemble steering committees, partnerships and working groups of various GoI ministries and agencies together (i.e. for the FPU's: the Ministry of Women; MoJ; MOSWA; MoLSA, MoI and the Judiciary; for SSR: MoI, intelligence agencies, security sector, academia and civil society; and for Domestic Violence: DEVAW; IMP; CoR; various ministries and civil society).

Yet, in other areas there have been notable gaps. For example, engaging with Personal Status Courts in Iraq would have seemed a logical entry point for UNDP in any holistic approach to rule of law and court reform—especially given the fundamental role that these courts play in the lives of women and children and that no Donor had yet programmed with them to any significant degree. While UNDP has engaged CSOs as implementing partners (i.e. most notably WEO and Heartland in the establishment of the FPU's) and included outputs for civil society in a number of its projects (i.e. "The Participatory Governance" project; "Support to SSR" project, etc.), UNDP lacked an overall strategic approach to legal aid or to civil society in Iraq.

GoI partners, especially the HJC, were often not as available or receptive as one would have expected. This Evaluation is not able to pin point the exact cause, but UNDP's ability to mobilize HJC political will has been quite poor. Possible explanations could be that the HJC itself is a dysfunctional institution; that remote access hindered UNDP's ability to lobby the HJC more frequently; or that UNDP was unable to deliver the level of technical legal expertise that the HJC expected. More than likely it is a combination of these factors. Some Iraqi partners were critical of the *pace* of UNDP implementation and the extent to which GoI received updates to progress.

The Evaluation found several examples where significant amounts of time and project resources were expended on outputs and deliverables that were not ultimately embraced by the GoI partner. Examples include bench books designed and supported by UNDP being rejected by the HJC and the HJC not being satisfied with the UNDP supported Case Management Systems. This may be due to a number of factors including: a failure on UNDP's part to adequately inform GoI about projects and include GoI early-on in the project design phase or provide GoI partners with frequent updates; a gap between the substantive legal knowledge of experience of Senior Iraqi officials and UNDP project officers or simply a failure on UNDP's part to adequately manage the expectations of its partners.



In some instances, delays in implementation occurred as a result of lack of understanding of GoI counterparts and a failure of UNDP to mobilize political will. In other instances, Iraqi counterparts complained that UNDP has been overly ambitious and promised more in the way of technical capacity than it actually possessed or could deliver. Criticisms were also raised that UNDP's indicators were set at too high a level and its project documents were not scaled appropriately to the situation in Iraq. One GoI counterpart characterized UNDP as having been locked into its own paper planning frameworks that had overlapping outputs, but very little in-house coordination.

As remote access improved, however, UNDP has visited Iraq counterparts with more frequency. There has been a discernable shift from 2010 onwards. UNDP has recently added more Arabic speaking national staff to projects and involved GoI counterparts to a much greater degree than previously. UNDP has also begun to take a more strategic approach and involve a broad range of stakeholders in its initiatives. UNDP has also tried to build bridges between Iraqi GoI ministries by including a range of stakeholders in discussions. The establishment of legal aid offices in Central Iraq, despite a long opposition by the HJC is evidence of increasing political will and a recently improved strategic relationship between UNDP and its Iraqi counterparts. A valid question is why did it take UNDP so long to begin to adopt a more strategic approach.

Overall, however, GoI partners remain extremely positive of UNDP and continue to view UNDP as the "go to" agency for Rule of Law and human rights. UNDP (unlike coalition members USA and UK) is seen as a politically neutral actor. UNDP's comparative strength is seen as being able to mobilize international donor support, connect Iraqi stakeholders with larger communities of practice and provide a high level of technical expertise. In these respects, GoI stakeholders and partners report that UNDP has met their expectations. At the same time, Stakeholders feel that UNDP could do a better job of marketing itself to the GoI and GoKRG; as well as updating the respective Ministries of Planning on a monthly basis as to UNDP's progress, including an indication of which Ministries are performing under UNDP projects documents and those that are not meeting expectations.

As of 2013, the HJC had requested to develop a strategic partnership framework with UNDP. A first draft of the framework identifying main areas of cooperation was developed following a high-level meeting between UNDP and the HJC in July 2013 in Amman. The priority areas of the framework are envisioned to include:

- Supporting to JIOs in Iraq.
- Supporting the Judicial Oversight mechanisms
- Supporting and reactivating the role of the Prosecutor
- Supporting Access to Justice and Legal Awareness
- Expansion of CCMS
- Supporting the role of the Court of Cassation
- Supporting the development of HJC structure and the Law of the Judicial Authority
- Support the Supreme Court of Iraq
- Supporting Arbitration

As noted above, this Evaluation had made a number of Recommendations that are not yet fully prioritized due to the Evaluation's relatively limited access to Iraqi officials. It is envisioned that UNDP will use the Evaluation Report and its Recommendations as a starting point. UNDP should organize many more meetings with the HJC and other Iraqi Stakeholders in the near future, with the possible participation of UNDP BCPR and international experts, in order to prioritize options for a new UNDP Rule of Law and Access to Justice Programme.

A major change in partnership strategy is the departure of the CA, which has opened up space for UNDP to engage with its Iraqi counterparts in new ways. UNDP's projects funded by DoS INL-I are indicative of this. In fact, the US has recently agreed to fund another follow-on project in the amount of \$2.5 million dollars, building upon the achievements of the "Strengthening the Administration of Justice" Project, that will include support to JIOS, the Public Prosecution Office and the oversight body of the HJC.

UNDP has also recently pro-actively sought to rely upon and include CSOs as implementing partners. The Bar Association in KRG is taking a major role in the legal help desks going forward. Some actors and rule of law stakeholders that one could logically have expected to be part of any rule of law and access to justice programme were notably absent or underserved (i.e. the Shura Council; the Bar Association; tribal and traditional authorities; religious leaders, etc.).

Far too few opportunities were created during the programme period, however, for bringing together various Iraqi stakeholders along social, ethnic and sectoral lines. The Evaluation perceives that UNDP could have drawn upon its global conflict/crises prevention and recovery practice policy to facilitate dialogue. This has given rise to the Evaluation's recommendation that going forward, UNDP include such groups of stakeholders in rule of law and access to justice outputs from a transitional justice and peace consolidation programming perspective.

The best way to achieve national ownership and to promote sustainability over development initiatives within the rule of law and human rights sectors in Iraq is for UNDP and donors to convince the GoI and KRG to co-finance development programmes and projects. UNDP has recently enjoyed success with convincing the KRG to co-finance initiatives and is expecting GoI to do the same in the near future.

As well noted by the CSO "Heartland International Alliance" in Iraq, UNDP must, however, also take measures to mitigate the potential conflict of interests involved when GoI or GoKRG is the primary funding of a UNDP legal aid or human rights advocacy initiative. For example, how will GoI or GoKRG funding influence the ability of UNDP to advocate for improvements in the legal system or to end human rights abuses perpetrated by the government. These are key questions that should be explored.

**Going forward, UNDP must make clear to GoI and KRG stakeholders that co-financing is the "new normal" for Iraq within a context of shrinking donor resources. UNDP should include local authorities in its partnerships and strategies and determine how local authorities and community leaders can be utilized to a greater degree in rolling-out such initiatives legal aid. This recommendation applies equally to the level of national ownership to be achieved by UNDP as well as the sustainability of its outputs and impact on the outcome in Iraq. UNDP must seek to include its GoI partners at a much earlier stage in the development of projects and also include representatives from all Iraqi rule of law stakeholders—especially with regard to UNDP's initiatives for legal aid.**

As stated elsewhere in this report, the "Dubai twinnings" for the judiciary were an excellent example of true "South-South" cooperation, as were study tours to Turkey and Jordan. **UNDP should draw upon its global practice policy in transitional justice, reconciliation and peace consolidation (principally UNDP BCPR) and inform its programming with updated conflict and political analysis.**

## E. Donor Coordination and Relations

The European Union decided to pull funding from the UNDP components of the EU- funded Justice project at a mid-point during its implementation—due to delays in project initiation and implementation. This was the sharpest criticism of UNDP performance to date by a donor. Yet, as discussed elsewhere in this report both this Evaluation and an earlier evaluation are *highly critical* of the design of the EU project. The project gave very *similar elements* of legal aid to both UNDP and UNOPS *separately* and with *no actual cooperation between these two UN agencies having taken place*. In the view of this Evaluation, this was highly irresponsible, both on the part of the EU as a donor and on the part of the UN, UNDP and UNOPS respectively.

It remains an open and serious question why the U.N. *at a corporate level* has permitted the UNOPS mandate (traditionally one of procurement and project support) to “creep” into UNDP’s traditional mandate for rule of law, access to justice and human rights (including in recent years, legal aid initiatives at the grass roots level). There can be no question that UNDP occupies the superior position in this regard both in terms of its mandate and its global practice—especially with the recent formation of the UNDP-DPKO “Global Focal Point for Rule of Law”. But, unfortunately, this is but one of many recent examples across the globe where the U.N. has lacked the operative ability or leadership required to firmly set clear mandates for its agencies and to promote the highest levels of coordination within UNCTs.

Despite the fact that UNDP holds the traditional mandate among all UN agencies for rule of law and access to justice, as of 2013, the EU has reportedly chosen to implement its rule of law and legal aid initiatives via UNOPS going forward.

By way of stark contrast to the EU, UNDP Iraq’s Nordic donors are more satisfied with UNDP performance. SIDA’s main engagement with UNDP was with the HJC. SIDA’s overall impression is that it is satisfied with UNDP cooperation, but it feels that GoI and Iraqi counterparts are not aware of what UNDP is doing or can do for them. SIDA feels that UNDP’s reports need to be more accurate about progress achieved to date—especially being honest about the issues and barriers that UNDP has faced implementing with GoI partners. Were UNDP to be more realistic about its own shortcomings, then Donors would take this into account, adjust expectations and better compliment UNDP’s own efforts to gain political will. It was felt that UNDP could better fulfil a knowledge role within the donor community by publishing more studies and white papers on key areas within rule of law and human rights.

The US-UNDP relationship has been quite strong and overwhelmingly positive to date. UNDP was chosen as the implementer for the US DoS (INL) “Justice Data Management” project after the US had experienced problems with its own contractors. According to the US Embassy, UNDP’s tenure of the project resulted in an improvement in its implementation and the brokering of political will from GoI. As discussed above, the US believes that as a result of UNDP’s management, courts are further ahead than most other branches of government in terms of organizing data. In terms of the “Strengthening the Administration of Justice” project, the Dubai twinnings are viewed as a success by the US. The results of the pilot court initiative are limited, but the legal aid component has been successfully implemented to date within the resources allocated to it. Recent examples of UNDP effectively advocating within the donor community include its programming with Judicial Investigative Offices that represents a paradigm shift. Formerly UNDP donors had programmed with the MoI and INP and now the HJC and JIO has authority for the JIOs.

The US’s assessment of UNDP performance is not as favourable, however, with regard to the Anti-Corruption initiatives, where delays in the execution of project funds by UNDP and lack of reporting of results at the Outcome level frustrated US DoS as the donor. US DoS praised UNDP’s successful

intervention to organize the IHRHC. Overall, the US Embassy values UNDP and is interested in increasingly working with UNDP. Yet at the same time, it feels that UNDP should examine closely the pace at which implementation occurred during 2009-2012. Overall, however, it perceives that there is a marked increase in the effectiveness of UNDP 2007-present.

**Going forward, UNDP should improve the quality of its reporting. UNDP should do a better job of managing the expectations of donors and its GoI counterparts with regard to the outputs of its projects and programmes as well as its own capacities. UNDP should develop better indicators and do a better job of reporting results to outcome—but this is dependant upon the collection of good data within UNDP and its projects. UNDP should also increasingly shift to a “knowledge” organization by publishing more studies and papers on key areas of rule of law and human rights.**

## **F. Sustainability**

Across the three programmatic Outcomes of CPAP Outcome 2, UNDP has sought to increase the prospects for sustainability by increasing the capacity of GoI/KRG management, human resources and processes. UNDP has managed to obtain national ownership in several areas of its Rule of Law Programme under CPAP Outcome 2 and its three programme outputs.

