

REPORT OF AN INDEPENDENT ASSESSMENT OF THE PROJECT:

“STRENGTHENING THE RULE OF LAW AND SUSTAINABLE PROTECTION”

of the

United Nations Development Programme

with the

International Rescue Committee

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EXECUTIVE SUMMARY

A protection crisis continues to characterise the Darfur region of Sudan. The nearly two million people who have been forcibly displaced have no immediate prospect of return or safe relocation. Meanwhile, security sporadically deteriorates; even in the camps for internally displaced persons (IDP) camps, human rights abuses continue, yet there is little opportunity for redress or to effect cessation of these abuses. Women and girls are particularly under threat.

The international community has responded with a massive humanitarian presence and a large African Union peace keeping operation. The United Nations Mission in Sudan (UNMIS) is now well established and the Comprehensive Peace Agreement has led to the development of an Interim National Constitution incorporating applicable international human rights law.

The Project

The United Nations Development Programme (UNDP) Sudan initiated a Rule of Law project (the Project) in the Darfur region of Sudan in 2004 pursuant to a study conducted on behalf of UNDP the International Rescue Committee (IRC) earlier that year. UNDP identified that there was:

“An imminent need to address the immediate protection needs of targeted populations in Darfur, and engage law-enforcement and judiciary officials in shouldering their responsibilities under domestic and international law... a severe Rule of Law vacuum [and need to do] confidence building and [to] strengthen accountability.”¹

The **objectives** of the Project are described as:

- o Raise awareness on basic human rights amongst law-enforcement, judiciary and security officials and reorient them towards their obligations to protect affected populations;
- o Build confidence between IDP communities and local authorities through active engagement of rule of law/protection issues;
- o Enhance compliance through monitoring and mentoring.

The intended **outcomes** of the Project are to ensure that:

- o International human-rights standards are upheld and mainstreamed in the beneficiaries’ daily work;
- o Trust among IDP communities towards the authorities is restored and local authorities engage in pro-active protection activities suggested and needed by the IDPs;
- o Protection of IDPs is meaningful, effective and in compliance with human rights norms.

The Project’s **activities** were described in its early stages as:

- (a) Conducting a series of informal training sessions on basic human rights, shared cultural values and professional attitudes towards justice. Training

¹ UNDP Project Fact Sheet

targets law-enforcement/ judiciary/security/traditional authorities, bar associations, civil society and IDPs.

- (b) Providing informal legal representation to IDP communities, communicating their rights to local law-enforcement and judiciary authorities. This will entail mentoring local law-enforcement and judiciary officials, and providing technical advice to introduce systematic reporting and intervention - thereby reinforcing accountability (*training through engagement*).

Additional activities identified and commenced since 2004 consist of:

- (c) Support to local lawyers through a Legal Aid Network to enable them to conduct legal representation of IDPs and others identified as being in particular protection need.
- (d) Construction and establishment of Legal Information Centres in each of the three Darfur State capitals' universities to provide access to legal information for the legal profession, local academia, civil society and the public at large (including IDPs).
- (e) A series of public Rule of Law Seminars held at each Darfur State capital university on a range of topics related to rule of law issues

The Project is implemented by UNDP, IRC, and various national legal non-governmental organisations (NGOs) across Darfur.

The Assessment

Around mid-2005, UNDP Khartoum instigated an independent assessment of the Project with the following objectives:

- o To ascertain the degree to which the Project has met its objectives;
- o To ascertain the continued relevance and appropriateness of the Project's objectives, aims and activities;
- o To identify changes that may be necessary to make the Project more effective, efficient, relevant and appropriate to the changing situation in Darfur and make recommendations for subsequent phases of the Project, including geographical reach;
- o To provide UNDP and its partners (including donors) with tools for assessing the impact of this type of programme.

The Terms of Reference of the Assessment are attached at Annex 1; in fact, the entire exercise was completed in 20 days, of which 12 were spent in North and South Darfur². A full itinerary is attached at Annex 2. The UNDP, IRC and the Consultant are very grateful to all those who helped to make the Assessment possible and fruitful.

Key Findings and Recommendations

A. Are we doing the right thing?

- i) While the Project pays most attention to the 'demand' side of the Rule of Law 'equation', it also engages with the 'supply' side; it trains police, security and military

² It was not possible to visit El Geneina due to the security situation which necessitated the restriction of non-essential UN personnel in West Darfur.

officials, members of non-state armed groups (NSAG), lawyers, the judiciary, and other local officials, as well as tribal leaders, traditional authorities, civil society and NGOs, internally displaced persons (IDPs) and other marginalised groups.

- ii) The Project demonstrates that it is both possible and advantageous to commence work relating to the Rule of Law during a situation of (albeit low-intensity) armed conflict in recognition of the universality of human rights, to prepare for early recovery and to build on and maintain existing capacities amongst the legal profession and affected populations.
- iii) The Project demonstrates the relationship between Rule of Law programming and peace building and conflict transformation.
- iv) The Project represents an intersection between development and humanitarian response to crisis, mainly stimulating and maintaining intellectual capacity while others maintain physical health and well-being.
- v) The objectives and activities of the Project are well-designed, flexible and responsive to the changing dynamics of Darfur.

B: Are we doing it the right way?

- i) The Project consists of five sets of activities - training (IDPs, law enforcers, community leaders and others), informal legal advice, formal legal representation, legal information centres and symposia (the latter two in conjunction with state capital Universities). The activities are mutually-reinforcing and interdependent.
- ii) The activities focus on empowerment; of displaced communities, lawyers, university management and state institutions whereby the understanding of rights and responsibilities through a framework of domestic and international law leads to compliance.
- iii) Maximum transparency and engagement with all actors (*the process*) facilitates the implementation of the activities (*the product*) and prevents much obstruction.
- iv) The activities emphasise universal application, inclusion and access. The Project is finding ways to remove barriers to inclusion for certain groups (e.g. nomads or IDPs)
- vi) The Project is risk aware but not risk averse; it seeks to ensure that partner organisations and individuals, rather than being put at unnecessary risk through their association with the Project are in fact protected by association with a major UN Programme that invests significantly in partnership with the Member State.

C: Key achievements:

- i) Training: There have been over 10,000 recipients of training at various levels. Training is conducted by Sudanese lawyers and human rights activists. The emphasis is on participation and active learning. Training of Trainers courses increase the pool of available skilled trainers. Training has successfully taken place ‘cross-line’.
- ii) Informal legal advice: Justice and Confidence Centres are run by groups of paralegals³ who go out and provide a triage advice service for their communities and help to resolve those problems not requiring formal legal assistance. There is a huge multiplier effect of the human rights and rule of law messages transmitted by these volunteers. The paralegals also conduct human rights and rule of law events attended by thousands of people who are exposed to information about their rights and responsibilities, and how to effect them.

³ The paralegals are also known by terms such as “community mobilisers”.

- iii) Legal representation: Lawyers are currently dealing with over 70 cases representing marginalised persons (usually IDPs) in a variety of (civil and criminal) cases. Rights of representation have been secured in North Darfur's Special (Public Order) courts. Social workers are available to give evidence in cases of rape to prevent the women being accused of adultery later.
- iv) Legal Information Centres are nearly ready for opening, under 6 months from signing agreements.
- v) Seminars: A series of Rule of Law Seminars at the Universities creates a neutral space for otherwise contentious discussion. An average of 200 lawyers, local authorities, students and IDPs attend each one.
- vi) Gender issues are well-addressed by the Project. In particular, the participation of women and attention to women's human rights are integrated into most aspects of the planning and implementation of the activities.

D: Key Recommendations:

i) General:

- **Documentation**: While maintaining the imaginative and dynamic approach to the management of the Project, oversight and quality control will be a growing issue as the Project matures to ensure that each gain is embedded before moving on to another and to enable others to learn from the valuable lessons and achievements of the Project. The process of continuous self-evaluation should continue to be integrated into the project cycle management. It is important systematically to document the impact of the activities, how constraints are being dealt with and how to follow on from the activities. A paper on impact measurement is attached at Annex 3.
- **Consistency**: Constant reference back to a core 'bundle' of international and regional instruments including those referred to in the Interim National Constitution, the African Charter on Human and People's Rights is key to ensuring consistency across all the activities.⁴ The Guiding Principles on Internal Displacement should continue to inform all activities.
- **Peace-building**: The Project should continue to strive to include all communities and to make the activities contribute to conflict transformation and peace-building within the framework of rule of law and human rights. The possibilities of making all activities mobile should be actively considered.
- **Support**: The Project is successful and visible. This gives it protection but, paradoxically, makes it vulnerable. Continued, explicit high level support from the UN mission and the diplomatic community are necessary.

ii) Training

- **Expand advanced** training: The lawyers and paralegals, particularly, will benefit from for more advanced training and technical support.
- **Expand** training to religious leaders. Islam is a dominant force within Darfur, 90% belong to the *Tijaniyya* Sufi sect. The religious leaders as well as the other traditional leaders, therefore, have a great deal of influence. For this reason, and to maintain the integrity of the Project, the Project has already invested in

⁴ Where Sudan is not a State Party to important instruments such as the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) or Convention Against Torture, Inhuman and Degrading Treatment (CAT), reference to those instruments that support the latter treaties (eg. UNSC Resolution 1325, international humanitarian law and the ICCPR) may be used.

developing relationships with the religious leadership of Darfur, with a view to conducting training in basic human rights principles, working through Sufi values and ethics. The assistance of Islamic scholars and legal experts will be needed in this regard and may be an appropriate area for liaison with the UNMIS Rule of Law component.

- **Extend** the training to health providers, in conjunction with UNFPA on clinical management issues, UNICEF on child rights (many of the victims are under 18) and the WHO on the right to access to health care and the rights of health providers. The Amel Centre should be included at all stages of this work.

iii) Justice and Confidence Centres (JCCs)

- **Location:** Continue to build JCCs in towns as well as IDP camps. This will require increasingly sensitive international supervision to address the complexities that will inevitably arise.
- The Project is exploring the possibility of increasing the capacity of the legal profession by providing or leveraging support for displaced law students to complete their professional education.

iv) Legal Information Centres

Systems for monitoring use and following up on the impact of this use will need to be developed.

v) Legal Aid Network Lawyers

- **Scale up** core support to the lawyers' organisations will enable them work more effectively by reaching outlying areas, having law books and adequate infrastructure.
- **Security:** Lawyers working with the Project have been arrested and detained on numerous occasions - and have been released when clarifying their association with UNDP's Rule of Law Programme. Increased visibility of the UNDP and its 'back donors' may, therefore, provide some degree of protection. Find new and innovative ways of strengthening the security of lawyers engaged in contentious work (even where this is simply providing free legal advice to marginalised groups).
- It is to be welcomed that UNDP is now expanding its support to Amel Centre through a **Darfur-wide partnership agreement** on the basis of their outreach across the Darfurs and their achievements to date. This should complement support to less well developed or smaller lawyers' organisations such as Goodwill or PLACE.
- **Criteria for cases:** As the legal representation side of the Project matures, discussions are underway with the lawyers of the Legal Aid Network and assistance is being sought from partner organisations to develop and document more specific criteria for cases to be taken on. It is recommended that a central aspect of these criteria is that the cases have implications wider than the facts of the case itself.
- The Project intends to work with the UNMIS Rule of Law Corrections Officer to address the many unrepresented people in detention, often without charge.

v) Seminars

Generally, the direction of the seminars appears to be appropriate and relevant for the future of the Project.

Recommendation for UNDP Sudan and Headquarters

Given its pioneering approach to Rule of Law work in a conflict situation, the Project has the potential to inform UNDP Rule of Law programming across the board, but particularly in armed conflicts and early recovery situations. It will also prove to be useful in assisting UNDP partners in formulating Rule of Law projects. It is recommended that the results of this assessment and further documentation produced by the Project are made widely available to Rule of Law practitioners and that the Project inform the draft “Practice Note” on access to justice in conflict situations.

MAIN REPORT

BACKGROUND

Darfur

The Darfur region of Sudan has been in a state of internal armed conflict since 2003. Nearly two million people have been displaced internally or to neighbouring Chad and many others have been otherwise affected. While most internally displaced persons (IDPs) are living in camps, many more are living in urban areas or in isolated pockets of populations in the rural areas. A significant proportion of the displaced persons have themselves witnessed or been victims of egregious human rights violations. Meanwhile, the security situation for the population deteriorates in some areas of Darfur on a sporadic and unpredictable basis; further and repeated displacement occurs and access to IDPs by the international humanitarian community is frequently hindered. In the IDP camps, the situation is far from satisfactory. Human rights abuses continue, yet there is little opportunity for redress or to effect cessation of these abuses. Women and girls are particularly vulnerable and particularly powerless to act.

The international community has responded to the crisis in Darfur with a massive humanitarian presence, a large African Union peace keeping operation and a contingent of human rights officers. A DPKO-led integrated mission has been established - UNMIS (United Nations Mission in Sudan).

Furthermore, a Comprehensive Peace Agreement (CPA) has now been signed between the parties to the North/ South armed conflict, the provisions of which apply to the whole country. Regarding Darfur, various agreements have been struck but these are not comprehensively observed. A major provision of the CPA is the development of an Interim National Constitution incorporating applicable international human rights law, planning for national elections and a referendum on independence for the South. The Joint Communiqué of July 2004 also made it possible to engage in human rights training for the police.

The Project

The UNDP commenced a Rule of Law project titled, “Strengthening the Rule of Law and Sustainable Protection”, in the Darfur region of Sudan in September 2004. The project was conceived on the basis of a study conducted on behalf of the IRC⁵ and assessment mission by UNDP in June 2004. UNDP identified that there was:

“An imminent need to address the immediate protection needs of targeted populations in Darfur, and engage law-enforcement and judiciary officials in shouldering their responsibilities under domestic and international law... a severe Rule of Law vacuum [and need to do] confidence building and [to] strengthen accountability.” (UNDP Project Fact Sheet)

⁵ Freedom From Fear: Promoting Human Security for the Return and Reintegration of Displaced Persons in Sudan – A Protection Assessment, by Yasmine Sherif, IRC (May 2004)

The **objectives** of the Project are described as:

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- o Build confidence between IDP communities and local authorities through active engagement of rule of law/protection issues;
- o Enhance compliance through monitoring and mentoring.

The intended **outcomes** of the Project are to ensure that:

- o International human-rights standards are upheld and mainstreamed in the beneficiaries' daily work;
- o Trust among IDP communities towards the authorities is restored and local authorities engage in pro-active protection activities suggested and needed by the IDPs;
- o Protection of IDPs is meaningful, effective and in compliance with human rights norms.

The Project's activities were described in its early stages as falling largely under two categories:

(a) Conducting a series of informal training sessions on basic human rights, shared cultural values and professional attitudes towards justice. Training targets law-enforcement/ judiciary/security/traditional authorities, bar associations, civil society and IDPs.

(b) Providing informal legal representation to IDP communities, communicating their rights to local law-enforcement and judiciary authorities. This will entail mentoring local law-enforcement and judiciary officials, and providing technical advice to introduce systematic reporting and intervention - thereby reinforcing accountability (*training through engagement*).

Over time, however, additional activities have been identified and commenced. These consist of:

(c) Support to local lawyers through the UNDP Legal Aid Network to enable them to conduct legal representation of IDPs and others identified as being in particular protection need.

(d) Construction and establishment of Legal Information Centres in each of the three Darfur State capitals' universities to provide access to legal information for the legal profession, local academia, civil society and the public at large (including IDPs).

(e) A series of public Rule of Law Seminars held at each Darfur State capital university on a range of topics related to rule of law issues.

Within this framework, the Project has emphasised the protection needs of internally displaced persons, women, children and others with particular needs.

The Project is implemented by the UNDP, the IRC and various national legal non-governmental organisations (NGOs) in all Darfur State capitals. Working in close partnership with IRC, the project builds on the human rights awareness work

conducted by IRC in early 2000 and UNDP's Rule of Law Programme at local, state and national levels in Sudan.

As such, the Project is part of a larger UNDP programme of support to the Rule of Law sector in Sudan, covering the East, the Transitional Areas and the internally displaced living in and around Khartoum, as well as institution building of the new Government of National Unity (GNU). In this regard, the programme includes support to the Sudanese Judiciary and the Ministries of Justice and the Interior.

Funding Support

UNDP's Bureau for Crisis Prevention and Recovery (BCPR) contributed with seed funds to the establishment of the Project at its earliest stages (\$99,000). Since then, the Project has raised its own funds directly from bilateral donors governments and through the Humanitarian Coordinator's Common Humanitarian Fund (CHF). Its current budget is around \$2.5m until September 2006, coming mainly from the UK and the Netherlands.

THE ASSESSMENT

Around mid-2005, UNDP Khartoum identified the need to assess the effectiveness of the Project and to ensure that it is meeting its own objectives is still relevant and appropriate to the setting and to identify changes or ways to ensure that the Project progresses and remains innovative. The assessment does not come out of specific requests by donors, nor in response to a perceived need to get the programming 'back on track' or negative perceptions of its performance, as is often the case with external evaluations and assessments. Rather, the impetus for the assessment is derived from the knowledge that the Project represents a departure from the usual "Rule of Law" as described above and so would benefit from an early scrutiny exercise; as well as being able to capture valuable lessons to share with the rest of UNDP/BCPR and other organisations interested in or engaged with Rule of Law programming. Particularly, the assessment aims to provide UNDP and its partners (including donors) with tools for assessing the impact of this type of programme.

Methodology

The Terms of Reference of the Assessment are attached at Annex 1; a total of 20 days of the Consultant's time was taken for the assessment, including desk review, field visits and report-writing. Twelve days were spent in the Darfur region, visiting the capitals of North and South Darfur and the town of Kutum in North Darfur, Abu Shouk, Kalma and Kassab camps for internally displaced persons.

Interviews were conducted with key interlocutors, including local government officials, AU personnel, UN and NGO staff members, paralegals working in the Justice and Confidence Centres of Abu Shouk and Kalma camp and management of the Universities of Nyala and El Fasher.

As well as the above, extensive discussions were held with Mr. Henri Morand, UNDP Deputy Resident Representative (Programme), Ms. Yasmine Sherif, Senior Adviser and Team Leader for the UNDP Rule of Law Unit, Mr. Maarten Barends, Darfur

Project Manager, UNDP Rule of Law Unit, Mr. Joseph Aguetant, the IRC Senior Protection Coordinator as well as the UNDP and IRC teams in Khartoum, El Fasher and Nyala. A full itinerary is attached at Annex 2.

Two training courses were observed - one for police officers and prison officials in Kutum, and one for selected IDPs in Kalma camp.

Rule of Law Seminars were observed in each University. Visits were paid to the construction sites of the Legal Information Centres attached to each University.

It was not possible to visit El Geneina during the time of the assessment due to a deteriorating security situation and UN rules regarding the number of non-essential personnel to be accommodated in the West Darfur capital.

A presentation on the key findings and recommendations were made both to UNDP Country Office staff in Khartoum and to the UNDP/DFID chaired UN/Donor Group on Rule of Law (composed of UN agencies, UNMIS, donors). The report was amended in the light of these discussions.

UNDP, IRC and the consultant are very grateful to all those who helped to make the assessment possible and fruitful. Exercises of this nature are by definition labour intensive and additional to workloads that are already heavy. Staff members in the field, particularly, 'walked the extra mile' many times and it is appreciated.

THE CONTEXT

The Wider Context of Rule of Law Programming

UNDP is recognised as the largest international agency responsible for programming on the Rule of Law. Others, notably bilateral donors and the Development Banks (including the World Bank) also invest in Rule of Law programming, under various nomenclature (e.g. Access to Justice, Justice and Security Sector Reform) and with a variety of objectives. For instance, the Access to Justice programming by the UK Department for International Development (DFID) focuses on ensuring that poor people have access to justice, particularly in the criminal justice and informal or traditional sectors, whereas the Development Banks are more concerned with creating the conditions for the establishment of a market economy.

All other Rule of Law programming, however, takes place in settings where a country is recovering from armed conflict or otherwise in a state of transition from crisis or from one form of governance to another. The Darfur Project is remarkable, therefore, in that it is taking place in a situation of on-going (albeit low-intensity) armed conflict, with no effective peace agreement or even cease-fire. While benefiting from other Rule of Law programmes and guidance documents such as the UNDP Practice Note on Access to Justice, the Project's territory is largely unmarked. A constantly evolving exercise, the Project is the result of new and innovative methods of promoting rule of law amidst conflict. Apart from the Occupied Palestinian Territories, this is the only Rule of Law project led by a UN organisation in an on-going armed conflict situation.