The Evaluation observes, however, that several of UNDP’s projects during the CPAP period were unable to complete their planned outputs before the end of project. Even with no-cost extensions being granted by donors, initiatives such as the Case Management System (CMS) and Justice Data Management Project were in danger of ending without an effective and workable exit strategy in place to ensure continued sustainability. This is not so much a reflection of UNDP’s abilities or effort as it is an issue of proper scaling of projects, timelines and outputs. GoI Stakeholders interviewed by the Evaluation often expressed the criticism that UNDP had “over-promised” and could’ve better managed the expectations of GoI and donors. For a variety of factors, UNDP was not successful in obtaining HJC political will and endorsement of outputs as often as expected.

Of the projects that were subject to this Evaluation, few had clearly articulated exit strategies and tended to speak in vague terms of “testing” and “rolling out” models and frameworks without identifying the specific targets, geographic locations or expected trade-offs and resource needs required based upon qualified analysis. Some projects included time frames (by activity) in their workplans, but this is not the same thing as a well-articulated exit strategy. Most project documents did, however, recognize the long-term nature of rule of law work in Iraq, especially given the political and security risks. A few project documents provided specifics for a GoI “take over” of the initiative at project’s end.

On the whole, UNDP’s projects located within KRG appear to have achieved a better chance at sustainability, due to the KRG Government’s willingness to co-finance and the greater levels of capacity development, legislative reform, political will and civil society involvement. This is certainly true for UNDP supported Legal Help Desks and on-going legal aid initiatives in partnership with the Bar Association in KRG and UNDP’s interventions on behalf of women in KRG including the establishment of a Shelter Policy and capacity building of DEVAW. Yet, this is not to say that UNDP projects and outputs at the federal level in Iraq had not attained a similar level of GoI endorsement by project end. Certainly, the FPU is one example of an initiative that is firmly supported and endorsed by the MoI. Other examples exist of rhetorical endorsement of UNDP initiatives such as the HJC’s “plan” to expand the pilot courts and CMS, but these have not, at least at the time of this Evaluation, been supported by actual budgetary commitments from the GoI.

Each set of UNDP outputs is faced with its own set of trade-offs, risks and challenges to sustainability. UNDP must take measures, to the extent possible to mitigate such risks and have clearly defined exit strategies.

For example, in terms of judicial trainings, the “Dubai Twinning” appear to have resulted in some procedural reforms within the HJC. But, overall, there is still very low capacity at the mid-level staff and lower courts in Iraq. Sustainability will depend upon further institutionalizing the development of the JDI and its curriculum.

The Computerized Case Management System (CMS), Iraqi Legal Data Base and Justice Data Management system offer perhaps the most significant challenges to sustainability. They are deeply dependent upon the political will of the HJC and instilling judges, prosecutors, court staff and other justice sector participants/beneficiaries with an entire new set of IT skills. The CMS and other electronic platforms’ software require periodic updating/correction and the hardware needs maintenance and can be expected to become obsolete after 3 to 5 years. Sustainability will require GoI budgeting for depreciation and replacement of equipment as well as regular “on-call” system maintenance and repair/replacement. These considerations apply equally to all IT systems funded by US DoS (INL) and UNDP. Meanwhile, with regard to the ILD, HJC must fulfil its obligations to update the database periodically.

UNDP support to the management of prisons will not be sustainable in any way unless the GoI ICS reforms its human resources practices to address such issues as the high-turnover of prison staff and the frequent re-assignment of prison directors from one facility to the next.

The sustainability of UNDP’s support to the JIOs may be undermined due to unresolved tensions between the Police (MoI) and the Investigative Judge’s (HJC). This may require the international donor community to approach the Prime Minister’s Office collectively in order to obtain a resolution of this issue.

The Legal Help Desks established with UNDP support have recently been endorsed by the KRG Government and have received a significant boost with KRG co-financing. The risk, however, is that now that the Bar Association has assumed responsibility for implementing the initiative that the Bar Association will not effectively supervise or “police” its own membership. Despite the terms of the MoU entered into between UNDP and the Bar Association, UNDP and/or WEO will need to frequently monitor the lawyers involved with the initiative and follow-up with clients. Beyond this, however, is an even larger issue of capacitating the management of the Bar Association, creating a culture of pro bono service among lawyers and creating standards for the practice of law, including ethics and admission to the bar and licensing to practice law. Ultimately, mandatory continuing legal education for lawyers should be introduced in Iraq with bi-annual certification. Upgrading legal education is also key in this regard in order to equip a future generation of lawyers with enhanced legal skills.

For Human Rights safeguarding the independence of the IHCHR and the KRG Human Rights Board will be key to the sustainability of these institutions, as well as the continued rollout of the IHCHR at the sub-national level. This will also entail building CSO capacity in Iraq to supplement the investigative and reporting of the IHCHR.

UNDP has attempted to ensure sustainability of its support to the new National Security Strategy for Iraq by enlisting a broad base of stakeholders in its design, including academics and civil society in addition to the traditional national security and intelligence stakeholders

The overall sustainability of UNDP's programming in Iraq will ultimately depend upon UNDP obtaining increasing levels of GoI/KRG co-financing for initiatives. Within a context of donors reducing their bilateral development assistance to Iraq and the US drawdown, the GoI must increasingly fund its own development agenda. Without this it cannot be ensured that the outcomes will be reached and maintained after UNDP interventions are completed. There is, however, a threshold issue of lack of capacity within GoI Ministries and institutions to budget and effectively manage the allocation of funds.

## **Conclusions and Recommendations**

### **I. Strategic Conclusions and Recommendations**

- 1. UNDP should continue its Rule of Law, Access to Justice and Human Rights programming in Iraq during the second-half of the CPAP period (2011-2014) and beyond. This must include the design of a single new UNDP Rule of Law Programme document that is comprehensive and builds upon the CPAP 2 Outputs. Any new UNDP Rule of Law Project document must be based upon a fully consultative process with all stakeholders. There is also a need for a comprehensive mapping study of the court system in Iraq. UNDP needs to conduct a strategic assessment of how it will engage with the key justice stakeholders (MoJ, HJC, Supreme Court, etc.) going forward and take political analysis into account.**
- 2. Going forward, UNDP needs to press forward within a context of shrinking donor resources. Concomitant with the planned relocation of Amman-based staff to Baghdad, UNDP Iraq must begin to explore ways to extend its reach beyond Baghdad and into Anbar, the disputed areas and other underserved geographic regions and communities in Iraq. As KRG continues to enjoy the fruits of a comparatively stable security environment, foreign direct investment and oil, it should offer UNDP an opportunity to “incubate” and pilot programmes that can then be rolled-out in other areas of Iraq. It is possible that Basra may offer a similar setting in Iraq where programmes and practices can be piloted and then extended to other areas and communities.**
- 3. UNDP should strive to ensure that its Rule of law programming in Iraq is based upon detailed and qualified professional analysis. It should offer national counterparts day-to-day mentoring and advise based upon the highest possible level of in-house technical expertise.**
- 4. The Evaluation strongly recommends that in advance of any new UNDP Iraq rule of law programme that all current international staff contracts be reviewed for professional qualifications. Where existing national staff members do not possess legal training, they should present a clear plan to UNDP for obtaining continuing education and certification in justice and human rights going forward. UNDP should support this effort to upgrade its in-house technical capabilities.**
- 5. The Evaluation encourages UNDP to restructure the management of its current rule of law, access to justice and human rights and security sector programme. UNDP should have only one (1)**

Senior Programme advisor at the P5 level to cover both Rule of Law and Human Rights (eliminating the two P4 positions) and then support the P5 with one or more P3s. At the moment, the UNDP Iraq office assembled largely with ITF funding is top-heavy with too many senior project managers and too few programme managers. This solution would combine the Rule of Law, Human Rights and Security Sector Reform clusters as a single outcome managed together by a International at P5-level (there would be a P3 assigned to each cluster who would be technical expert advisor in nature, but not managing). The P5 hire must be an international expert with a strong background and academic training in international, foreign and comparative law with publications and the gravitas to interact with the Iraqi counterpart; and, preferably, with some knowledge of Arabic. Unfortunately, the on-going sectarian divisions at every level within Iraqi society more than likely will preclude national staff from assuming management positions during the next programming cycle due to political considerations. UNDP Iraq is now awaiting the results of a UN review of its organogram. The final result will require an examination of UNDP's available resources and priorities.

6. There are many areas where UNDP can more closely coordinate its programming within the Governance Unit going forward. Within the context of the next UNDAF and a “One UN” framework, UNDP can better synergize its programming with UNICEF, UN Women and UNOHCHR—especially with regard to legal aid and legal empowerment. At a minimum all UNCT members engaged in any form of legal counselling, dispute resolution or representation should agree to a standard set of guidelines for interacting with clients, professional ethics and confidentiality, case monitoring and client follow-up.

7. The continuing political divisions within the rule of law institutions may dictate that donors meet with the Prime Minister to encourage the GoI to better align the justice institutions with each other, become more inclusive of all Iraqi citizens and accommodate local-level viewpoints and constituencies.

8. Going forward, UNDP must make clear to GoI and KRG stakeholders that co-financing is the “new normal” for Iraq within a context of shrinking donor resources. UNDP should include local authorities in its partnerships and strategies and determine how local authorities and community leaders can be utilized to a greater degree in rolling-out such initiatives legal aid. This recommendation applies equally to the level of national ownership to be achieved by UNDP as well as the sustainability of its outputs and impact on the outcome in Iraq. UNDP must seek to include its GoI partners at a much earlier stage in the development of projects and also include representatives from all Iraqi rule of law stakeholders—especially with regard to UNDP's initiatives for legal aid.

9. UNDP should draw upon its global practice policy in transitional justice, reconciliation and peace consolidation (principally UNDP BCPR) and inform its programming with updated conflict and political analysis.

10. Going forward, UNDP should improve the quality of its reporting. UNDP should do a better job of managing the expectations of donors and its GoI counterparts with regard to the outputs of its projects and programmes as well as its own capacities. UNDP should develop better indicators

and do a better job of reporting results to outcome—but this is dependant upon the collection of good data within UNDP and its projects. UNDP should also increasingly shift to a “knowledge” organization by publishing more studies and papers on key areas of rule of law and human rights.

11. UNDP could also do a better job of documenting its institutional memory. Going forward, PMSU can play a leading role in shaping the knowledge products produced by UNDP in the rule of law and human rights sector; helping UNDP shift to an advocacy organization that provides high-level technical advice; and assisting UNDP to mobilize increasing levels of GoI co-financing and support.

12. UNDP must move to immediately adopt a more strategic approach to its rule of law and human rights programming in Iraq. Programme documentation and proposals should be based upon a firm footing, including detailed ascertainment research, assessments and analysis of the sector. UNDP must seek to include the GoI at a much earlier stage in the development of projects and also include representatives from all Iraqi rule of law stakeholders—especially with regard to UNDP’s initiatives for legal aid.

13. The overall sustainability of UNDP’s programming in Iraq will ultimately depend upon UNDP obtaining increasing levels of GoI/KRG co-financing for initiatives. Within a context of donors reducing their bilateral development assistance to Iraq and the US drawdown, the GoI must increasingly fund its own development agenda. Without this it cannot be ensured that the outcomes will be reached and maintained after UNDP interventions are completed. There is, however, a threshold issue of lack of capacity within GoI Ministries and institutions to budget and effectively manage the allocation of funds.

14. UNDP should continue to approach gender as a cross-cutting theme within UNDP and UNCT. A strong need remains for technical advise to GoI and KRG at all levels with regard to promoting equality of women, combating domestic violence and SGBV (including FGM) and protecting women and children who are victims of violence and sexual exploitation.

## **II. Programmatic Conclusions and Recommendations**

*Output 1 (Cluster: Rule of Law): Key national and local institutions strengthened to promote rule of law (including transitional justice) and administration of justice*

15. UNDP should build the capacity of the HJC and its administration, focusing on mid-level staff training and administrative processes, lines of reporting and communication within the HJC, judges and courts—especially local courts. Top-down (supply side) capacity building initiatives should be balanced with support to bottom-up (demand side/grass roots) legal empowerment and access to justice programming.



16. Going forward, the JTI and JDI at the federal level and KRG JI should remain a focus of UNDP support. As of 2013, HJC was continuing to urge UNDP to support trainings for judges and HJC support staff and support to the JTI—including its budgeting. UNDP should also develop specialized programmes for judges who were appointed without completing the two-year JTI preparatory course.

17. UNDP has supported the Case Management system for nearly three years and it should explore Iraqi government take over and full funding of any continuation of CMS initiatives. In general, UNDP must be extremely cautious of any approach that substitutes electronic CMS for paper systems, when the courts *themselves* may not have a capacity to absorb the technology. Such systems have an extremely high maintenance factor and a high sustainability risk as IT hardware quickly becomes obsolete and requires frequent maintenance and upgrades.

18. Going forward, the Iraqi Legal Database must be maintained as a single website that is updated monthly. UNDP should support the HJC and KRG Judicial Council to publish court decisions and post these on the Iraqi Legal Database.

19. UNDP should pursue a more comprehensive approach to court reform in Iraq and KRG than has occurred to date that identifies the weaknesses specific to different types and levels of courts in the country. A Strategic Plan for the Judiciary now being prepared by UNDP for consideration of the HJC may meet this recommendation.

20. The Evaluation strongly recommends that UNDP continue to take steps to mitigate the sustainability risks involved with the “hand-off” of the Legal Help Desks to the KRG Bar Association pursuant to the MoU with the Bar Association. Such steps include: a) including WEO in the process and all communications between UNDP and the Bar Association; b) providing strong technical advice by experts during a transition year when the Bar Association senior officers and staff will receive intensive training on legal aid and best practices of client representation (i.e. ethics, record keeping, follow-up, etc.); c) developing certain conditions for the Bar Association (i.e. that the legal help desks will be staffed by full time lawyers, rather than rotating different lawyers each week); d) clearly defining what are UNDP’s management and technical responsibilities and e) providing continuing technical support to the Bar Association’s mechanisms for supervising the lawyers involved in the initiative.

21. UNDP must maintain an urgent focus on abused women in Iraq and KRG. It is crucial that the medical community be linked with the legal help desks and family protection units in KRG and Iraq. Gender analysis should be incorporated in all project documents.

22. UNDP should pursue a multi-pronged approach for its legal aid initiatives that disaggregates the Constitutional duty of the Iraqi State to provide free legal aid to a limited set of criminal defendants and a broader system of legal aid for criminal defendants accused of minor crimes, as well as the general class of civil litigants and disputants who require legal aid and counselling. Furthermore, UNDP should be playing a key role in gathering stakeholders together to design a comprehensive strategy for legal aid in the country. This is a politically sensitive area due to the

fact that legal aid schemes usually intersects with private legal representation, which is the traditional province of the Bar Association and private lawyers.

23. UNDP should support capacity building of the Bar Association itself in order to strengthen internal governance and management; to develop Continuing Legal Education (CLE) requirements and curricula and to strengthen its Disciplinary Committee. Ideally, there should be an office of attorney registration/continuing education that will oversee a system of bi-annual CLE certification of all lawyers who are registered as “active” members of the bar, with a minimum number of CLE credit hours completed within every 24-month period. In addition, concepts of professional ethics and licensing to practice must be introduced. UNDP could also support the Bar Association’s knowledge and outreach activities in the form of support to publications and websites for the Iraqi and KRG Bar Associations. UNDP could also support the passage of the draft Law on the Legal Profession that is currently before the Parliament. UNDP might wish to explore opportunities for organizing study visits for the leadership of the Iraqi and KRG Bar Associations in partnership with foreign jurisdictions and bar associations (i.e. International Bar Association; Canadian Bar Association; American Bar Association; Association of the Bar of the City of New York; Paris Bar Association, Istanbul Bar Association, Jordanian Bar Association, etc.). This could be a viable area for South-South cooperation.

24. UNDP should to the extent possible, include law school clinical legal education programmes in its legal aid, human rights, advocacy and public awareness programming. Possible areas of UNDP assistance to law schools in Iraq going forward could include curriculum reform; research grants for faculty in clinical legal education or human rights; support to publishing articles, studies and white papers on emerging issues in Iraq; support for the establishment of law journals; guest lectures; capacity building for libraries and foreign language sources.

25. UNDP could support educating Iraqi journalist to be neutral, professional and aware of their rights. UNDP could also support mechanisms to promote dialogue between journalists and the security forces for a common understanding on the journalist's mission. Empowering CSOs to defend journalists’ rights and concentrate on brining legal affairs to the forefront of the media and programmes on peace and reconciliation could also improve the situation.

26. Ultimately, the friction between the HJC and MoI as to whether JIO or the police have jurisdiction to conduct investigations may call for a political settlement that is beyond the scope of a development agency such as UNDP. UNAMI and the international donor consortium in Iraq may have a role to play. In the meantime, UNDP and other donors, including INL, UK and EUJUST-LEX agreed that UNDP’s efforts should focus on improving lines of communication between the JIOs and the Police.

27. UNDP should continue to provide technical advice to the process of establishing a Criminal Justice Data Integration System going forward, but UNDP and INL may wish to negotiate agreements for collection and ground analysis with the intuitions in advance of any subsequent phase of the initiative, as well as explore mechanisms for GoI co-financing.

28. UNDP should continue to work with the Iraqi Correctional Service (ICS) to improve its human resources and management practices with the goal of reducing the high-rate of turnover and frequency of reassignment of prison directors; to improve inmate registrations and tracking in the ICS computer system and improve conditions for juvenile detainees. UNDP could provide further technical assistance to the MoJ and MoI in tandem with the goal of streamlining procedures for arrests, police custody and pre-trial detention.

29. In light of recent UN findings on the application of the death penalty in Iraq, UNDP might wish to support research and advocacy in death penalty in conjunction with other UN agencies and departments having a mandate in this area (i.e. UNODC, UNICEF, UNHCHR and UN-DPA).

30. Going forward, UNDP could support the Iraqi National Police and Police Academy to develop a strategy for Community Policing and integrate training on human rights into the training for police. In the context of conflict, UNDP should also consider shifting the dialogue from “Security” to one of “Human Safety”. UNDP programmes with community policing and human security in other conflict/post-conflict zones (i.e. Sudan) may provide a reference point.

31. UNDP should foster dialogue on how the Iraqi federal Judiciary can be made truly independent, including debate on the continuing applicability of Amended Judicial Regulatory Law No 160 of 1979 that still effectively governs the workings of the Judiciary, despite language in the Constitution of 2005 that enshrines the principal of judicial independence in Iraq. UNDP should also support the judicial administration to implement the HJC Law (Law on the Supreme Judicial Council) No. 111 of 2012, including the drafting of other laws related to the affairs of the Judiciary (i.e. the long awaited Judicial Authority Law, Law on the Prosecution; Law on the Judicial Supervisory Board, etc.). Going forward, UNDP should focus on the Investigative Judges; judicial independence and execution of judgments as key areas for the Judiciary. There is a need in the whole of Iraq for enhanced training on judicial ethics, judicial misconduct and discipline, court management and forensics.

32. UNDP should support the Supreme Court’s knowledge and competency via enhanced trainings on issues of federalism and decentralization and the allocation of authority among the various levels of state and local administration in Iraq.

33. UNDP should target the Federal Cassation Court and its judges for specialized training in appellate jurisdiction, reasoning and opinion writing either directly or via supporting the JTI and JDI to develop specialized curricula for appellate judges.

34. UNDP should explore ways in which to support those courts in Iraq that have a disproportionate role to play in the lives of women and children, namely, the Family Court, the Personal Status Court and the Juvenile Criminal Court. UNDP should seek to raise the awareness of judges and court staff within these courts of international human rights law and the rights of women, children and juvenile defendants. UNDP should support capacity building initiatives to improve the processes within such courts with the goal to reduce case backlog and improve efficiency and transparency of such courts. Family (Shari’a) courts often play a vital role in the

**lives of women and children within Muslim societies addressing such issues as marriage, divorce, custody, child support and inheritance. UNDP should include Family (Shari'a) courts in its situational analysis and consider programming points going forward.**

**35. Overall, UNDP needs to approach the criminal courts and criminal justice in Iraq in a holistic manner. In other words, UNDP needs to look at each point at which an individual criminal defendant comes into contact with the criminal justice system and penal courts and to map-out the provisions of the Iraqi Constitution, Iraqi Penal Procedure Code No. 23 of 1969 and other procedures that apply to that point in the process, as well as each GoI Ministry or agency that must become involved and ascertain "gaps" in procedures or "roadblock" that are occurring and make recommendations to the HJC and GoI for reform. The Bar Association, academia and civil society could be enlisted in such an initiative. UNDP should use roundtables, conferences, radio, television and social media as forums in which to discuss and highlight these issues. UNDP legal aid initiatives should strictly police the quality of lawyers undertaking representation of criminal defendants. The JTI and JDI should be supported to devise a special curriculum geared to overcoming the deficits in Iraq's criminal justice system.**

**36. UNDP should support the KRG Judiciary to build its capacity in terms of its knowledge of current legislation and to become more transparent. UNDP should continue to support the KRG Judicial Institute to develop a curriculum that is responsive to the needs of the judiciary and that supports notions of judicial independence, judicial ethics and transparency and efficiency of courts in KRG.**

**37. UNDP should support trainings for female members of the Judiciary and ways to promote and increase appointment of female judges in Iraq and KRG.**

**38. The continuing political divisions within the rule of law institutions may dictate that donors meet with the Prime Minister to encourage the GoI to better align the justice institutions with each other, become more inclusive of all Iraqi citizens and accommodate local-level viewpoints and constituencies.**

**39. UNDP should support an analysis of the way in which the Judicial Supervisory Board is being utilized by the HJC. Beyond this, UNDP should foster dialogue, legislative reforms and the development of a comprehensive system of judicial ethics and discipline in Iraq. The Bar Association and civil society should be included in such initiatives. UNDP should support CSOs and media that are engaged in court monitoring.**

**40. UNDP and bi-lateral donors should prioritize supporting the publication of court decisions in Iraq. The importance of publishing court decisions to the rule of law and access to justice in Iraq cannot be understated. Publication of court decisions will pay dividends across the judicial system, practice of law, academia and the media.**

**41. UNDP should continue to support awareness-raising of citizens and mechanisms to make the courts more open (i.e. information kiosks, legal help desks, forms, signage, etc.). UNDP should**

work with the Federal HJC and KRG HJC to create a viable system of judicial performance and discipline.

42. UNDP should continue to support both the Iraqi federal MoJ and the KRG MoJ in the development of the capacity of its staff going forward. The Shura Councils at both the Federal and KRG levels play a fundamental role in ruling on the legality of state administrative acts and awarding compensation to citizens harmed by administrative action. UNDP should develop a plan for strategic engagement with the Shura Council as it forms both quasi-judicial and quasi-legislative functions. Iraq's Shura Council is modelled on the *Conseil d'Etat* of France. Thus, it fulfils basic roles of reviewing administrative regulations for conformity with the Constitution as well as hearing cases of administrative violations of state agencies. The Shura Council informed the Evaluation that it currently has no mechanism for soliciting the views of CSOs in Iraq. UNDP should strategically programme with the other administrative courts.

43. UNDP should support the Public Prosecution to re-build its capacity, especially with regard to its role with the family courts and in the protection of women and children and in the enforcement of judgments. UNDP should foster dialogue on the interpretation, continued validity and application of the Public Law No. 159 of 1979 and the Judicial Regulatory Law No. 60 of 1979. UNDP should support the capacity of the KRG Prosecution—particularly with regard to codes of conduct for prosecutors and in respect to the Prosecution's role in the protection of the family and children. UNDP's support to the KRG Judicial Institute should include such elements in its curricula for the training of prosecutors and legal staff.

44. UNDP could work jointly with media outlets to promote awareness of corruption and to train the Committee in partnership with UNODC to make Parliament more effective. UNDP can assist the Committee on Integrity to prepare evidence-based reports; to train Parliamentarians, Committee staffs and journalists to report on corruption and support CSOs to serve a "watchdog" function over GoI. UNDP and UNODC can partner to support the passage of laws related to UNCAC implementation in Iraq such as: i) a law to govern the Committee on Integrity; ii) a Law on Audits; iii) a Law on the Inspector General's Office; and iv) other legislation to support the UNCAC. UNDP can also support workplans for the implementation of such legislation by various GoI agencies. Judicial corruption is one area where UNDP's Participatory Governance and Anti-Corruption programming can intersect with Rule of Law.