The Wider UNDP context

The Inter-Agency Standing Committee (IASC) has recently decided on a set of 'clusters' for programming in and around armed conflict and other crises. The UNDP has been assigned the 'cluster' for Early Recovery. The cluster approach is in its early days and there is still some scepticism about its potential for effectiveness⁶ and it is not the purpose of this assessment to analyse the institutional arrangements of the whole humanitarian system. Furthermore, the Project pre-dated such arrangements.

UNDP Sudan has divided its programming geographically. While the Project and the Rule of Law programming relates to North Sudan (including the Transitional Areas), there is a separate programme for South Sudan. The North Sudan Rule of Law programme represents the largest, in terms both of financial input and scale of activities. This Programme builds and maintains strong, collaborative partnerships at Khartoum headquarters and state level and addresses institutional capacity-building of line ministries at Khartoum and state level. It is driven, however, by an imperative to deliver at field level and so has established itself in seven locations. The Project, which is the only UNDP project currently implemented in Darfur, has been supported logistically by the Community Recovery and Reintegration programme

The Project as Part of IRC Overall Protection Work

Rule of Law is a key programmatic area for the IRC and is specifically mentioned in its global Programme Framework under the Governance and Rights heading. While this is a relatively new sector for IRC, it is considered a key priority in its current Sudan strategy. Rule of Law is the most significant project amongst its current protection portfolio in Sudan.

Learning through experience, IRC has developed an integrated, holistic approach to protection work. In practice, this meant that instead of deploying protection experts as a cross-cutting sector and on a stand-alone basis, the IRC opted to deploy integrated teams dealing with various needs of at risk populations (health, water sanitation, camp coordination, community services), including protection and Rule of Law. Instead of conducting separate protection assessments or implementation missions, IRC used other sectors as leverage for its protection activities and systematically incorporated protection into other sectors. Similarly, Justice and Confidence Centres were established in camps and areas where IRC is already active. The IRC prefers to concentrate on locations where it has already established links with the communities and where staff members have intimate knowledge of the issues at hand.

THE ASSESSMENT QUESTIONS:

Standard evaluation process asks two key questions: (a) Are we doing the right thing? and (b) Are we doing it the right way? Each has its own set of further interrogation.

Assessment Question (a) Are We Doing the Right Thing?

⁶ Speech by Hilary Benn, UK Secretary of State for International Development, January 2006

It is increasingly widely recognised⁷ that the rule of law depends on an equation of *supply* and *demand*. Thus, in order to be relevant and appropriate to the setting, Rule of Law programmes that only address one side of the equation are doomed to failure. To meet the *demand* side, people have to be (a) aware of their rights, (b) aware of the avenues for obtaining their rights (c) cognisant of the failings and gaps in the available resources and (d) able to demand improvement. Those for and with whom the *demand* side is created or reinforced may be referred to as the primary beneficiaries of Rule of Law programming. As a development and rights-based body of the UN, the ultimate beneficiary target group has to be the poor and marginalised sectors of the society of Darfur.

The *supply* side relates to institutions and those who work within them, such as courts and administrative structures, informal or community-based decision-making entities and those agencies responsible for international and regional oversight and jurisprudence. Those responsible for the *supply* side may be referred to as the intermediary beneficiaries of Rule of Law programming.

The intermediary beneficiaries are those institutions which have responsibility (as a result of state sovereignty) for protecting the civilian population and others who take it upon themselves (as a result of political ambition, customary international humanitarian law (non-state armed groups and political parties) or professional commitment (independent lawyers) to ensure that the rights of civilians under their 'control' are promoted or at least that they are protected. These comprise the *supply* side of the equation.

This dichotomy is not so clear in the Darfur context, however. Police officers, for instance, may also be victims of human rights abuses, often represent marginalised sectors of the population and have little say in the conduct of the Darfur conflict. They are under-resourced, underpaid and undervalued. They may also be made victims of the armed conflict by attack from rebel forces or other militias who are dissatisfied with the police's role or performance. Lawyers representing marginalised groups find themselves frequently detained, harassed or otherwise threatened by National Security officials.

In a similar vein, local judges, government officials, civil society leaders or even military commanders may be removed or threatened if they fail to maintain the 'line' taken by central government. It is key, therefore, that the intermediate beneficiaries (the *supply* side) is encouraged to see themselves as part of the equation but also as consisting of people with their own human rights.

From the outset, the Project has grasped the need to address both sides of the equation. The emphasis on 'confidence building' in the objectives and planned outcomes of the Project is predicated on the belief that simply training IDPs about their rights is meaningless without a programme of building up the capacity of the 'supply' side, while acknowledging the realities of the individuals involved in creating the supply. The project seeks not only to build the confidence of IDPs in the judicial process, for instance, but to build the confidence of IDPs per se, as well as

⁷ Ref: Anderson 2005

that of the intermediary beneficiaries to believe that they can make changes - even in the Darfur context. The measurement of this change is considered below.

Although the first workshops were aimed at raising awareness for police officers and the judiciary, respectively, in terms of the *ultimate* beneficiaries, the Project started by focussing almost entirely on the IDPs and their host communities. It is consistent with a human rights approach, however, to include people from all sectors of society, including the 'nomad' communities. The Project took this dimension seriously and was eventually able to implement its plans for training on basic human rights in the 'damras' in North Darfur once the security and political situations were amenable. Early indications are that this work has led to requests for mixed/joint training and other events between the 'nomads' and the IDPs in that area.

Rule of Law in a Situation of Armed Conflict

As stated above, the project is remarkable in that it has not waited for a peace agreement or even an effective ceasefire. This solicits the question, therefore, whether it is appropriate and relevant to be conducting this programming when humanitarian needs are still great, egregious violations continue to be committed and recovery is not even on the horizon. Particularly so when it frequently appears that there is a lack of political will to ensure an independent judiciary, a responsive police force and a lack of corruption amongst administrative officials.

Firstly, the Project is located in a human rights framework and therefore based on the universality of human rights - the principle that all people have the same rights, whatever their current situation or origins. People's right to human rights information has long been recognised as central to the realisation of these rights, as evidenced by the Decade on Human Rights Education. A corollary may be drawn here with literacy training for displaced, poor, rural women. It is likely that these women will not have access to books and newspapers once they return home, but education is recognised as a human right in itself, provides access to the realisation of other human rights (eg. health). To deprive people of the right to education (or to information about human rights) on the basis of their social status or ethnicity is discriminatory and thus in contravention of all internationally agreed human rights standards.

Secondly, it is to be hoped that the situation in Darfur will eventually be resolved; that the IDP camps currently providing care and maintenance for hundreds of thousands of people will eventually empty and that people will start to recreate their own lives at or near their previous homes. The building or rebuilding of a functioning society is dependent on the establishment of the rule of law, for which the foundations are being laid by this Project. The date for the outbreak of peace is unknown and there will be plenty for the international community to do to facilitate massive return or relocation; a 'human rights aware' community of returnees can only be an asset.

Thirdly, the Interim National Constitution is the prevailing and guiding document for all Sudan. It provides for the direct integration of applicable international human rights law, yet most people in Sudan who have responsibility in this sector are unaware of the implications of this development - even at the most basic of levels. Darfur, like other parts of the country, is in a state of intellectual paucity, particularly though not exclusively amongst the justice sector. Lawyers are poorly trained, judges

often less so and a culture of fear prevails where many issues are considered “too sensitive” to raise “for the time being”. The components of the Project seek to address this lack of capacity - whether by bringing people together in accessible Legal Information Centres, support to local lawyers or inviting members of the judiciary to join other parts of the justice sector to learn and be challenged about international human rights law. For instance, at a Rule of Law Seminar observed as part of this assessment, a leading local judge declared that the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) is contrary to Shari’a because it was ‘about same sex marriages’. Invited local lawyers were able to correct this.

Fourthly, the justice sector infrastructure is not a blank page in Darfur. There may be only one magistrate in Kutum (North Darfur) and no prosecutor but there are lawyers in El Fasher who may be granted permission by the Attorney General to perform the latter function. Police officers may be responsible for some human rights abuses in the IDP camps but the camp population ask for their protection in line with their ascribed role.

Lastly, UN system-wide policies are today reflecting a need to promote the rule of law not only in post-conflict and development situations, but also in war. For instance, in his opening speech to the General Assembly in September 2004, the UN Secretary-General’s call for peace in Darfur specifically referred to the need to restore the rule of law.

Rule of Law and Conflict Resolution, Transformation and Prevention and Peace Building

It is now conventional wisdom that armed conflict is not linear; that opportunities for conflict resolution and prevention of escalation and further outbreaks exist at every stage - including during fighting- and that these opportunities are not restricted to the parties to the armed conflict. Indeed, the role of civil society in peace building and conflict prevention was expressly recognised by the Security Council in 2000.

It is not the purpose of this evaluation to conduct an exposition of the causes of the armed conflict in Darfur, but it is apparent that it is characterised by the lack of active involvement of civilians and their casting into a role entirely of ‘victim-hood’. It is also clear that longer the civilian communities of Darfur exist in a situation of armed conflict, the more difficult it will be to find ways of peaceful coexistence once return takes place. The Rule of Law may be described as a direct alternative to the rule of force and so it is self-evident that equipping a community with the information and tools with which to negotiate along the lines of entitlement and responsibility, rather than physical force, and to bring them together along lines of common interest can only promote peace building and conflict transformation.

Rule of Law as Humanitarian Assistance

The aid agencies in Darfur have successfully prevented non violence-related excessive mortality and morbidity and have provided varying standards of shelter, food and water. Many if not most humanitarian agencies (UN and NGOs) struggle with the fact that living on humanitarian assistance is disempowering, deskilling,

tedious and creates passivity and dependence. A major donor to the Project puts this in the simplest of terms *“These people are not cattle to be fed and watered”*. Initiatives such as income generating projects, skills and literacy programmes and participative approaches all endeavour to address this. It is also correct to say that the encampment of IDPs creates opportunities for new skills and information and that some of these constitute both a protection strategy and a protection tool (e.g. education). It is imperative, however, to move these initiatives up a level so that displaced persons can convert their losses due to injustice and conflict into meaningful activities promoting justice and peace.

The Project aims to empower IDPs in a number of ways:

Firstly, by providing IDPs with stimulus on a topic that is acutely relevant to their lived experience. Skills training and other initiatives elsewhere have been criticised for not reflecting participants’ interests or pre-existing skills or community structures (e.g. by teaching women doctors to knit). The Project takes the IDPs’ recent and current experience and uses it as a base from which to help them learn about human rights, their entitlements and responsibilities, within a culture that is geared towards mutual assistance and community-level responsibility.