45. The Evaluation identified a number of areas of potential UNDP support to the Legal Committee of Parliament going forward that include the following: i) Providing training and technical expertise to the Legal Committee's Department of Research and Analysis to prepare legislative impact statements; ii) Provide technical support and expertise to the Legal Department regarding its work with the Governorates and local/provincial leaders. The Parliament has entered into an agreement with the EU to support the provincial councils, but the Legal Committee's Department of Governorates Affairs needs training and capacity support.; iii) Providing support to the implementation of the "Federation Council Law" and strengthening mechanisms of communication between the Governorates and Parliament, as well as between

**Parliament and the Shura Council are also areas of need. Currently, many pieces of draft legislation get “stuck” in the Shura Council as a result of political roadblocks.**

**46. Going forward, UNDP should explore in conjunction with UNAMI possibilities for creating politically neutral spaces for people to engage constructively along non-sectarian lines—particularly for youth in line with UNDP’s rich global practice and comparative experience in transitional justice. Going forward, UNDP should explore mechanisms to promote peace and reconciliation (especially responding to the demands raised during the Anbar Awakening).**

***Output 2 (Cluster: Human Rights and Access to Justice): Key government and non-governmental institutions have strengthened capacities to better protect and promote human rights in relation to international standards.***

**48. UNDP should continue to support IHCHR going forward. The next phase of UNDP support can involve greater (and earlier) planning to create a more effective division of labour within the IHCHR staff, with UNDP assisting with interpretation of international standards for the IHCHR, and national partners working to implement them in the unique Iraqi context. UNDP can assist the IHCHR to open sub offices and focus on legislative reforms, including the re-drafting of nine (9) Iraqi laws related to human rights that were identified as priority areas by UNDP in 2012. UNDP should further support IHCHR to perform outreach within vulnerable communities and to build a social media presence (IHCHR currently has none). Finally, UNDP might wish to explore forming an Advisory Board on Human Rights that could serve as a forum for the IHCHR, Human Rights Committee of Parliament and the KRG Human Rights Board.**

**49. UNDP should continue to support the MoI in its management of the FPUs going forward. The GoI should begin to co-finance such support. UNDP should support the MoI to enhance the FPU capacities and office space; to develop a common set of standards and templates for operating FPUs; establish and strengthen links with Iraq’s medical community and hospitals; provide on-going trainings to FPU staff and to support legislative reforms, particularly the Law Against Domestic Violence.**

**50. Going forward, UNDP should continue to work with GoI and KRG to support legislation and legislative reforms to conduct detailed legislative “gap” analysis—especially legislation that impacts upon women’s rights and equality in Iraq such as the draft Iraqi federal “Law Against Domestic Violence”. Such analysis should draw upon lessons learned from UNDP’s legal aid, outreach and legal empowerment work at the grassroots levels and other data such as citizen perception surveys conducted by UNDP. The results of such analysis should be widely publicized and circulated by UNDP. Beyond this, UNDP should support GoI in the development of a strategy for implementation of the Law Against Domestic Violence when the law is passed and takes effect. This will require assembling groups of stakeholders from across the justice chain (i.e. judges from civil, criminal and family courts, line Ministries, lawyers, doctors, etc.).**

**51. Going forward, UNDP should provide technical expertise to DEVAW, especially with regard to its enforcement of judgements from the KRG Special Court for Domestic violence and establishing and strengthening the lines of communication and procedures followed by DEVAW, the police, the Special Court for Domestic violence and the KRG Public Prosecutor. UNDP should support DEVAW in the establishment of its sub-offices and mechanisms for linking the sub-offices to the central office.**

**52. UNDP should continue to support KRG’s Erbil Shelter for Women and use the lessons learned at the Shelter to assist KRG (and Iraq at the federal level) to duplicate such shelters in a nationwide network of women’s shelters. UNDP should provide technical assistance to KRG to revise**

the Shelter policy to resolve such issues as accepting women with severe physiological or medical issues. UNDP should work with DEVAW and the KRG Ministry of Health to explore the establishment of a shelter that is properly equipped to accept women who require on-going medical supervision or care. UNDP should also ensure that the judiciary in KRG is fully aware and educated about the existence of the shelter, its capacities and mission and the procedures to be followed in referring women to the shelter. UNDP should work with CSOs and/or the KRG Bar Association to supply much needed legal aid services and counselling at the Shelter. In addition, there is a need for developing a shelter policy and shelters throughout Iraq in other Governates besides KRG.

53. There continues to be an urgent need in Iraq and KRG for UNDP to support CSOs engaged in the protection of abused women and children and combatting SGBV. Such support should include supporting CSOs in the following areas: monitoring of courts and places of detention; freedom of expression and the right of peaceful dissent against the GoI and KRG; trainings on international human rights; conducting gap analysis of Iraqi legislation and administrative processes impacting upon human rights; implementation of the GoI Human Rights Action Plan (2011); strengthening networks of CSOs; supporting the participation of CSOs in government policy, debate and compliance; collection of statistics and data on human rights. UNDP should explore possibilities for implementing a robust small grants scheme for CSO advocacy on the most urgent human rights issues (i.e. pre-trial detention; honour killings; death penalty; human trafficking, etc.) and strengthening CSOs and media. UNDP should also enlist CSOs in an initiative geared to aligning Iraq's traditional justice with international human rights obligations.

54. UNDP should urgently increase its components on youth CSOs in Iraq. Among the youth CSOs interviewed by the Evaluation there was wide enthusiasm for UNDP to initiate a small grants scheme specifically aimed at youth CSOs to enable them to compete for small grants to conduct work on specific issues facing youth.

55. While UNDP's resources are limited and abused women are expected to continue to be the CPAP Outcome 2's primary focus, given language in the CPAP document relating to "Persons With Disabilities", UNDP might wish to strengthen its programming to include PWDs. In regard to "Other Vulnerable Groups", the recent U.N. resolutions concerning the rights of LGBT persons and the continuing extreme violence and targeted killings against such communities in Iraq, UNDP should ensure that such vulnerable groups are mentioned and included in such initiatives as UNDP support to Iraq's central human rights institutions and legal aid initiatives. According to reports of INGOs and UNAMI many of the victims of such violence in Iraq are youths.

56. UNDP should programme with traditional authorities and religious leaders in Iraq going forward to explore ways in which to better align traditional mechanisms of dispute resolution with Iraq's international human rights obligations. UNDP needs to play a more instrumental role in getting the informal justice sector on board and assess complementarity with Iraq's formal justice system. The common denominator that can potentially accommodate both informal and informal justice in Iraq is mediation. UNDP could build upon the existing knowledge of tribal leaders about



mediation and build linkages and mechanisms for mediation both within the formal court system and traditional systems of justice.

***Output 3 (Cluster: CRP-Mine Action, SALW, SSR): Enhanced GoI capacity to ensure accountable and effective security sector with civilian oversight***

57. In light of the progress achieved to date by UNDP in SSR, in particular with drafting a new National Security Strategy for Iraq, it is recommended that UNDP develop a follow-on project for SSR Phase Two that would be focused upon implementation of the new National Security Strategy. UNDP should focus on four main priority areas for the next phase of its SSR programming: (1) Advice and assistance in developing the national security review process and resultant national security policy; (2) Support to capacity building in the A-NCSS/ONSA; (3) Support to the A-NCSS/ONSA from similar international ‘think-tanks’; and (4) External support from consultants to support the development of the NSP process and product, and support to capacity building in the A-NCSS/ONSA. UNAMI should be encouraged to take an enhanced role in the drafting of the new National Security Strategy and SSR.

58. UNDP should continue to support the National Focal Point on SALW at the MoI. UNDP should explore mechanisms for GoI to support SALW with its own resources. UNDP in partnership with GoI and civil society should support continued public awareness-raising on SALW and mechanisms to enhance cooperation between Iraq and the U.N.’s Coordinating Mechanism on SALW.

## **Lessons learned**

- 1. The principal challenges to UNDP's effectiveness in Iraq are the security posture of "remote access" within which it operates and obtaining the political will of the institutions that it supports. The experience of the CPAP programme period evidences that greater results are achieved when UNDP interacts with its partners in Iraq.**
- 2. Rule of law and human rights are highly technical fields. Iraqi institutions require an extremely high level and frequency of technical legal advice. UNDP must offer to its clients the highest possible levels of in-house technical legal expertise and knowledge if it is to meet the expectations of its Iraqi partners and effectively act as the lead UN agency for rule of law. The use of outside technical experts and consultants is appropriate at certain times, but outside consultants cannot substitute for day-to-day supports in the form of technical advice and mentoring from UNDP staff themselves at the institutions.**
- 3. When UNDP is overly ambitious and does not properly scale its projects and results frameworks it runs the risk of setting expectations of Iraqi partners and donors that it ultimately cannot satisfy. The interests of all parties are served when a realistic assessment of UNDP's capabilities and comparative strength is made based upon sound research.**
- 4. Projects and programmes that lack evidence-based situational analysis and detailed indicators are difficult to evaluate and evade measurement. UNDP's donors and partners increasingly demand a high level of results based reporting.**
- 5. In general, IT is a risky investment for donors as it has a high sustainability risk. In the end, no amount of IT investment on the part of any donor can compensate for a lack of political will. Moreover, merely investing in IT alone cannot solve what are often endemic and systemic procedural and administrative deficits.**
- 6. Within a context of shrinking donor resources, UNDP has been effective at obtaining GoI/KRG co-financing. Increasingly, GoI/KRG co-financing must become the operative paradigm for UNDP development assistance in Iraq.**
- 7. The Iraqi judiciary and other stakeholders highly benefited from South-South cooperation and knowledge exchange such as the "Dubai twinnings" and exposure to the legal and correctional models of such countries as Turkey and Jordan. Iraqi stakeholders desire enhanced opportunities for South-South cooperation.**
- 8. UNDP found it necessary to become more strategic during the CPAP period and make adjustments and trade-offs as the programme progressed (i.e. limiting the Legal Help Desks to mainly cases for women and victims of SGBV; readjusting its focus from JTI to JDI, etc.). UNDP's programming benefits when it has the ability to make such tactical decisions and adapt it's programming to the evolving political and legal context.**
- 9. Achieving a paradigm shift in the Outcome related to Rule of Law, Access to Justice and Human Rights is a long-term endeavour. Not only must UNDP's projects and**

programmes reflect this reality, but also their exits strategies must be explicit, evidenced based and reflect an honest assessment of the capacity of Iraqi institutions to “take over” such initiatives. UNDP’s implementing partners and GoI/KRG should be consulted as part of the process of designing exit strategies.

10. Potential synergies both within UNDP Governance and among the various UN agencies comprising the UNCT were not effectively captured to the extent that they could’ve been. In a context of a lessening of available donor resources, UNDP and the UNCT could benefit from delivering as one. UNAMI and UNDP also share many potential synergies.

11. The UNDP Rule of Law Programme could benefit from restructuring its management so as to have more clear lines of reporting and coherence to the programme and its clusters.

## **Schedules and Annexes**

## **ANNEX 1: STATISTICS AND SUPPORTING DATA**

### **Data in Support of Output to Outcome linkages**

1. UNDP has supported the HJC with training that has increased the capacity of judges and their efficiency as well as promoted public awareness of the courts. The #'s of cases heard by the Supreme Court from the date of its establishment up to the end of 2011 has increased steadily, especially during the time period 2009-2012. The number of actions tried by the Federal Cassation Court have also increased steadily from a low point in 2007 to present.

#### **Statistics of the cases tried by the high federal court from the date of its establishment up to the end of 2011**

<b>Year</b>	<b>No. of cases</b>	<b>No. of cassative appeals</b>	<b>No. of legal opinions</b>
2005	3	36	--
2006	21	40	3
2007	15	23	17
2008	33	82	13
2009	48	122	33
2010	53	128	40 <sup>(38)</sup>
2011	107	110 <sup>(39)</sup>	--

#### **Actions tried by the Federal Cassation Court**

##### **From 2003 to the end of 2011**

<b>Year</b>	<b>Civil Actions</b>	<b>Penal Actions</b>
2003	4929	1338
2004	30348	4128
2005	33330	6217
2006	17987	6492
2007	14167	9765
2008	15389	7823

2009	16351	10272
2010	19402	16138 <sup>(41)</sup>
2011	24854	17604 <sup>(42)</sup>

In addition, the number of complaints received by the Public Prosecution across all areas of its authority has risen during the past several years in Iraq.

**Most Important Works of the  
Public Prosecution Agency  
(2007- 2012) (44)**

<b>Type of Activity</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>Execution and life – long Imprisonment</b>	258	327	472	385	482	673
<b>Permanent or temporal Imprisonment</b>	5891	5142	7852	8900	10433	12781
<b>Judgments against Juveniles</b>	900	751	1257	1579	1858	1985
<b>Appeal to the Interest of law</b>	170	236	222	321	182	300
<b>Visits to prisons and detention places</b>	3334	5242	5769	7320	11792	8806
<b>Appeal on Cassation</b>	1125	1449	792	2192	872	1345

The number of complaints being filed with the Judicial Supervisory Board has also risen steadily since 2007, with an average of between 400-500 complaints per year in 2010 and 2011, with an improvement in the rates of decision and completion.

The number of complaints received by the judicial supervisory board in 2007: (132) complains and (64) of them were decided (48%), whereas the investigations conducted were (240) complaints, and (126) of them were decided (47%)<sup>(47)</sup>.

In 2008, the number of complaints presented to the judicial supervisory board was (245) and (146) of them were decided (59%) whereas the investigations conducted were (384) and only (105) of them were completed (47%)<sup>(48)</sup>.

In 2009, the complaints presented to the Judicial Supervisory board were: (405), and (344) of them were decided at a rate of (85%) and the number of investigations was (401) and (348) were decided, at a rate of (87%)<sup>(49)</sup>.

The number of complaints presented thereto in 2010 was: (464) and (419) of them were decided at the rate of (90%), whereas the investigative cases were (323) and (288) of them were decided, at a rate of (89%)<sup>(50)</sup>.

In 2011, the number of complaints presented to the board was (520) and (468) of them were decided, at a rate of (90%), and the number of investigations was (395) and (346) of them were completed, at a rate of (88%)<sup>(51)</sup>.

Total numbers of cases within Iraq's Ordinary Civil and Criminal courts have been increasing steadily from 2010 to present.

The number of cases decided by the civil courts- except for the high federal court and Kurdistan courts, was in (2007): (583293) cases, and the number in (2008) was (703880) cases <sup>(54)</sup>, including (441662) penal cases <sup>(55)</sup>, and death penalty judgment were issued against (530) of the accused.<sup>(56)</sup>

54- Judicial Authority activity- High Federal Court 2005- 2008 and the Supreme judicial council 2003- 2008 – issued by the supreme judicial council 2009- PP.28- 97.

55- The Annual Statistical Report on cases brought to Iraqi courts for 2008- Supreme Judicial Council- 2009, P.17.

56- The Annual Statistical Report on Cases brought to Iraqi Courts for 2008- P.69 and 73.

The number of cases brought in 2009: (840336) cases, (796800) cases were decided, at a rate of (95%)<sup>(57)</sup>. The number of cases brought thereto in 2010: (937407) and (887631) of them were decided, at a rate of (95%)<sup>(58)</sup>.

Whereas the number of cases brought thereto in 2011 were: (1158293) cases, (1109513) of them were decided, at a rate of (96%)<sup>(59)</sup>.

The number of cases brought to the (criminal courts) in Iraq, except Kurdistan region was: (1109513) cases, and (19732) were decided and (8231) persons were convicted, (217) of them were females and (446) of them were sentenced to death (execution), among which (51) females, and (107) persons were sentenced with life- long imprisonment, and all of them are males, (1000) were sentenced with permanent imprisonment, (8) of them are females, and (2055) sentenced with temporal imprisonment, and (110) of them are females <sup>(60)</sup>.

The number of cases brought to the (criminal courts) throughout Iraq, except for Kurdistan Region, for 2009 was; (18609) cases, and (17,278) of them were decided, and (601) persons were sentenced to death by execution, (9) females were among hem, and (178) persons were sentenced with life- long imprisonment and all of them were males, and (1.789) persons were sentenced with temporal imprisonment, including (45) females.

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57- Judicial Authority Activity for 2009- P-71.

58- Judicial Authority Activity for 2010, P.105.

59- Judicial Authority Activity for 2001, P.111.



60- Life- long imprisonment means that the convicted will remain in prison until his death, but the permanent imprisonment means that the convicted shall be deposited in prison for twenty years, and the temporal imprisonment means that the convicted is imprisoned for the period specified by the court which exceeds five years up to fifteen years.

The number of cases brought to the (criminal courts) throughout Iraq, except for Kurdistan Region, for 2011 was: (27.692) and (25.447) of them were decided and judgment of conviction and penalty were issued against (10.814), including (381) females and (870) were sentenced to death by execution, including (30) females, (407) were sentenced with life- long imprisonment, including (12) females, (1593) were sentenced with permanent imprisonment, including (45) females, and (2775) were sentenced with temporal imprisonment, including (107) females.

The number of cases brought to the (courts of juveniles) throughout Iraq, except for Kurdistan Region, for 2009 was: (3.293) and (3.187) of them were decided and (1469) juveniles were convicted and penalized, including (40) female juveniles.

The number of cases brought thereto in 2010 was; (3.507) and (3.447) of them were decided and (1.696) juveniles were sentenced, including (89) female juveniles.

The number of cases brought to the (courts of Juveniles) for 2011 throughout Iraq, except for Kurdistan Region, was: (4.307) and (4.204) were decided and (2.136) juveniles were sentenced, including (108) female juveniles.

The number of cases brought to the (courts of misdemeanours) throughout Iraq, except for Kurdistan Region, for 2009 was: (28.099) and (27.660) were decided and (16.955) persons were convicted and penalized, including (430) females.

The number of cases brought thereto for 2010 was: (37.214) and (34.567) were decided and (21.138) persons were sentenced, including (1.196) females.

The number of cases brought to the (courts of misdemeanours) throughout Iraq, except for Kurdistan Region, for 2011 was; (55.919) and (54.659) of them were decided and (29811) persons were convicted and penalized, including (1301) females<sup>(61)</sup>.

### **Judicial Investigation Offices**

The total number of cases tried and investigated by judicial investigation offices throughout Iraq- except for Kurdistan Region- for 2011 stood at (86325) penal cases, and (82757) cases were decided, at a rate of (97%) and (69456) cases were closed, and (13301) cases were referred to the trial<sup>(102)</sup>.

The total number of cases investigated by those offices up to October/ 2012 throughout Iraq- except for Kurdistan Region- was (12656) cases, and (8838) cases were decided, at a rate of (70%) in accordance with the following:

- (7201) cases were closed for various reasons.
- (1637) cases decided by referral to trial courts for trial.

That is to say, the closed cases are more than fourfold of the cases which have available evidence and referred to trial.

### **FPU: Incidents of Domestic Violence in Iraq (Federal level)**

In the statistics issued by the ministry of interior/ deputy ministry for police affairs- family protection directorate on 31/1/2013, it indicated that the number of cases registered in the family protection units for 2012, was (7.833) cases, and (6.116) were decided, (4.462) were closed and (1.654) were referred to trial. The rates of family violence were as follows:

Violence of husband against wife	60%
Violence of wife against husband	8%
Violence of sons against parents	14%
Violence of parents against sons	3%
Various assaults	15%

(2.830) cases related to family violence were recorded in the governorates of Theeqar, Anbar, Babylon, Karkouk, Wasit, Salahuddin, AL Muthanna and Basra) for 2012, and only (76) cases were recorded in Nenawa and (332) cases were recorded in the rest of governorates.<sup>(103)</sup>

The statistics on violence against women throughout Iraq- except for Kurdistan Region- for the period from 2003 to 2011 showed:

(143) suicide cases.

(715) rape cases.

(233) murder to wipe shame (honour crimes).

(1583) women abduction cases.

(280) prostitution crimes.

(447) murder by error.

(8800) injuries and beating.

## **Locations of the Family Protection Units (FPUs) in Iraq and KRG**

**The location of FPUs in Iraq are as follows:**

Baghdad- Karkh  
Baghdad- Rusafa  
Anbar  
Babel  
Basra  
Diyala  
Diwaniyah  
Karbala  
Kirkuk  
Muthanna  
Maysan  
Najaf  
Ninawa  
Salah El-Din  
Thiqr  
Wasit

**There are 7 FPUs in KRG location is as follows:**

1 Family Protection Directorate which the official title is (General Directorate for Alimentation of Violence Against Women) in Erbil.  
2 Family Protection Units in Erbil  
2 Family Protection Units in Suly  
1 Family Protection Unit in Garmiyan  
1 Family Protection Unit in Dahouk

## Schedule I: Relevant Projects

Project	Objectives	Outputs	Key Partners
<b>Support to Development of Justice and the Rule of Law<sup>110</sup></b>	Increase the efficiency, quality and accessibility of the administration of justice in Iraq	<ul style="list-style-type: none"> <li>Pilot model court in Baghdad</li> <li>Reform of select curriculum in specialized areas of the JTI (w/ focus on gender and human rights)</li> <li>Alternative civil law dispute mechanisms developed &amp; piloted</li> <li>Reform of the penitentiary system, including treatment of women and juveniles</li> </ul>	UNICEF, UNFPA, UNIFEM, UNAMI-HRO, ITF, Spain, Tsamota
<b>Strengthening the Administration of Justice in Iraq<sup>111</sup></b>	Improve the judicial administration of justice in Iraq, particularly by improving case handling, investigations by judicial investigators, electronic case management, increasing access to courts, and judicial 'twinning' with the Dubai courts	<ul style="list-style-type: none"> <li>Administrative and operational capacity of the judiciary is strengthened in line with int'l best practices</li> <li>Establish a Pilot Court Complex</li> </ul>	US INL-I
<b>Justice Data Management Project<sup>112</sup></b>	Enhance the capacity of justice institutions in Iraq to 'integrate' data, i.e. to exchange data between justice institutions in a timely, secure, accurate, and verifiable way	<ul style="list-style-type: none"> <li>Comprehensive Situational Analysis of Justice Integration Capacity conducted and Implementation Strategy Elaborated</li> <li>Institutional Framework for Enhanced Interagency Coordination for Justice Integration in Iraq is Strengthened</li> <li>The data exchange strategy is piloted and implemented.</li> </ul>	US INL-I
<b>Family Support, Justice, and Security<sup>113</sup></b>	Support the Government's efforts in creating a strategy to ensure that victims of domestic and gender based violence are offered refuge and support	<ul style="list-style-type: none"> <li>Access to Justice for Victims of GBV improved</li> <li>Capacity of RoL, law enforcement and social services for victims of GBV built and enhanced</li> <li>Social and economic empowerment mechanism in place</li> </ul>	DEN UNIFEM UNICEF
<b>Small Arms &amp; Light Weapons Control Project<sup>114</sup></b>	Guidance and support for the development of a Small Arms & Light Weapons national framework	<ul style="list-style-type: none"> <li>Government capacities for an effective design, planning and coordination of national policies against SALW proliferation are strengthened;</li> <li>Capacity assessment of available SALW mechanisms and resources is completed and</li> </ul>	

<sup>110</sup> RoL & Justice Programme Document; RoL & Justice Inception Report.

<sup>111</sup> Strengthening Administration of Justice Project Document.

<sup>112</sup> Justice Data Management Project Document.

<sup>113</sup> Family Support Project Document.

<sup>114</sup> SALW Project Document.