Secondly, the training, mobilisation and support given to the paralegals based in the Justice and Confidence Centres in IDP camps and nearby towns. Between 20 and 30 people (women and men) are selected after basic human rights training to become community mediators, mobilisers and leaders on the basis of their attitude rather than their standing in society or levels of education. They have different titles according to the possibilities in their respective locations, but all have allocated responsibilities for reaching out into their own communities, helping people to resolve differences according to human rights principles, helping people to identify grievances and bring them to the appropriate place, including providing mediation as appropriate. As the paralegals’ own confidence grows, they are able to negotiate with authorities, humanitarian agencies and to liaise with lawyers from the local legal assistance networks in each state capital.

As with hygiene promoters or teachers, there is a multiplier effect within the IDP community regarding human rights principles. This is true both in terms of the paralegals’ own families and immediate communities and in the human rights/entitlement and responsibility/conflict transformation messages that they are able to impart in their daily work.

Lastly, by acting as role models within their own communities, the paralegals are able to demonstrate that being displaced, marginalised and discriminated against does not inevitably result in the destruction of the entire person.

Are the Objectives and Planned Outcomes Correctly Envisaged?

Rule of Law programmes, like many others, risk being developed on the basis of limited information, assumptions or a ‘one-size-fits-all’ standard format. Given the innovative nature of this Project, it has been particularly important that it is based on a continuous, rigorous, contextual assessment of the needs of both the ultimate and the intermediate beneficiaries.

The Project was based initially on a Sudan-wide assessment conducted for the IRC.⁸ This document identified the serious gaps in the protection of displaced persons and the need to build the confidence of the local populations in, even, the potential of the justice sector to respond to their needs and situation. An in-depth assessment mission by UNDP in June 2004 further reinforced the need for the Project and was instrumental in designing its programme.

The key aspect of the vision for the Project was the need effectively to situate UNDP amidst a crisis. Following assessments and given the capacity available, Rule of Law emerged as the key component of UNDP programming in the rapidly developing humanitarian response to the crisis in Darfur. To be effective and appropriate, it depended on an in-depth knowledge of the crisis and its impact on the various communities - especially, but not limited to the IDPs. By the time the Project was commenced (September 2004), the humanitarian community had obtained access to most of Darfur and so was able to collect and analyse much relevant information about the affected populations. Drawing on its own protection/humanitarian capacity, the UNDP Rule of Law Unit was able quickly to design a responsive programme, engage in strategic partnerships (notably IRC) and actually deploy in Darfur within a short period of time. At the same time, the IRC was starting to take a lead amongst the humanitarian NGOs in linking protection with assistance. Again, the fact that the IRC had quickly established a strong protection and assistance presence meant that it could provide reliable information about the sort of activities that would be relevant as well as the objectives and outcomes that were realistic and necessary in the Darfur context.

The Project is based on the knowledge there is a continuing protection crisis in Darfur. It is not only because those responsible for abuse, violence and flouting of international human rights standards are ignorant of their obligations, but also because there is a culture of impunity and disregard for the international (and regional) human rights regime and the affected population themselves are ignorant of their rights under national and international law.

Hence, the objectives relate not only to raising the awareness of the responsible institutions but to building confidence between the affected communities and the local authorities. It is almost trite to say this confidence has to be based in reality; that trust cannot be created or restored where police officers or militia continue to attack the civilian population or where reports of serious sexual abuse result in being arrested and charged with adultery. The Project is cognisant of this and seeks to address the issue by the structure and combination of activities such as by holding debates on contested legal issues in the neutral location of State Universities, ensuring as much transparency as possible with local (and central) governance structures and by being pragmatic about the location and naming of the Justice and Confidence Centres and the paralegals.

The Project quickly realised that a major problem facing marginalised communities in Darfur was a lack of real opportunity to access legal advice or other forms of seeking justice. Lawyers are few in number and limited in access outside Darfur state capitals; there was no legal aid programme in operation and a limited and under-resourced

⁸ Ref. footnote 1

judiciary. At the earliest stages, therefore, the Project worked with national lawyers to help them to provide their professional services to displaced or otherwise marginalised people in Darfur. Capacity-building of the lawyers was identified as a central objective, along with supporting them to identify and conduct cases on the basis of need. The impact of conducting cases in this way is two-fold; it allows victims of human rights violations and other marginalised people to reclaim their rights amidst (and despite) an armed conflict, and by doing so, slowly alters the attitudes and awareness of officials serving the system.

It is key to a project such as this that expectations are not unrealistically raised, particularly amongst IDPs. The basic human rights training contains a central message, therefore, that rights do not disappear even where they are not realised or there is no prospect of them being realised. The designers and implementers of the Project know that this Project is not going to solve all the problems of Darfur; it will not rebuild razed villages or prevent the widespread and systematic rape of girls and women around IDP camps. From those activities viewed and otherwise witnessed during the assessment, it is clear that the IDPs and their advocates and leaders are also aware of this. The people of Darfur have been displaced since April 2003; they know that what has happened to them and the continued displacement is “wrong”, explaining the wrongs in the framework of international law shows them that the world community agrees with them.

As one experienced interlocutor said “*The management of expectations is something we all have to do all the time - it’s not impossible*”.

Perhaps the most compelling answer to the question of raising expectations is provided by some examples of response of the IDPs themselves to the Project’s activities:

- Around 5,000 people visited the Justice and Confidence Centre in Kalma camp throughout Human Rights Day; they asked questions about international and national human rights law, held discussions regarding their rights, collected basic information and took part in activities.
- All training events held in the IDP camps are oversubscribed. People stay the whole day despite having their own chores to perform and return for subsequent days.
- Logistical difficulties meant that in one IDP camp, paralegals worked without their stipend for over five months.
- JCCs report that local *sheikhs* report cases of intra-community violence to them, requesting police involvement. This would not have happened a year ago.

Assessment Question (b) Breaking It Down: Are We Doing the Right Thing the Right Way?

As described above, the activities consist of:

- Training modules (IDPs, host communities, ‘nomads’, police, military etc.);
- Paralegals’ work within displaced and host communities;

- Establishment of 'Justice and Confidence Centres' in camps and nearby towns;
- Legal Information Centres in Universities
- Rule of Law Seminars
- Legal assistance networks

While each set of activities is able to stand alone, they are designed to be synergistic (in the literal sense of the word). A few examples are provided below:

- The seminars build a partnership with the State Universities, facilitating the aim of providing access to information on legal/justice issues to local populations as well as the legal profession through the Legal Information Centres;
- Provision of the Legal Information Centres builds confidence in the international community that it is here to help build capacity, not to stir up trouble;
- The training of paralegals and other IDP community members is enhanced by attendance at the seminars and (later) by access to literature and international resources provided at the Legal Information Centres;
- The Legal Information Centres provide a meeting and convening venue for people who have been trained as part of the Project, legal assistance network lawyers seeking to up-grade their skills and students wishing to improve the standard of their legal education;
- Justice and Confidence Centres provide a venue for further training on the recommendation of paralegals who have identified the needs of their communities;
- Paralegals refer cases to the lawyers from the legal assistance network;
- The Legal Aid Network provides support and mentoring to the paralegals;
- Cases conducted by the Legal Aid Network and identified by the paralegals contribute to information to be transmitted during training to police officers and other intermediary beneficiaries;
- Advocacy by the Legal Aid Network lawyers provides informal, non-threatening training to the judiciary on matters of international and domestic law.

Although it is young, being situated in a fast-changing context, the Project has needed to evolve in response both to that context and to a developing sense of what is feasible and appropriate. Take, for example, the stated activity of "providing informal legal representation to IDP communities, communicating their rights to local law-enforcement and judiciary authorities. This will entail mentoring local law-enforcement and judiciary officials, and providing technical advice to introduce systematic reporting and intervention - thereby reinforcing accountability." While informal legal information is given by the paralegals through a triage system, the mentoring of judiciary officials has not proved possible; nor has the provision of technical advice to introduce systematic reporting and intervention. It has become apparent that the institutions are not ready for these approaches yet. Instead, therefore, the Project has spent its energies on confidence-building within the marginalised communities, helping people to identify the nature of their grievances and thus the nature of the assistance needed.

It has also become apparent that the capacity of the judicial institutions and the legal profession in general is in such a poor condition state that - at least at these early stages of the Project - it is not possible to engage the judiciary in a systematic

programme of training, mentoring and provision of technical advice. Lessons learned from other countries (including those in post-crisis) show that the engagement of the judiciary is a slow process of persuasion and incentive; as a community, the judiciary are amongst the most resistant of professions to being 'taught'.

Is the Choice of Agencies Appropriate for this Project?

The Project is implemented by UNDP, IRC and a small range of national legal and human rights NGOs. The training is conducted by national NGOs, the JCCs and paralegal programme are conducted by the IRC with support from the UNDP, the legal advice network consists of national lawyers, supported by UNDP and the seminars and the Legal Information Centres by the UNDP in conjunction with the State Universities.

It is the conclusion of this assessment that this range and permutation of agencies is appropriate, effective and efficient for the following reasons:

UNDP is the lead development agency for implementing Rule of Law programmes in a variety of contexts. While conducting Rule of Law programming in an on-going armed conflict is highly unusual, there are few if any other UN agencies, funds or departments with experience and capacity to run a Project of this size and complexity. The Office of the High Commissioner for Human Rights engages, logically, with Rule of Law issues; it demonstrated in the early days of the crisis that it had little capacity to deal with a large-scale human rights emergency and took the decision (and was mandated) to focus its activities on monitoring and reporting of violations, with a limited amount of national capacity-building. Since transposing its work into that of the UNMIS Human Rights Unit, there is clearly no capacity (in terms of staffing numbers) in either South or North Darfur to take on capacity-building of national partners. UNHCR has been providing some support to Rule of Law in West and South Darfur, but has asked the UNDP to take on sole support to the issue. Given that the issues facing the Rule of Law in Darfur are not going to go away in the short term, it is appropriate that this work is conducted by the UNDP with its long-term commitment to the people of Sudan.

The IRC has the advantage of size, coverage and reputation across the Darfur region. It has an established presence in all the major towns and a few others, benign relationships with the local authorities and is trusted by the local communities. As an NGO, its costs are low and it is able to recruit and retain staff on a variety of contracts without the UN bureaucratic constraints and is extensively networked across the humanitarian field. IRC is also well networked across the NGO sector, as evidenced by its ability to bring in the Regional Institute for the Development of Civil Society (RIDCS) for the Training of Trainers course in November 2005.

The choice of national NGOs has evolved over time. The Amel Centre and the People's Legal Aid Centre (PLACE) were both established before the inception of this Project while the Goodwill Organisation in South Darfur was formed out of a collection of lawyers. They have all benefited to varying degrees from their association with the UNDP. The African Centre for Human Rights (ACHR) and Child Rights Watch (CRW) provide trainers for all the programmes and benefit from the Training of Trainers courses.

There is a healthy inter-dependence between the UN agency, the international NGO and the national organisations. The UNDP could not implement the programme without the IRC's depth and breadth of presence, nor would it be in keeping with the human rights-centred "by Sudanese, for Sudanese" ethos of the Project for either UNDP or the IRC to conduct the training programmes. IRC and NGOs on the other hand, could not implement the programme without the institutional and financial backing of UNDP. Given the sensitivities that surround the Rule of Law sector, UNDP's active engagement with the Government at national and local level has been instrumental in establishing operational and political space for rule of law programming across the North, including in Darfur.

Furthermore, neither international organisation has the capacity to conduct legal cases on behalf of the community of Darfur. The national and international NGOs in turn rely on the UNDP not only for funding but for the support of a major UN agency that is known to stay 'for the long-haul'. The UNDP also brings with it the implicit support of the UN Secretary General through the SRSG and DSRSGs, and so are able to assist when relationships with local authorities may get confused or stuck.

It is central to the success of the Project to maintain the positive nature of these inter-organisational relationships; the situation is volatile and unpredictable and so it is necessary for UNDP to continuously assert its support for the NGOs and for the national NGOs, particularly, to be supported to increase their capacity as well as to ensure their safety. The UNDP intends to increase its visibility in the premises of the national legal NGOs at the earliest opportunity and to ensure that the support of its major donors is also recognised in this regard.

Other Partnerships

The Project's natural partners in the UN family are those dealing with human rights issues. To this end, it is important to maintain close links and information-sharing in both directions with the UNMIS Human Rights Unit, Protection Unit, Gender Adviser and Rule of Law components, as well as lead agencies such as UNICEF on child protection issues and UNFPA on issues of sexual and gender based violence.

Institutional mechanisms such as Working Groups and Steering Committees are important, but cannot replace effective working relationships at field level. The assessment found that there is a good will to build these relationships in order to maximise each entity's comparative advantage for the benefit of the marginalised people of Darfur. On occasion, UNDP was able to use the assessment process to introduce staff members of sister organisations to the work of the Project and it is to be hoped that these staff members will continue to be interested in collaboration with the Project. UNDP recognises that it cannot (and should not) do everything to do with the Rule of Law and that the Project would benefit from a larger circle of support. For instance, the UNFPA and its partners could offer assistance to the medical and psychological medicine side of the work of Amel Centre in dealing with torture victims, particularly those subjected to sexual violence. Similarly, the Human Rights Unit can provide on-going support to the JCCs on the technical side of understanding international human rights law while benefiting from gaining information on trends and developments as identified by the paralegals.

Partners have other partners that can be useful to the work of the Project and its national partners in particular. For instance, access to the international network of organisations involved in human rights and rule of law work can be facilitated by partners rather than directly by the UNDP or the IRC.

In short, there is currently a 'jigsaw' of provision which can be transformed into a mutually supportive, complementary, synergistic one.

Capacity constraints are a feature of international as well as national organisations. There are instances where the Project and/or its national partners may need to rely on international organisations, but find that the latter lack capacity in financial or staffing terms or in terms of technical expertise. In these cases, the Project may offer support to its sister organisations in terms of direction, helping to mobilise funds or recommending outside sources of technical support, but it is not appropriate for the Project to compensate for others' lack of resources. Creating working groups or similar fora at state capital level may help in this regard, as well as helping those involved in rule of law work to establish clear divisions of labour and complementarity.

Donors

The Project has been made possible by the support and confidence of a small number of significant donors who have realised that (a) early recovery must start in the middle of a crisis and that (b) humanitarian assistance should not consist only of immediate delivery of goods and services; that conflict-affected communities need more than care and maintenance to survive. The Project has been fortunate in that these donors (all of whom subscribe to the 'Good Humanitarian Donorship' principles) are less labour and reporting intensive than others. The UNDP Rule of Law Unit has fostered a relationship with donors that is more significant than the mechanistic 'money in, report out' and it is to be hoped that this assessment and other contacts will contribute to learning by those and other donors on Rule of Law issues - particularly in an on-going conflict situation. Through the strong, strategic, and substantive partnership between UNDP and IRC, program activities are jointly implemented

KEY ACHIEVEMENTS

a) Training:

i) Over 10,000 individuals have received training in basic human rights principles and/or targeted training according to their role in society (e.g. police officers). The basic training usually takes place in or near the Justice and Confidence Centres, reminding the community that the Centre exists and is accessible to them and that it is a neutral space where issues may be discussed freely.

ii) A Training of Trainers course in late 2005 has resulted in an increased number of accredited trainers who are now able to travel around Darfur. This cements this effort in the communities of Darfur, increases the potential reach of human rights messages and lays the foundation for the people of Darfur to take ownership of the programme.

iii) By request and after a period of negotiation with various parties, training took place in the *damras* around Kutum. This builds the confidence of ‘nomadic populations’ in the work of the UNDP and IRC, underscores the universality of human rights and increases access to these populations for other international organisations. As with all the training, the aim was to remind the trainees of their responsibilities (as well as their rights) not to perpetrate acts of abuse against civilians.

iv) Paralegals have responded to the needs of their communities by instigating training on specific areas (e.g. training in national criminal evidence law to young people in Abu Shouk camp).

v) Evaluation forms completed by the trainees indicate a level of around 85% “very satisfied” with the conduct and content of the courses.

b) Justice and Confidence Centres (JCCs)

i) Five Justice and Confidence Centres have been established across Darfur.

ii) There are 20-30 paralegals in each JCC, comprising a mixed group of women and men, older and younger persons, with varying levels of formal education.

iii) Community leaders report that they are more likely to approach the law enforcement agencies with their problems than before the JCCs started work.

iv) Human Rights Day events at the JCCs were attended by a large sector of the local community as well as police, local authorities, the AU, UNMIS and community leaders.

v) A paralegal from Abu Shouk was selected by her peers to represent the IDPs of Darfur at the recent discussions in Abuja.

Three accounts from the paralegals:

“I was just outside [the camp] when I saw a person having an argument with some police officers. It looked like he was being harassed by the police. I recognised the person from [the camp]. I knew from my training as a paralegal that this was a restriction on his [freedom of] movement. I approached the police officers and told them that I was a [paralegal] in [the camp], that I knew the person they were talking to and that they should let him go as he was doing no harm. The police said that they knew we had had human rights training and they let the person go with me.”

“Two people were abducted from [the camp]. When we heard about it, we knew what to do because of our training. We went to the [NGO responsible for camp coordination] and talked to the Humanitarian Aid Commissioner. The people were released after eight days.”

“A sheikh came to us because he was worried about what was going on in a particular household in the camp. We found that a 14 year old girl had been held prisoner by her father for months. Her hands and feet were bound so tightly that she later had to have an amputation. We went to the police who released her and charged the father. Before we started work here, there was no way the sheikh would have gone to the police”

c) Legal Aid Network

i) UNDP identified and established systematic support for Darfurian lawyers and mobilized these through the project. A loose-knit group of lawyers in South Darfur have formed themselves in the Goodwill Organisation. This enables better security for the lawyers, ease of funding for cases and core support and easier liaison with other networks in Darfur, Sudan and internationally.

ii) The Amel Centre (with branches across Darfur) is increasingly recognised as a leading organisation in dealing with cases of torture and bringing together legal and medical assistance to alleged victims. Their social workers are able to give evidence in court that women victims of rape made a complaint to them in the early days following the rape, preventing these women being charged with adultery later.

iii) Amel lawyers have secured rights of audience at the Specialised Courts (where only ‘amici’ were previously allowed to represent defendants) while continuing to campaign for their dissolution in line with the recommendations of the International Commission of Inquiry.⁹

iv) A total of over 70 cases are currently followed up by the lawyers associated with the Project. Some of these are relatively non-controversial cases for poor or otherwise marginalised groups, while others are more contested and controversial.

v) In cases where women are accused of adultery for being ‘illegally pregnant’, social workers associated with the Amel Centre are able to give evidence that they counselled women for rape trauma at an early stage.

d) Rule of Law Seminars

i) A total of 20 Rule of Law Seminars has been held in Universities in the Darfur state capitals (Nyala, El Fasher, El Geneina). They have addressed issues relating to the situation in Darfur, conflict resolution and peace building as well as more technical dimensions of the applicability of international law to the Interim National Constitution.

ii) An average of 200 people attends each seminar. These include paralegals from the JCCs, students from the University, national lawyers, judiciary and local authorities. The discussions are always highly participatory.

⁹ Ref: http://www.un.org/News/dh/sudan/com_inq_darfur.pdf#search='international%20commission%20darfur'

iii) Each seminar is followed by a management discussion on the achievements of the seminar, how to improve attendance and participation and what topics to address in the future.

e) Legal Information Centres

i) Construction has started in El Fasher for a large centre containing two libraries/meeting spaces. The University has lecture halls which will be open to events organised as a result of the Centre.

ii) Construction is nearly complete in Nyala for a centre containing a library, a lecture hall and a cafeteria. Plans are underway for an inauguration event and possibly an annual lecture of Rule of Law issues.

ENSURING QUALITY

This young project has demonstrated a commitment to the highest standards possible within the context. The urgency of the need for the Project and the window of opportunity for commencing it meant that it has grown and developed organically, rather than as a result of a 'wait and see' policy. Training manuals, for instance, are currently being developed in the light of issues raised and lessons learned from the series of courses that have already been conducted, while the Universities are learning how to take on the logistical and other challenges that characterise organising the seminars.

As with many development programmes that seek to empower national institutions, organisations and individuals, there can be a tension between maintaining adherence to higher standards and this process of empowerment. The balance has to be struck between 'getting it just right' and sustainability. Close mentoring, support and mutual discussion is key to ensuring that national capacity is built while keeping standards high on those aspects that really matter. Over time, and as successes occur, standards can be raised and attention can be paid to more and different aspects of the work.

This need not happen in a vacuum or on an ad-hoc basis. For instance, the Interim National Constitution provides an opportunity to keep a consistent foundation of international law and standards. Governmental statements, declarations and ratification of various international and regional instruments also support this approach.