		<p>used by Iraqi authorities to develop policies aiming at a tighter control.</p> <ul style="list-style-type: none"> <li>Improved policy and regulatory framework for SALW control developed</li> </ul>	
<b>Support to Security Sector Reform<sup>115</sup></b>	Guidance and support for the revision of the Iraqi National Security Strategy	Capacity of the Iraqi Office of the National Security Advisor to formulate a national security strategy enhanced	UK FCO
<b>High Commission for Human Rights in Iraq Capacity Building &amp; Technical Support<sup>116</sup></b>	Support the establishment of a High Commission for Human Rights	Supported selection process for the appointment of the Commissioners and is now supporting the planning of the High Commission and the operationalization of its functions	DEN BEL UNAMI
<b>Empowering Civil Society in Iraq</b>	Empower civil society organisations to monitor GoI compliance with due process and transparency in service delivery, corruption, human rights and civil rights. Build CSO capacity and promote dialogue between GoI and CSOs for policy-making purposes.		
<b>Reforming Judicial Training in Iraq<sup>117</sup></b>	Improve the capacity of judges through on-going professional development.	<ul style="list-style-type: none"> <li>A civil law curriculum for the JDI is developed</li> <li>Civil law curriculum is tested and revised in the JDI</li> </ul>	FRG
<b>Programme for the Protection of Detainees and Torture victims<sup>118</sup></b>		<ul style="list-style-type: none"> <li>Increase the prevalence of rights-based management of correctional facilities in Iraq</li> <li>Enhance the protection of detainees' rights through better access to justice and advocacy</li> <li>Assist victims of torture in their path to medical and socio-economical rehabilitation</li> </ul>	
<b>Participatory Governance for Enhanced Accountability &amp; Human Rights<sup>119</sup></b>	Promote transparent participatory governance and strengthen human rights.	<ul style="list-style-type: none"> <li>Support the Human Rights Commission, including the establishment of sub-national commissions</li> <li>Support long term institutional development of the Human Rights Commission</li> <li>Promote participatory governance through accountability mechanisms</li> <li>Utilise CSOs to promote participatory and transparent governance.</li> </ul>	

<sup>115</sup> Support to Security Sector Reform Project Document.

<sup>116</sup> HCHR Capacity Building Project Document.

<sup>117</sup> Reforming Judicial Training Project Document.

<sup>118</sup> RoL & Justice Progress Report 2Q 2008.

<sup>119</sup> Participatory Governance Project Submission Form; Participatory Governance Project Document.

<b>Legal Aid &amp; Access to Justice</b> <sup>120</sup>	Improved access to justice for poor, vulnerable, and other citizens who face significant access obstacles.	<ul style="list-style-type: none"> <li>• Enhance the protection of citizens' rights through better access to justice and advocacy</li> <li>• Enhanced capacity of NGOs to provide legal assistance to vulnerable communities in Iraq in cooperation with the family protection units and model courts</li> <li>• Establishment of Court-based legal help desk in Basra</li> </ul>	NMFW DEN Heartland WEO
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<sup>120</sup> Legal Assistance Concept Paper; Legal Aid & Access to Justice TRAC Request Note.

# Appendix A: Terms of Reference

**CPAP Outcome 2:** Enhanced rule of law, protection and respect for human rights in line with international standards.

## A. INTRODUCTION

### **Background**

The growing demand for development effectiveness is largely based on the realization that producing good “deliverables” is simply not enough. The relevance of efficient or well-managed development projects and outputs is their ability to yield discernible improvements in development conditions and ultimately in people lives. Being a key international development agency, the United Nations Development Programme (UNDP) has been focusing on achieving clearly defined results. This has been pursued in recent times through results-based management (RBM) approach.

As part of its efforts in enhancing RBM, UNDP has shifted from traditional activity-based project monitoring and evaluation (M&E) to results-oriented M&E, especially outcome M&E that covers a set of related programmes, projects, and partnership strategies intended to achieve a defined outcome. An outcome evaluation assesses how and why an outcome is or is not being achieved in a given country context, within a timeframe and the role UNDP and other partners have played in this regard. Outcome evaluations will help to validate UNDP's contribution to development results, promote quality assurance and accountability of UNDP as an organisation, and generate learning on substantive matters to enhance UNDP's programming. Outcome evaluations also help to clarify underlying factors affecting the situation, highlight unintended consequences (positive and negative), generate lessons learned and recommend actions to improve performance in future programming.

### **Brief National Context Related to the Outcome**

Democratic governance is increasingly recognized as an important goal for ensuring stability for wealth creation to reduce poverty, attaining sustainable human development and achieving the Millennium Development Goals (MDGs). The current National Development Plan (NDP) and the United Nations Development Assistance Framework (UNDAF 2011-2014) enunciate this connection by indicating democratic governance as one of the five priorities of the Government of Iraq. That includes promotion and protection of human rights, access to justice, Rule of Law improving access to rights and entitlements, and women empowerment. UNDP's strong commitment to the Millennium Declaration and fulfilment of the MDGs are consistent with the priorities of the Government of Iraq, including promotion of human rights and access to justice. Indeed, promotion of human rights must be emphasized if the MDGs are to be achieved in a sustainable manner through the empowerment of the citizenry, especially the poor and vulnerable to demand accountability from leadership at all levels.

The judicial system is making progress towards international and regional norms through exposure to best practices and implementation of a number of pilot models and processes. Measuring changes in the judicial capacity over a one year period as a more transparent, accountable and effective justice system is rendered difficult as these changes are systemic which require long term sustained efforts. However, evidence suggests there has been an increase in automation of court systems (3 pilot courts using the case management system), access to legal information (Iraqi Legal Database which includes 36,600 legal articles, elaboration of 6 indexes and selected 4,200 court decisions, correction of documentation which included 1,800 court decisions, 18,000 legal texts and a thesaurus) and training of key judicial staff.

Access to justice in Iraq has been enhanced throughout the country through communication and awareness raising and the establishment of legal empowerment schemes with focus on violence against women. In KRG more than 2,000 individuals have benefitted from free legal counsel and court representation.

Gender based violence is increasingly recognized as a pressing issue for women's security and development in Iraq, as evidenced by the passing of the Domestic Violence Bill in KRG and the establishment of family protection units within the Ministry of Interior.

The foundations for enhancing Human Rights in Iraq set by Law no. 53 – 2008 established the autonomous High Commission for Human Rights. In 2011, following two years of delay, the Council of Representatives have established the Committee of Experts and the Secretariat to initiate the selection of commissioners which is the first step to operationalize the autonomous High Commission of Human Rights.

The capacity development and advisory support extended by UNDP is considered vital and necessary for further enhancement of the judicial and human rights systems in Iraq. In particular, UNDP's global experience and networks have been utilized to expose and support the Iraqi Judicial and Human Rights institutions. UNDP's capacity development experience for systems and institutions is also recognized in the judicial and human rights areas as a key factor of success and sustainability. This institutional capacity development approach, combined with a presence at the grass root level enables UNDP to intervene at all levels and stages of the judicial process, thus making the organisation uniquely placed to reform the judicial system in depth.

In line with the national priorities, the UNDP programming for 2011-2014 has a component indicative of promoting human rights, the rule of law and access to justice through a human rights based approach.

### **Programme Overview**

As part of the Secretary-General's 1997 Reform Programme to make the UN a more effective and efficient institution, UNDP continues to work within the framework of an Integrated Mission in Iraq United Nations Assistance Mission for Iraq (UNAMI), and UNAMI's mandate was renewed by Security Council Resolution 2001 on 28 July 2012 for another year. The Common Country Assessment (CCA) and the United Nations Development Assistance Framework (UNDAF) have become the primary tools to facilitate a common programming framework for all UN agencies at the country level.

The first Iraq UNDAF (2011-2014) is substantively linked with the first Country Programme Document (CPD) of UNDP as well as the programmes of other UN agencies in Iraq, ensuring that all UNDP's programmes are consistent with UNDAF outcomes.

The first Country Programme Action Plan (CPAP) 2011-2014 for Iraq is developed so as to operationalize the Country Programmes and to establish the commitments, particularly of resources, of the UN agencies and the government. The Government of Iraq and UNDP Iraq are in mutual agreement on content of the CPAP and their responsibilities in the implementation of the Country Programme.

In line with the UNDAF, the human rights component of the UNDP Programme entails strengthening the rule of law and access to justice through the human rights based approach. Therefore, the CPAP envisages that UNDP will **"Enhanced rule of law, protection and respect for human rights in line with international standards"**.

Thus, UNDP is currently working with the following partners in achieving development results in the area of access to justice and human rights protection:

- Higher Judicial Council (HJC);
- Kurdistan Judicial Council (KJC);
- Iraqi Judicial Training Institute (JTI);
- Judicial Development Institute (JDI);
- Judicial Investigations Offices (JIOs);
- Ministry of Justice (MoJ);
- Ministry of Interior (MoI);
- Ministry of Labour and Social Affairs (MoLSA);
- Legal Aid Scheme;
- Iraqi High Commission for Human Rights (IHCHR);
- Family Protection Support;
- Small Arms and Light Weapons;
- Law Enforcement Capacity Build; and
- Prisons Monitoring.

The support to these institutions, mainly through capacity development activities, focus on the following: wider application of the justice delivery process; expansion of points of access to justice; an improved environment for compliance with international human rights principles; raised awareness of human rights and increased compliance with national and international instruments on Human Rights.

#### **Outcome to be evaluated**

According to the evaluation plan of the UNDP Country Office in Iraq, an outcome evaluation will be conducted towards the end of 2012 for the following outcome, which is stated in the CPAP of UNDP Iraq: **"Enhanced rule of law, protection and respect for human rights in line with international standards"**. A detailed results framework for the outcome is summarized below:

#### **Intended Outcome:**

Enhanced rule of law, protection and respect for human rights in line with international standards.

#### **Outcome Indicators, Baselines and Targets:**

1. % of courts that have court administration harmonized to minimum international standards (2010:0%; 2014: 15%).
2. A system to map the backlog of civil and criminal cases developed (2010: no; 2014: yes).
3. % of registered cases with the family response units with legal proceedings initiated (2010: 0; 2014: 50%).
4. Number of proposals and recommendations concerning Iraq's accession to international human rights treaties and conventions submitted (2010: 0; 2014: 5).
5. Referral system for the High Commission for Human Rights in line with International Human Rights Standards is functional (2010: No, 2014 : Yes).
6. Review of security sector conducted and presented to the GOI (2010: no; 2014: yes).
7. Database of small arms and light weapons created and managed (2010: no; 2014: yes).

#### **B. OBJECTIVES OF THE EVALUATION**

The outcome evaluation shall assess the following:



- (i) *Outcome analysis* – Evaluate the progress that has been made towards the achievement of the outcome in Iraq since 2009 (including contributing factors and constraints);
- (ii) *Output analysis* - Determine contributing factors and impediments and extent of the UNDP contribution to the achievement of the outcomes through related project outputs (including an analysis of both project activities and soft-assistance activities<sup>121</sup>);
- (iii) *Output-outcome link* - Assess the contribution UNDP has made/is making to the progress towards the achievement of the outcome; and
- (iv) Assess *partnership strategy* in relation to outcome.

The results of the outcome evaluation will be used to guide future programming. In this regard the evaluation will:

- Identify strengths and weaknesses in the current Programme/Projects in respect of the stated outcome.
- Extract lessons and best practices for futures interventions
- Propose better ways of coordinating donor interventions in the sector
- Identify priority areas of focus for future programming.

### C. SCOPE OF THE EVALUATION

#### Geographic Focus

The evaluation should cover the regional and governorate dimensions of the country.

#### Outcome Analysis

- What is the current situation and possible trend in the near future with regard to the outcome?
- Whether sufficient progress has been achieved vis-à-vis the outcome as measured by the outcome indicators?
- To what degree UNDP's projects have incorporated the cross-cutting themes i.e. gender?
- To what degree UNDP assistance has resulted in the development of national capacity, including assessment of performance monitoring and evaluation mechanisms?
- What are the main factors (positive and negative) that affect the achievement of the outcome?
- Whether the outcome indicators chosen are sufficient to measure the outcome?
- To what extent are synergies in programming such as partnerships, including among various UNDP programmes, related to the relevant outcome?
- Relevance of the outcomes, taking into account the changes in environment and other situational (including policy) factors.

#### Output Analysis

- Whether or not the UNDP outputs are still relevant to the Outcome?
- Whether or not sufficient progress has been made in relation to the UNDP outputs?
- What are the factors (positive and negative) that affect the accomplishment of the Outputs?
- To what extent the human rights and access to justice issues have been addressed and promoted in UNDP's activities; i.e. whether UNDP activities have improved stakeholders involvement in this area and other related concerns in Iraq?
- To what extent UNDP's ability to advocate best practices and desired goals; UNDP's participation in national debate and ability to influence national policies on human rights?
- Identify further areas of UNDP intervention.
- Analyse outputs achieved in relation to the involvement of targeted beneficiaries, particularly women and other vulnerable groups. To what extent UNDP supported programme has increased their capacity to fully access to justice and their rights?
- To what extent gender equality is mainstreamed in UNDP interventions?