The continuous self-evaluatory process of need, relevance, choice of activities, risks overcome and so on will also ensure that quality is maintained and increased. It will also ensure that the capacity of UNDP and IRC national and international staff is enhanced and kept at the cutting edge by training and other forms of learning (e.g. guided reading, mentoring).

National and international staff members of UNDP and IRC, working together, have made this project what it is today. International staff members have relied on national personnel's in-depth knowledge of the context, contacts in key positions and ability to 'make things happen'. In turn, the Project has relied on an international presence to push where pushing may not be acceptable by a person from Sudan, to ask 'difficult'

questions and to underline that the Project is part of a larger, UN-wide initiative to bring the Rule of Law to countries under stress. While it is important to build national capacity, this must be done in a supportive way and it is the view of this assessment that the presence of international staff members will be essential for some time to come in order to maintain and enhance the quality of the Project.

Training

The Training of Trainers courses have resulted in an increased number of trainers with substantive knowledge, training and facilitation skills and extensive local knowledge. The pool of trainers needs to be increased, without jeopardising quality. An accreditation test is being designed by IRC to guard against this and to provide national and international credibility for the trainers.

The continuous self-evaluatory process on content, style and delivery will ensure that each training course is better than the one before.

Materials for each course are currently chosen on the basis of striking a balance between giving the participants adequate and appropriate information and over-burdening them with reams of written documentation. The choice of materials and the way they are presented is relevant to the further impact of the training courses in that each participant shares at least some of the materials with her/his family and friends. Both UNDP and IRC are striving to find ways to make the materials more accessible and digestible (e.g. a pocket guide to UN Basic Principles for law enforcement officials, posters in Arabic of the UDHR) while others can be used for specialised training (e.g. the Handbook on implementing the Guiding Principles for paralegals).

It goes without saying that all information delivered at the training courses should not lead to confusion. This is a particular challenge in teaching international human rights law where there is a combination of jurisprudence, application and written content and where law is made by different bodies of the UN, regional organisations and national courts. A balance has to be struck between getting bogged down in the technicalities and boring the participants and not oversimplifying the content while ensuring that the content is accurate and up-to-date. The overarching ambition of this project is that of raising general awareness and alter attitudes and, in doing so, to move beyond traditional, technical human rights training. This is mainly the responsibility of the international organisations, and should be a major component of follow-up courses for the trainers.

Training needs to be pitched correctly at the participants. This requires greater knowledge of the local situation than a general overview of the human rights situation in Darfur or even that part of Darfur can provide. In most cases, this is dealt with by having the trainers arrive in situ a short while before the training so they can have informal discussions and shape their training to take account of the local realities.

In a situation where gender issues and issues of women's human rights are often considered 'sensitive', it is all the more important to ensure that they are integrated as well as being addressed as issues per se. It is tempting in the Darfur context to consider that gender is "done" with references to sexual and gender based violence, but it is essential to include issue of women's participation and discrimination against

women more widely. Topics that are of particular relevance to women's human rights such as land and inheritance rights need to be addressed directly. Additionally, and particularly because Sudan shows no sign of ratifying CEDAW, the basic principles of women's participation and protection that are enshrined in UN Security Council Resolution 1325 (2000) can provide an ideal and relatively uncontroversial entry point for discussion of women's human rights.

Justice and Confidence Centres

As stated above, the JCCs provide a neutral space for the discussion and dissemination of human rights activities. The paralegals are the life and soul of the JCCs. Their dedication and commitment is clearly apparent along with their desire to know more in order to make sure their work is of the highest standard. UNDP and IRC provide mentoring and monitoring of the paralegals' work. Where national lawyers visit the JCCs, they can and do provide technical support to the paralegals on national law and process. There is a role for other international organisations to provide support and other input to the work of the paralegals to help them address issues they face in their daily work. For instance, UNFPA and UNICEF would be useful in helping the paralegals to address issues of sexual and gender based violence, including intra-family and intra-community violence. UNMIS HR could hold short sessions to introduce interested paralegals to some of aspects of the international human rights framework that could be identified as most relevant and interesting.

The JCCs seem to be run efficiently, effectively and to be very accessible to the local communities. They are busy places with much going on at any one time. IRC is experienced in running a variety of community centres and it is important for this knowledge and capacity to be passed on to the local communities.

Gender issues appear to be addressed well in each JCC. A good proportion of the paralegals are women of different ages and they are organised into women's groups, as well as working on generic issues. Kalma has a separate space for women paralegals, although they also use the "men's" area for meetings.

In order to ensure accessibility of as much of the local community as possible, and to reduce friction between communities, the JCCs are not only located in the IDP camps. In Kutum town (about to be built), for instance, this will mean that IDPs from remote areas, from Fata Borno camp and Kassab camp as well as people from the town can use the JCC. There are different considerations to running a JCC in a town and in an enclosed IDP camp, and it will be increasingly important to ensure (by recruitment, training and support) that the UNDP and IRC personnel can manage these complexities.

Legal Aid Network

Legal education in Sudan is universally recognised across the country as being in a poor state of affairs. Students enter law faculties with a minimum of qualifications, are taught by professors with little access to information, study from books that are out of date or badly printed. There are no legal libraries. Over the recent decades, students' capacities to read English have been increasingly limited, restricting their access to international materials even where they have access to the internet. Despite

this, the lawyers in the Amel, Goodwill and PLACE organisations demonstrate a dedication to improving their own knowledge and skills, in order to be able to conduct their chosen profession adequately.

For practising lawyers, the situation is similarly dire. Very few clients can afford to pay for legal assistance (there is no functioning legal aid system) so they operate with very few resources. The Amel Centre in El Fasher is restricted to the hours of daylight for lack of electricity and they have no library.

The UNDP has provided financial support to the legal assistance networks, mainly on a case-by-case basis with a small amount of core costs. The lawyers have been working with the UNDP for between 3 and 6 months with no problems regarding financial control or professional ethics. To maintain and up-grade the quality of their legal work, however, more support needs to be given - financial and otherwise.

The cases taken on by the lawyers are subject to a weekly discussion. The catalytic role of an international Rule of Law Officer has proven instrumental to maintain regularity and systematic engagement. It is clear that the lawyers benefit from an exchange of views, stimulating discussion on legal issues and information from their own colleagues and other jurisdictions. While Amel Centre is associated with the Sudan Organisation Against Torture and Redress (both UK based), Goodwill and PLACE are not internationally linked.

The lawyers at Amel Centre have a high standard of awareness about international law as it applies to their work and are able to use this knowledge in their advocacy and negotiations with the judiciary. Goodwill, on the other hand, still needs some support in this regard.

UNDP has been very careful not to trespass into the territory of monitoring, reporting, recording and advocacy. The UNDP Rule of Law Programme focuses on confidence and capacity building and thus does not engage in monitoring and reporting work that falls under the mandate of other specific human rights actors, such as UNMIS Human Rights Unit or human rights NGOs.

Rule of Law Seminars

As stated above, there have been a substantial number of seminars since their inception; all have been successful in terms of attendance and participation and in empowering IDPs (including paralegals) to speak out in formalised settings.

The Universities are being encouraged to take on more responsibility for the seminars, but there is still need for a substantial degree of support in this regard. It is important to remember that University management is also subject to central scrutiny and that the context of Darfur means that many issues may be 'sensitive' for a professor where they would be much easier dealt with by a foreigner. Details such as following up on speakers, ensuring that there is a balance of speakers and ensuring that the Chair calls upon women to speak are a 'work in progress'. While it is key that the series of seminars is not dependent on international support in the long-term, there is still clearly a need for (albeit a decreasing level of) support and supervision from international staff members.

Legal Information Centres

It is too early to pass comment on the quality of the Legal Information Centres but there are many positive signs. University management is fully in accordance with the emphasis on accessibility; that the centres should be open to all without any form of discrimination. This will require oversight such as 'spot checks' to make sure that, for instance, women have equal access to the computers, and that IDPs are as welcome as university professors.

Considerations such as that the libraries should be reference only (both to save the materials from disappearing and to encourage people to use the venue) have already been discussed. The materials will need frequent and regular oversight to ensure that the most relevant and recent materials are in place and have not been spoiled. Each Centre is appointing a librarian to ensure the smooth running of the library aspect of the Centre.

The Legal Information Centres are without precedent in Darfur and so they will require a substantial amount of attention to detail to ensure that they fulfil their ambitious aims.

RISK ASSESSMENT AND AVOIDANCE

At all stages of the project cycle, there must be a form of risk analysis. For circumstances such as the armed conflict in Darfur, this risk analysis must relate not only to the project but to the real physical and livelihood safety of those involved - be they UNDP or IRC staff, IDPs, lawyers or university professors. Both UNDP and IRC have taken risk-analysis seriously into the project development, as evidenced by the gradual approach and evolution of the project.

The balances to be struck are between being risk aware and risk averse. In listening to the risks that, for instance, the lawyers take daily and are prepared to take for the sake of their work, the UNDP shows that it is supportive of their decisions but does not encourage them to get into situations of danger. UNDP is aware that the beneficiary population is already in a situation of danger and will, to an extent, continue to take risks from necessity and because of their commitment to their work. The international agencies must not be seen to be so nervous of all risks that their national partners obfuscate the degree of risk. At the same time, the international agencies have other experience of working in these environments and can alert their national partners both to risks entailed and to ways of overcoming them.

The issues, therefore, are how the international agencies protect their interlocutors and beneficiaries from harm and danger, to not put them in more danger than they would have been without the Project and how to learn from risks that 'went wrong'. Above all, communication lines must be kept open.

Risks to the safety and livelihoods of the Project staff and partners arise mainly from the security situation (as evidenced by the fact that the Project activities are currently suspended in West Darfur) and political considerations. Either of these factors can change literally overnight. Communication with partner organisations through the

organised channels (security wardens), national counterparts and local communities are all good sources of information.

Risk analysis in this context refers to a continuous reappraisal of the situation, constituencies, actors and possibilities, rather than a one-off, formalised exercise. It must be based on reality and on an in-depth knowledge of the local political and security context. Effective risk analysis (like good security analysis) contributes to the running of the programme rather than posing obstacles to be overcome.

Donors should not be forgotten in this equation. As well as having their own analysis of the risks to the Project (and therefore their money), they also comprise the diplomatic community and so can have influence that should not be underestimated. Again, communication is of paramount importance; the Project needs to know under what circumstances the donors would withdraw funding and the donors need to know what the Project is doing to prevent or mitigate risks. In this regard, as a matter of principle the UNDP Rule of Law Unit organises regular donor missions to all its project sites and has undertaken several donor missions to monitor the Project at various stages of the Project's life.

Generally speaking, the higher the level of advocacy and the deeper the personal contacts between those who have influence over the risks and those seeking to mitigate them, the more likely it is that risks can be minimised. The SRSG, DSRSG/RC/HC and the Director of BCPR all gave their explicit support to the Project when it was established in September 2004. Absent any UNMIS/GNU agreement on the Rule of Law, and as time elapses since the Joint Communiqué was signed, the explicit support of the highest level of the UN Mission in Sudan, combined with appropriate diplomatic interventions, does provide a significant indication that this Project is not dispensable.

FUTURE DIRECTION

General

The Project has achieved a great deal, as is described above. While it is important to maintain this momentum, and continue to strive for improved quality as well as quantity of activities, consolidation should be a primary consideration. For instance, some form of longitudinal study of the alumni of training courses - finding out what impact the courses have had on their professional and/or personal lives, as appropriate and what further support or training they need - would ensure that the work of the Project is embedded across the community.

In the Darfur context, there are many constraints, obstacles to progress and set-backs. Protestation of support from local authorities one day may be undermined by deterioration in security the next. The continuous self-evaluation will ensure that lessons are learned and sustained across the Project and are available to be applied to other work of the UNDP and the IRC.

As the Project and the rest of the UNDP Rule of Law programme enter into the next phase, there will be an increased need to maintain consistency across the programme. Sudan is a large and complex country with differing contexts and needs in different

geographical and thematic areas, but there is much in common and it is important for the credibility and effectiveness of the programme as a whole that, where there are differences in approach, these can be explained.

It is important - as a programme of the United Nations Organisation, for the Rule of Law programme as a whole and this Project in particular, continues to ensure consistency in its use of global or regional reference documents. Constant reference back to the core 'bundle' of international and regional instruments including those referred to in the Interim National Constitution, the African Charter on Human and People's Rights is key. Where Sudan is not a State Party to important instruments such as CEDAW or CAT, reference to those instruments that support the latter treaties (e.g. UNSC Resolution 1325, international humanitarian law and the ICCPR) should be consistent. The Guiding Principles on Internal Displacement rightly form a bedrock of work across the Project.

The progress of the Project has created opportunities for further developments. For instance, the support to the lawyers' organisations has meant that the lawyers are now in a stronger position to build upon their work, according to their own objectives and parameters.

The Project is well documented in terms of proposals and reports. It would be of assistance to the Project, the Sudan Rule of Law programme and UNDP as a whole if some time could be spent creating documentation that includes indicators of progress and success for outputs and outcomes. The issue of impact measurement is one with which the international human rights community struggles. A paper on impact measurement and analysis is attached at Annex 3.

The Project reaches out 'cross line' and seeks to ensure that its activities are strategically placed. For instance, Kutum town represents a node of interaction between IDPs, nomad communities, SLA-controlled areas and government officials. It is the base of one of the largest sectors of the African Union mission. It is important in the short and long term for this concept of reaching out away from the capitals to be consolidated and increased. The possibilities of making the current initiatives and activities mobile should be actively considered. This will also prepare the Project for the day when IDPs are able to return to their locations of origin. With adequate preparation, it is feasible to take all the current activities out; seminars can be held outside if speakers are prepared to travel, informal and formal legal advice can be provided from a vehicle and there are many examples of mobile libraries.

The Project is successful and visible. This gives it protection but, paradoxically, makes it vulnerable. High level support from the UN mission and the diplomatic community are necessary.

The following addresses each of the activities in turn; it does not repeat the general points made above.

Training

a) Increase in SLA-controlled strongholds and nomad strongholds: a successful start has been made in this regard. It is important not just for the integrity of the Project

(addressing the universality of human rights and the reality of the population) but also to ensure that there is no perception of favouritism of one group over another - a problem that has beset much of the humanitarian assistance operation.

b) To date, most of the training has been in separate groups. This has been and will continue to be appropriate in most areas and on most issues. As the Project matures, however, it is apparent that groups are asking to be trained together. The conflict transformation of this is self-evident and it is an indicator of progress of the Project that people have absorbed sufficient of the human rights and rule of law principles that they are prepared to sit with each other to learn more.

c) Advanced training: There remains to be a need for advanced training and technical support to some groups, particularly the lawyers and some paralegals. For instance, helping the lawyers to address the issue of how to advocate for the implementation of international law to which Sudan is not a State Party, using concepts of universal jurisdiction, *jus cogens* and the overlap with instruments which Sudan has ratified can improve the outcome of their representation, as well as informally training the judiciary in international law.

d) Expand the training of religious leaders: Islam is a dominant force within Sudan. The religious leaders as well as the other traditional leaders, therefore, have a great deal of influence. For this reason, and to maintain the integrity of the Project, it will be worth investing in developing relationships with the religious leadership of Darfur, including training in basic human rights principles. The assistance of Islamic scholars and legal experts will be needed in this regard and may be an appropriate area for liaison with the UNMIS Rule of Law component. UNDP Rule of Law has already commenced work with Sufi traditional leaders (90% of the population of Darfur adheres to Sufism) and is working with donor governments (Canada) and religious leaders in identifying entry points for awareness raising and capacity building.

e) Extend the training to health providers: The issue of "Form 8" (determining the circumstances under which victims of violent crime may seek medical attention) particularly regarding victims of sexual violence has been a problematic area for health providers and victims alike. Issues such as the collection and preservation of evidence, the clinical management of sexual violence and the health providers' own entitlements and responsibilities under domestic law continue to be of concern. It is recommended, therefore, that the Project seeks to extend the training to health providers, in conjunction with UNFPA on clinical management issues, UNICEF on child rights (many of the victims are under 18) and the WHO on the right to access to health care and the rights of health providers. The Amel Centre could be included at all stages of this work.

Justice and Confidence Centres

a) As mentioned above, the Project plans to ensure that the provision of paralegals is available to the widest possible range of the community. Construction of a new JCC in Kutum town is planned and will need an intensive period of support - at least at the early stages to address the complexities of establishing a JCC in such a strategic location.

b) Amongst the paralegals are several young people who were in the middle of legal studies when they were forcibly displaced. They are keen to continue their studies and obtain their qualification. An initiative is being explored for the Project to provide or leverage support for these students to become fully-fledged lawyers by assistance with the examination and providing internship with one of the legal assistance network lawyers' organisations. This would increase the capacity of the legal profession, bolster the lawyers' associations, reward the paralegals for their work and create further sustainability of the Project when there is return.

c) The paralegals put their training into use on a daily basis. The more they use, the more they want to learn; an organised series of more advanced training would have some of the same functions as (b) above; namely rewarding the paralegals for their work, creating sustainability of the Project and upgrading the quality of the advice provided. The legal assistance lawyers can contribute to this, as can UNDP and IRC's partner organisations.

Legal Information Centres

a) Once the Centres are completed, the challenge will be to ensure that they are used by all, without discrimination. Systems for monitoring use and following up on the impact of this use will need to be developed (for instance by user surveys, focus groups, consultation exercises and open days).

b) The Legal Aid Network lawyers are keen to support the Centres by providing advice on stocking and maintaining a legal library. Support in this regard may also come from the UNMIS Rule of Law and Human Rights components as well as the universities in Darfur, Khartoum and neighbouring countries.

c) The long-term future of the Legal Information Centres is far off, but they are already laying the foundations for the creation of national human rights/legal 'think-tanks' or Human Rights Centres. As in other jurisdictions, these bodies provide a valuable assistance to governments in supporting them in attempts to comply with their international and regional obligations as well as ensuring the vibrancy of dialogue between civil society and national government.

Legal Aid Network Lawyers

As stated above, the lawyers' organisations have more than repaid the confidence and investment of the Project so far. They represent a central component of the Project work and will ensure the sustainability of the Project in a variety of ways as already discussed. Further and increased support to the lawyers can take place in the following ways:

a) Additional core support to the lawyers' organisations will enable them to reach outlying areas, working more closely with communities outside the capitals not able to walk into the lawyers' premises. It would also enable the lawyers to work more effectively.

b) Security of lawyers engaged in contentious work (even where this is simply providing free legal advice to marginalised groups) is often under threat. Lawyers

working with the Project have been arrested and detained on numerous occasions and, while they are aware of this risk and it does not prevent their work, they need support to protect themselves. International organisations are working on the issue of security for people doing this type of work; the Project can investigate, in conjunction with the lawyers themselves, the most effective means such as provision of communications equipment and training.¹⁰ UNDP Rule of Law is currently investigating methods of the process of enhancing security for lawyers supported through the network. Among other things, UNDP will increase visibility of the UNDP and its 'back donors' which should also provide some degree of protection. It is understood that the arrival of UNDP posters and stickers is imminent. Donor logos should also be provided.

c) UNDP is seeking to reach a Darfur-wide partnership agreement with Amel Centre on the basis of their reach across the Darfurs and their achievements to date. This will provide support and protection to the lawyers as well as streamlining the provision of support to the legal profession. It should complement, not replace, support to less well developed or smaller lawyers organisations such as Goodwill or PLACE, however.

d) Criteria for cases: As the legal representation side of the Project has evolved, it has become apparent that there is need to lay down clear, consistent and appropriate criteria for the type of cases to be taken on by the lawyers as part of the Project. There is a need for consistency and transparency to avoid any semblance of favouritism or bias and so that the lawyers themselves can develop their expertise in dealing with certain sorts of cases.

Discussions are underway with the lawyers of the Legal Aid Network regarding achieving a balance between 'contentious' cases and others where, simply by providing free legal representation to marginalised groups, the capacity of the legal system is increased. It is recommended that, at the centre of these criteria is that the cases have implications wider than the facts of the case itself. So, for instance, while this obviously applies to cases of women being charged with adultery for being 'illegally pregnant' (as a result of rape or otherwise), it may also apply to a case of a teachers being refused payment because they are not originally from the material location (being IDPs). The assistance of partner organisations is being sought in this regard.

e) Across the globe, lawyers are, as a profession, notable by their eagerness to learn from each other, from outside individuals and organisations and from international sources. Cross-fertilisation of ideas, strategies and information is as (if not more) important to lawyers in the Darfur context as in any other and so a series of regional (Darfur) meetings, conferences and seminars on relevant topics would be well attended and rewarding in terms of increasing the capacity of the lawyers across Darfur. It would be likely that members of the judiciary - invited as observers - would also attend and gain from the experience. Paralegals with a particular interest in formal legal representation would also benefit. Experts from Khartoum and other relevant jurisdictions could be asked to participate.

f) Providing interns from amongst the paralegals to work with the lawyers. While being trained, the interns would also be expected to do substantive work according to

¹⁰ "Frontline" based in Dublin, Ireland and the Urgent Action Fund for Women's Human Rights are both working on this issue.

their ability and bring insights from their work and lives with the rest of the IDP communities.

g) Prisons and other detention officials and facilities: there are reportedly many persons in prison or other detention without charge, trial or representation. UNMIS Human Rights Unit is working on this issue from a monitoring point of view but is not able to provide representation. The UNMIS Rule of Law component now has a Corrections dimension and so there is an opportunity for the Project to work together with these two entities to address the issue.