#### Output-Outcome Link

- Whether UNDP's outputs or other interventions can be credibly linked to the achievement of the outcome (including the key outputs, projects and assistance soft and hard that contributed to the outcome);
- What are the key contributions that UNDP has made/is making to the outcome (e.g. piloting new technologies, developing pricing schemes, drafting energy efficiency standards)?
- What has been the role of UNDP soft-assistance activities in helping achieve the outcome?
- With the current planned interventions in partnership with other actors and stakeholders, will UNDP be able to achieve the outcome within the set timeframe and inputs – or whether additional resources are required and new or changed interventions are needed?
- Whether UNDP's partnership strategy has been appropriate and effective. Has UNDP been able to bring together various partners across social, ethnic and sectoral lines to address human development and human security concerns in a holistic manner?
- Assess UNDP's ability to develop national capacity in a sustainable manner (through exposure to best practices in other crisis-affected countries, south-south cooperation, holistic and participatory approaches). Has UNDP been able to respond to changing circumstances and requirements in capacity development?
- What is the prospect of the sustainability of UNDP interventions related to the two outcomes? Can it be ensured that the outcomes will be reached and maintained even after the UNDP interventions?

#### Partnerships Analysis

<sup>121</sup> For UNDP, soft assistance activities include advocacy, policy advice/dialogue, and facilitation/brokerage of information and partnerships.

- Examine the partnership among UN Agencies and other donor organisations in the relevant field: What partnerships have been formed? What has the role of UNDP been? What has the level of stakeholders' participation been?
- To what extent there is consensus among UNDP actors, partners and stakeholders on the partnership strategy?
- To what extent UNDP's partnership strategy has been appropriate and effective; UNDP's capacity with regard to management of partnerships; UNDP's ability to bring together various partners across sectoral lines to address governance concerns in a holistic manner?
- How partnerships have been formed and how they performed?
- How the partnership affected the achievement of or progress towards the Outcome?

#### **D. METHODOLOGY AND EVALUATION APPROACH**

An overall guidance on outcome evaluation methodology can be found in the UNDP Handbook on Planning, Monitoring and Evaluating for Results and the UNDP Guidelines for Outcome Evaluators. In addition, UNDP's Evaluation Policy provides information about the role and use of outcome evaluation within the M&E architecture of the organisation. The evaluators should come up with a suitable methodology for this outcome evaluation based on the guidance given in these three documents. It is suggested that the evaluators make the evaluation process participatory through consultations with key stakeholders in order to utilize existing information, examine local sources of knowledge and to enhance awareness about and mainstreaming results-based management.

During the outcome evaluation, the evaluators are expected to apply the following approaches for data collection and analysis:

- Desk review of relevant documents and database sites (project documents with amendments made, progress reports review reports – mid-term, final, donor-specific, audit and financial);
- Discussions with Senior Management and relevant programme staff of UNDP;
- Consultations with relevant central and other government representatives/implementing partners involved with the UNDP projects and all other relevant initiatives at national level;
- Consultations with all relevant donors, UN agencies, national and international non-governmental organisations engaged in development work in Iraq;
- Field visits to selected project sites and discussions with government officials at different levels;
- Interviews/focus group discussion with and participation of partners and beneficiaries, including women's groups and other stakeholders;
- Use of interviews, field visits, focus group discussion, questionnaires and meetings to validate information about the status of the outcome, including local sources of knowledge about factors influencing the outcome;

#### **E. EVALUATION TEAM**

Members of the mission must not have been associated with the project/programme formulation, implementation or monitoring. It is proposed that an international consultant leads the mission, assisted by a senior national consultant.

The international consultant will be the Team Leader and should have an advanced university degree and at least ten years of work experience with evaluation of development issues in crisis-affected countries.

The Team Leader is expected to be a professional 'evaluator' with substantive knowledge about results-based management (RBM) and results-oriented monitoring and evaluation. S/he will take the overall responsibility for the quality and timely submission of the evaluation report to the UNDP Country Office.

Specifically, the Team Leader will perform the following tasks:

- Lead and manage the evaluation mission;
- Design the detailed evaluation scope and methodology (including the methods for data collection and analysis) for the outcome;
- Decide the division of labour within the evaluation team;
- Conduct analyses of the outcomes, outputs and partnership strategies for the outcome;
- Draft related parts of the evaluation report; and
- Finalize the whole evaluation report.

The senior national consultant should have advanced university degrees and at least five years work experience in the areas of evaluation. Each consultant should have sound knowledge and understanding of local development in Iraq, and have experience in conducting evaluation. S/He will perform the following:

- Review documents;
- Act as 'translator' (Arabic to English and vice versa) for the international consultant, as necessary;
- Participate and contribute to the design of the evaluation methodology;
- Undertake field visits in UNDP Iraq portfolio areas in the north, central and south;
- Undertake observation and other evaluative activities as required by the agreed evaluation methodology;
- Draft related parts of the evaluation report under the guidance of Team Leader;
- Assist Team Leader in finalizing the evaluation report through incorporating suggestions received on draft related to his/her assigned sections.

**Proposed Evaluation Mission Schedule (65 working days between 15<sup>th</sup> Dec 2012 to 30<sup>th</sup> April 2013)**

Activity	Timeframe	Deadline	Payment
Desk review, Evaluation design and workplan (Inception report)	10 days	20 <sup>th</sup> Feb 2013	20%
Field visits, interviews with partners, and key stakeholders	25 days	30 <sup>th</sup> Mar 2013	0%
Drafting of the evaluation report	10 days	20 <sup>th</sup> April 2013	30%
Debriefing with UNDP	3 days	10 <sup>th</sup> May 2013	0%
Debriefing with partners	3 days	20 <sup>th</sup> May 2013	0%
Finalization of the evaluation reports (incorporating comments received on first draft)	14 days	30 <sup>th</sup> June 2013	50%
<b>Total No. of Working Days</b>	<b>65 days</b>		<b>100%</b>

**F. KEY DELIVERABLES**

- 1) An Inception report
- 2) Debriefing of UNDP and partners
- 3) Draft evaluation report
- 4) **A comprehensive analytical report** in English – the key product expected from this outcome evaluation includes the following contents:
  - Executive summary (1-2 pages)
  - Introduction (1 page)
  - Description of the evaluation methodology (6 pages)
  - An analysis of the situation with regard to the outcome, the outputs, and the partnership strategies (15-20 pages)
  - Analysis of salient opportunities to provide guidance for future programming in relation to the outcome (8-10 pages)
  - Key findings, including lessons learned and best practice (5-6 pages)
  - Conclusions and recommendations (2-3 pages) and
  - Annexes: ToR, charts, field visits, people consulted, documents reviewed, etc. The tentative page numbers serve only as a guide for the Evaluation Team. However, it is expected that the report **will not exceed 80 pages**, including annexes.

**Key documents to be reviewed by the Evaluators**

The evaluators will need to study the following documents in addition to project documents, project monitoring reports, project evaluation reports, programme evaluation reports, audit reports and annual work-plans etc.:

- UNDP Handbook on Planning, Monitoring and Evaluating for Results
- UNDP Guidelines for Outcome Evaluators
- UNDP Results-Based Management: Technical Note
- The International Compact with Iraq, 2007
- The National Development Plan (2010-2014)
- UNDP Country Programme Document (CPD) for Iraq (2011-2014)
- UNDP Country Programme Action Plan (CPAP) for Iraq (2011-2014)
- The Common Country Assessment 2009 & the Iraq UNDAF 2011-14
- Other national policies, strategies and plans related to the outcome

**G. REPORTING**

The consultant(s) will be reporting directly to UNDP's Head of Programme Management Support Unit (PMSU), who leads the evaluation function.

**H. DURATION OF ASSIGNMENT**

The assignment should be executed within a period of five months (65 working days).

## Appendix B: Documents Referenced

Category	Document Name (Short Form)
<b>Laws of Iraq</b>	The Constitution of Iraq – UN/US/UK Agreed Translation (“Constitution”)
	Constitutional Review: Rule of Law (“Constitutional Review: Rule of Law”)
<b>National Strategy Documents</b>	National Development Strategy 2007-2010 (“NDS 2007-2010”)
	National Development Plan 2010-2014 (“NDP 2010-2014”)
	Iraqi Judicial Development Strategy Five-Year Plan 2009-2013 (“HJC Five-Year Plan 2009-2013”)
	5 Year Plan of the High Judicial Council 2012-2016 (“HJC Five Year Plan 2012-2016”)
<b>UN Programme Documents</b>	Country Programme Action Plan 2011-2014 (“CPAP”)
	United Nations Assistance Framework for Iraq 2011-2014 (“UNDAF”)
	UNDP Iraq Rule of Law Strategy 2013-2018, First Draft (“UNDP RoL Draft Strategy”)
<b>UNDP Programme &amp; Project Documents</b>	Programme Document, Support to Development of Justice and the Rule of Law (2008) (“RoL & Justice Programme Document”)
	Project Document, Strengthening the Administration of Justice in Iraq (2010) (“Strengthening Administration of Justice Project Document”)
	Project Document, Justice Data Management in Iraq (2012) (“Justice Data Management Project Document”)
	Project Document, Support to Security Sector Reform in Iraq (2012)(“Support to Security Sector Reform Project Document”)
	Revised Project Document, Support to Security Sector Reform in Iraq (2012)(“Support to Security Sector Reform Revised Project Document”)
	Project Document, Reforming Judicial Training in Iraq (2010) (“Reforming Judicial Training Project Document”)
	Project Document, Promoting Access to Justice and Legal Aid in Iraq (2012) (“Promoting Access to Justice and Legal Aid Project Document”)
	Project Document, Family Support, Justice and Security (2010) (“Family Support Project Document”)
	Iraq UNDAF Fund Project Document, Family Support, Justice and Security (2012) (“UNDAF Fund Family Support Project Document”)
	Concept Paper for Legal Assistance for Vulnerable Communities in Iraq (April 2011) (“Legal Assistance Concept Paper”)
	TRAC Request Concept Note, Legal Aid and Access to Justice in Iraq (December 2012) (“Legal Aid & Access to Justice TRAC Request Note”)
	Terms of Reference, Access to Justice Helpdesk in Basra (“Basra Helpdesk TORs”)
	Project Document, High Commission for Human Rights in Iraq: Capacity Building and Technical Support (2010) (“HCHR Capacity Building Project Document”)

	Submission Form, Participatory Governance for Enhanced Accountability and Human Rights (2012) ("Participatory Governance Project Submission Form")
	Project Document, Enhancing Transparent Participatory Governance and Human Rights (2012) ("Participatory Governance Project Document")
	Project Document, Small Arms and Light Weapons (SALW) Preparatory Project (June 2012) ("SALW Project Document")
<b>Interim Reports</b>	Inception Report, Support to the Rule of Law and Justice Project (May 2008) ("RoL & Justice Inception Report")
	Progress Report, Support to the Rule of Law and Justice Project (2Q 2008) ("RoL & Justice Progress Report 2Q 2008")
	Progress Report, Support to the Rule of Law and Justice Project (3Q 2011) ("RoL & Justice Progress Report 3Q 2011")
	Progress Report, Support to the Rule of Law and Justice Project (4Q 2011) ("RoL & Justice Progress Report 4Q 2011")
	Progress Report, Strengthening the Administration of Justice in Iraq (4Q 2012) ("Strengthening Justice Progress Report 4Q 2012")
	Progress Report, Strengthening the Administration of Justice in Iraq (1Q 2011) ("Strengthening Justice Progress Report 1Q 2011")
	Progress Report, Justice Data Integration in Iraq (3Q 2012) ("Justice Data Integration Progress Report 3Q 2012")
	Initiation Plan, Support to Security Sector Reform in Iraq ("Support to Security Sector Reform Initiation Plan")
	Phase I Report, Support to Security Sector Reform in Iraq ("Support to Security Sector Reform Phase I Report")
	Progress Report, Reforming Judicial Training in Iraq (Sept. 2012) ("Reforming Judicial Training in Iraq Progress Report Sept. 2012")
	Iraqi High Commission for Human Rights (HCHR): Commissioner Selection Process Report ("HCHR Selection Process Report")
<b>Final Reports &amp; Evaluations</b>	Final Project Evaluation, Support to the Rule of Law and Justice Project ("RoL & Justice Evaluation")
	Final Report, Support to the Rule of Law and Justice Project ("RoL & Justice Final Report")
	Final Programme Narrative Report, Support to the Development of Justice and the Rule of Law ("Development of Justice & RoL Final Programme Report")
	Final Project Evaluation, Iraqi Legal Database Project ("ILD Evaluation")
<b>Miscellaneous</b>	Letter from Fali al Fayadh to Peter Batchelor, June 2012 ("NSA al Fayadh Request Letter")
	Legal Aid Mapping – Iraq 2012 ("Legal Aid Mapping Document")
	Iraq UNDAF Fund Steering Committee, Note to File: Participatory Governance Project, 5 April 2012 ("UNDAF Fund Participatory Governance Note")
	Stakeholder Mapping, UNDP Outcome Evaluation 2012 ("Stakeholder Mapping Sheet")
<b>Third Party Reports</b>	Human Rights Watch, <i>World Report 2013</i> ("HRW World Report 2013")
	Human Rights Watch, <i>Iraq: A Broken Justice System</i> (January 1, 2013) ("Broken Justice")
	USAID, Iraq Access to Justice Programme, Clinical Legal Education in Iraq: Prospects for the Future (June 2011) ("Clinical Legal Education in Iraq: Prospects for the Future")
	Globalsecurity.org, Iraq ( <a href="http://www.globalsecurity.org/intell/world/iraq">http://www.globalsecurity.org/intell/world/iraq</a> ) ("Globalsecurity.org")
	Global Justice Project: Iraq, "Shura Council", at <a href="http://gjpi.org/library/primary/state-shura-council/">http://gjpi.org/library/primary/state-shura-council/</a> ("Global Justice Project: Iraq")

## Appendix B: Documents Referenced

## Appendix C: Meetings and Interviews held in connection with the Evaluation

Cluster 1 (Human Rights & Access to Justice)			
Stakeholder Name	Job Title	Entity/Partner	Location
Gyorgy Busztin	DSRSG – Political	UNAMI	Baghdad
Marwan Ali	Director of Political Affairs	UNAMI	Baghdad
Marija Ignjatovic	Special Assistance DSRSG – Political	UNAMI	Baghdad
Philip Wilkinson	Consultant	UN	Baghdad
Dr. Saleem Al Jbori	Chairman COR Human Rights committee	COR	COR/ Baghdad
Gassim Jasim Al Zameli	Legal Advisor MOWA	COMSEC	COMSEC Building
Mouhanda Jassim	Director of the Police Affairs Department	MOI	Baghdad, Red Zone
Waheed Rajeih	Manager of the FPU / Rusafa	MOI	Baghdad, Red Zone
Samir Waheed	Manager of FPU/ Al Karakh	MOI	Baghdad, Red Zone
Haider Muthana	Director General of the Parliamentary Office	CoR	CoR
Jaafer Al-Musawi	Member of the Committee of Integrity	CoR	CoR
Ameer Al-Kenani	Deputy Chair of the Legal Committee	CoR	CoR
Dr. Sami Sahatti	Dar El Salam CSO	CSO	Baghdad, Red Zone
Dr. Amira Al Baldawi	Um Al Yateem CSO	CSO	Baghdad, Red Zone
Ayid Nasir	CSO	CSO	Samawah
Suzan Aref	Director - WEO	CSO	Erbil
Lynn Hiestand	Country Director- Heartlan Alliance	International NGO	Sulaimany
Wiry Saady	Chief	Kurdistan Bar Association	Erbil
Judge:Ramiz A.Namiq	President	Judicial Training Institute JTI	Erbil
Ms, Kurda Omer Abdullah	General Director of the Direcorate of Tracincg violence Against women	MOI	Erbil / Kirkuk
Mr. Zheelamo Abdul-Qadir	Head of the Direcorate of Tracincg violence Against women	MOI - DEVAW	Erbil / MOI
Ms. Bahar Rafiq	Manager of Erbil Shelter	MOLSA	Erbil
Ms. Nigar Meerawdalay	Judge	Judiciary Union/ CSO	Erbil
Ms. Tavga Omer	General Director of Human Rights Board	OIC-Human Rights Board	Erbil
Talib Sabah Saywan	FPU - Basra Judge	HJC	Basra Court
Hassan Abed Raheem	FPU manager	FPU	Basra FPU
Waleed Al-faris	Manager / Hadiya NGO	SCO	Basra
Awatif Al-Mustafa	Manager / Al-Taqla NGO	SCO	Basra
Zainab Muhsen	Manager / Al-Namaa NGO	SCO	Basra
Qassim Al-Utbby	Manager	Bar Association	Basra
Francesco Motta	Head of UNAMI HRO/ OHCHR	UNAMI	UNAMI/ Baghdad
Firas Hayyway	Human Rights officer	UNAMI	UNAMI/ Baghdad

Omar Harasis	Police Advisor	UNAMI/ SRSG	Baghdad
Dalia AlZendi	Head of Erbil Office	UNWOMEN	Baghdad
Hazme Akyol	First Secretary – Development	Swedish Embassy	Baghdad
Negin Tagavi	Political Officer	Swedish Embassy	Baghdad
Radosevic, Slavica (IRAQ/DGO)	Manager USAID A2J Programme	USAID	Baghdad
Margareta Krook	EUJUSTLEX	British Embassy	Baghdad
Karen Murphy	EUJUSTLEX	British Embassy	Baghdad
Radhia OUDJANI	Deputy Head of cooperation	French Embassy	Baghdad
Qolo Khudaïda Qolo Al-Sinjarie	Human Rights Commissioner	HCHR	Baghdad
Fadhel Abdul-Zahra Fadhel Al-Gharrawie	Human Rights Commissioner	HCHR	Baghdad
Masrour Aswad Mohie Al Deen	Human Rights Commissioner	HCHR	Baghdad
Deham Mohammad Deham Al-Azzawi	Human Rights Commissioner	HCHR	Baghdad
Fathi Mohammed Fathi Al-Hayani	Human Rights Commissioner	HCHR	Baghdad
Haimen Rasheed Zidan Al-Bajilanie	Human Rights Commissioner	HCHR	Baghdad
Salamah Hassoun Abdullah Al-Khafaji,	Human Rights Commissioner	HCHR	Baghdad
Bushra Salman Hussein Al-Obaidie	Human Rights Commissioner	HCHR	Baghdad
Maitham Handhil Shareef Al-Ghazi	Human Rights Commissioner	HCHR	Baghdad
Athmar Shaker Majeed Al-Shattri	Human Rights Commissioner	HCHR	Baghdad
Falah Hassan Ismail Yasiri	Human Rights Commissioner	HCHR	Baghdad
Barween Mohammad Amin Ali	Human Rights Commissioner	HCHR	Baghdad
Sabah Sheet Abdul Ahad Sufia	Human Rights Commissioner	HCHR	Baghdad
Shaikh Abbas Alshimary	Religious Leader - South	CSOs	Basra
Ahmeed Abd Rahdi	Journalist	CSOs	Baghdad
Iyad Uqealy,	Journalist	CSOs	Baghdad
Ibrahim Al Saraj	Journalist	CSOs	Baghdad
hussam Alsafar,	Journalist	CSOs	Baghdad
Ahmed Janjon	Journalist	CSOs	Babil
Anmar Khalid	CSO/ Peace Ambassadors	CSOs	Baghdad
Mahdi Saadon	CSO/ Youth Parliament	CSOs	Baghdad
Kamel Midhat Nessaif	CSO/ Iraqi Council for Peace and Solidarity(ICPS)	CSOs	Baghdad
<b>Stakeholder Name</b>	<b>Job Title</b>	<b>Entity/Partner</b>	<b>Location</b>
Madhat Al Mahmood	Iraqi Chief Justice	HJC	Baghdad
Assad Dhyia	DG of Public Relations	HJC	Baghdad
Sinan Ghanim	Director of IT Section	HJC	Baghdad
Samyia Kadhum	Chairman	Shura Council	Baghdad
Nahla Hummadi	Director	JDI	Baghdad
Ahlam Al Rubai'ee	Director	JTI	Baghdad
Ahmad Abdullah Zubair	Chief Justice	KJC	Erbil
Sherwan Haidary	Minister of Justice	MoJ	Erbil
Daham Akram Omer	Head of Erbil Investigative Court (Pilot Court)	KJC	Erbil

Shakir Shareef Hussein	Hear of Erbil Appellate Court	KJC	Erbil
Ahmad Najmadin Ahmad	Director General of Social Reformatory Directorate	MOLSA	Erbil
Judge Jafar Meh'sin	Head of the Al Rusafa Court	HJC	Baghdad
General Majeed Jasim	Head of the Inter Agency Working Group on Justice Data Integration	MOI	Baghdad
Talib Sabah Saywan	Judge, For FPU, 2nd Investigation	Court of Basra	Basra
Yousif Yacop	Judge, First Instant Court of Basra	Court of Basra	Basra
Hassan Abed Raheem	FPU Manager	MOI	Basra
Colonel Abdul Ilah Jasim	Manager, The Interpol Office Basra, Small and Light Arms.	MOI	Basra
Safa Al Harbee	MOI, Al Basra Law Enforcement Capacity Building, BLUE Project	MOI	Basra
Basim Ghanim Hanon	Manager, Community Policing Directorate,	MOI	Basra
Hussain Sarhan	Ex-UUNDP National Technical Advisor,	UNDP	Basra
Nadhun Khalaf Alsaad	Vice-Manger, Bar Association, Basra	CSOs	Mine Action, Basra.
Waleed Al-Faris	Manager / Hadiya NGO	CSOs	Basra.
Zainab Muhsen	Manager / Al-Namaa NGO	CSOs	Basra.
Jasim Homood Al-Shimary	Lawyer	CSOs	Basra.
Kadhun Muhsen Husain	Lawyer	CSOs	Basra.
Sadiq Jaffar	Lawyer	CSOs	Basra.
Abdul Muhsen Mohammad Al-Helfy	Lawyer	CSOs	Basra.
Naeem Al-Uqabi	Lawyer	CSOs	Basra.
Jasim Mohammad	Lawyer	CSOs	Basra.
Marwan Abdul Zahra Yaseen	IT, First Instance Court	CSOs	Basra.
Hammed Ahmad Hamed	IT, First Instance Court	CSOs	Basra.
Hameed Abdullah,	CSO/Executive Manger, Member of the Board, CCSR	CSOs	Basra.
Shihab Ahmed Yaseen	Judge, Rusafa First Instance Court	CSOs	Baghdad
Mackie Abdulwahed Kadhum	Board Member, Iraqi Bar Association	CSOs	Baghdad
Nadim Shaker Khalaf	Religious Leader	CSOs	Baghdad
Hassan Abd Al Jabber	Tribal Leader	CSOs	Missan
Abed Al-Saedi	Private Sector	CSOs	Missan
Saif Ali Al-Atabi	Young lawyer	CSOs	Missan
Hayder Mohamed Al-Alasadi	Young lawyer	CSOs	Baghdad
Jasim Al-Mamory	Young lawyer	CSOs	Baghdad
Hamza Shareef	Director General	Office of the NSA	Baghdad
Sarah Barnat	Programme manager	EU	Amman
Kirk Mc Bride	Team Leader Justice	US DoS / INL	Baghdad
Jonas Westerlund	Deputy Head of Mission	EUJUST-LEX	Baghdad
Col E C Feldmanis	Deputy Defence Attaché (CP)	UK	Baghdad
<b>Stakeholder Name</b>	<b>Job Title</b>	<b>Entity/Partner</b>	<b>Location</b>
Mahmood Albayaty	Advisor to the ONSA	Office of the National Security Advisor (ONSA)	Baghdad
ali alyasery	Director	Joint Planning Center / ONSA	Baghdad



Mansour ali	Office of the National Focal Point on SALW	Ministry of Interior	Baghdad
General Abdul Karim	Senior Deputy / National Focal Point on SALW	Ministry of Interior	Baghdad
Helen Maria Olafsdottir.	Conflict Prevention and Recovery Advisor	UNDP - NY	Iceland / NY