Seminars

Generally, the direction of the seminars appears to be appropriate and relevant for the future of the Project. Plans to build on the progress in using the neutral space of the university are positive. In future seminars on factual issues, it would be useful to have introductory addresses by experts (eg. on the content of international law) so that there is no risk that participants leave under misapprehension. This is not to say that healthy debate, different interpretation and disagreements should be stifled, however.

CONCLUSIONS

The UNDP Rule of Law Project in Darfur is innovative, ambitious and successful. Established in September 2004, it is a young project that has entered the arena of the protection crisis in Darfur in a timely way, building slowly but resolutely on small steps and progress, involving partners in the national and local government, national capacities in academia, state institutions and civil society as well as the international community.

By necessity and to maintain its integrity, the Project focuses more on work with the 'demand' side of the Rule of Law 'equation', demonstrating that capacities can be built even at the most challenging of times. There is much work to be done though, and the Project will need continuing support from donors, the UN Mission in Sudan and the Headquarters of UNDP as well its partners in the NGO community and the rest of international civil society to maintain its momentum and continue to strive for even greater achievements. Given the background as described above, Rule of Law issues in Darfur are not going to be solved by any quick-fix. Long-term and consistent support to the Project is imperative, therefore, both for the Project per se and for its credibility.

The international community is increasingly cognisant of the relevance and importance of the rule of law in all circumstances. People do not cease to need and deserve access to justice once they become victims of war or other crises. The Project represents a step forward in the body of knowledge and experience towards institutionalising work on the Rule of Law in all situations of armed conflict. As such it has much to teach the rest of the UNDP and the UN system as a whole. Not least, this project demonstrates that work such as this comprises a component of humanitarian assistance and, not least, Early Recovery, in man-made crises and it is to be hoped that, as appropriate, this project may be replicated in other situations.

ANNEX 1

United Nations Development Programme



The Office of the Resident Representative of the United Nations Development Programme (UNDP) in Sudan is seeking qualified candidates for the following post:

Organization:	UNDP Sudan
Section/Unit:	Rule of Law Unit
Location:	Sudan (Darfur)
Job Title:	Consultant/Assessment Darfur Programme
Post Level:	SSA
Post Duration:	20 days
Starting Date:	16 January - 4 February 2006

Background

UNDP Sudan has established a presence in Darfur since September 2004, and is currently implementing a Rule of Law Programme that aims at responding to the immediate and medium-term needs in the current crisis, as well as to promote confidence-building and prepare for transition from relief and development through future capacity-building programmes. Its main objectives are:

- Raise awareness on basic human rights amongst law enforcement, judiciary and security officials, and reorient them towards their obligations to protect affected populations;
- Build confidence between IDP communities and local authorities through active engagement of rule of law/protection issues; and,
- Enhance compliance through monitoring and mentoring.

Under the above objectives, the following activities are currently being carried out:

- Rule of Law training for law-enforcement officials, prison wardens, judiciary, security, military, PDF forces, tribal leaders, bar associations, civil society, internally displaced persons (IDPs), and host communities, aimed at changing attitudes and perceptions about rule of law and human rights; providing basic knowledge of legal instruments and fundamental principles in international law; and strengthening accountability and guarantees for personal security, sustainable protection and access to justice;
- Establishment of 7 Justice & Confidence Centres in Nyala (Kalma), El Fasher (Abu Shouk and Zam Zam), El Geneina (Durti), Kass, Kutum and Zalingei, and the set-up of paralegal groups and the Darfur Legal Aid Network to improve access to justice and empower local communities;
- Conduct a Series of Rule of Law Seminars and Workshops organized in collaboration with the Darfurian academic institutions, aimed at fostering

- dialogue and debate amongst various Darfurian stakeholders (government actors, communities, lawyers, civil society, and academia), and at enhancing the reconciliation and confidence-building process; and,
- Establishment of 3 Legal Information Centres in Nyala, El Fasher, El Geneina to provide legal information to government authorities, legal practitioners, academia, and the general public; increase awareness on international and national laws and principles; and enhance the capacity amongst target groups to translate principles into reality.

Assessment

UNDP has identified the need to assess the effectiveness of the project, and to ensure that it is meeting its own objectives, still relevant and appropriate to the setting. To this end, an external assessment will be conducted in January/February 2006. UNDP seeks an international experienced consultant who is able to carry out the assessment that helps UNDP achieve the following objectives:

- To ascertain the degree to which the project has met its objectives;
- To ascertain the continued relevance and appropriateness of the project's objectives, aim, and activities;
- To provide UNDP and its partners, including donors, with tools for evaluation of the impact of the programme.

Terms of Reference

The consultant will produce a report on the above objectives of the assessment, totalling 30 pages plus annexes, with an executive summary of not more than 5 pages describing key findings and recommendations. The assessment will entail, *inter alia*:

- Desk-based review of training material, reports and other relevant documentation;
- Meetings with key stakeholders in Khartoum and the three Darfurs, including UNDP, IRC, PLACE, ACHR, CRW, Amel Centre, Goodwill Organisation, university management, UNMIS/HR, UNMIS Protection, UNOCHA, donors, international and national NGOs;
- Interviews with participants throughout the Darfurs;
- Assess the effectiveness of the programme;
- Identify possible problems and bottlenecks and make recommendations; and,
- Provide a draft report before leaving Sudan, and submit a final report within one week.

UNDP will be responsible for providing the consultant with all relevant documentation on the project, organising field trips to Darfur and interviews with personnel referred to above.

Requirements

- The consultant will be a senior international human rights lawyer with experience of armed conflict in general, and Darfur in particular;
- Minimum of 10 years of extensive experience and expertise on rule of law, human rights, capacity and confidence building;

- Familiarity with the UN system, and previous experience on assessment of human rights training; and,
- Highly skilled in professional English writing.

Interested applicants should submit their CVs with a cover letter to Maarten Barends, e-mail maarten.barends@undp.org. Only short-listed candidates will be contacted for interviews. Qualified women are strongly encouraged to apply.

ANNEX 2

United Nations Development Programme



**Assessment UNDP Rule of Law Programme in Darfur
17 January - 2 February 2006**

Programme

**Sarah Maguire
Yasmine Sherif
Maarten Barends**

Tuesday 17 January

0845-1000

Briefing Yasmine Sherif - UNDP Team Leader Rule of Law
UNDP CO Khartoum

1100-1200

Henri Morand - UNDP DRR(P)
UNDP CO Khartoum

1330-1600

Joseph Aguetant - IRC Senior Protection Coordinator
Eman Awad - IRC Protection Manager
Mahmoud Ali - ACHR Senior Human Rights Trainer
IRC Office Khartoum

Wednesday 18 January

0915-1030

Musa Ahmed - UNDP Programme Officer CRR
UNDP CO Khartoum

1230-1330

Akolda Tier - Law Faculty
University of Khartoum

1330-1530

Maha Muna - UNFPA Emergency Coordinator
UNFPA Office Khartoum

1930

Dinner at Yasmine's with UNDP Rule of Law Team

Thursday 19 January

0830-1000

Sonia Warner - Governance Advisor DFID
British Embassy Khartoum

1100-1200

Thomas Linde - Head UNMIS Protection
UNMIS Office Khartoum

1400-1500

Ravindran Daniel - Director UNMIS Human Rights
UNMIS Office Khartoum

1500-1630

Annelies Ellerman - Second Secretary/Political Netherlands Embassy
Netherlands Embassy Khartoum

Friday 20 January

1500-1700

Vincent Gule - UNDP Rule of Law Officer El Geneina
UNDP CO Khartoum

Saturday 21 January

Travel to El Fasher

1300-1330

Ibrahim Hamid - HAC Commissioner El Fasher
HAC El Fasher

1400-1700

Paralegals Abu Shouk
UNDP/IRC Justice & Confidence Centre Abu Shouk

Sunday 22 January

Travel to Kutum

1200-1300

Lunch with IRC staff
IRC Office Kutum

1330-1630

UNDP/IRC Rule of Law Training Kutum
Police Headquarters Kutum

Monday 23 January

0900-1200

UNDP/IRC Rule of Law Training Kutum
Police Headquarters Kutum

1330-1430

HAC Commissioner Kutum
HAC Kutum

1500-1630

Colonel Blaauw - AU Force Commander Sector VI
African Union Headquarters Kutum

Tuesday 24 January

0900-1300

UNDP/IRC Rule of Law Training Kutum
Police Headquarters Kutum

1330-1400

Patricia Escolano - Camp Coordinator Spanish Red Cross
Spanish Red Cross Kutum

Visit to Kassab IDP Camp

1500-1600

Freddy Hamamba - AU CivPol
Spanish Red Cross Kassab

Wednesday 25 January

Travel to El Fasher

1400-1430

Matthias Behnke - UNMIS Human Rights El Fasher
UNMIS Office El Fasher

1500-1530

Vice Chancellor, Principal and Director of the Centre for Peace & Development
Studies

University of El Fasher

1600-1800

Lawyers UNDP Legal Aid Network El Fasher
Amel Centre El Fasher

Thursday 26 January

1200-1700

UNDP Rule of Law Seminar: Political Debate
University of El Fasher

1700-1800

Sadiq Syed - UNFPA GBV Coordinator El Fasher
University of El Fasher

Friday 27 January

1600-1700

Antonia Mulvey - IRC Protection Officer El Fasher
UNDP Office El Fasher

1700-1800

Abdalla Sulyman - UNDP Rule of Law Officer El Fasher
UNDP Office El Fasher

Saturday 28 January

Travel to Nyala

1500-1700

Hussein Bagadi, Esam Ismail, Yousif Ahmed - UNDP Rule of Law Nyala
UNDP Office Nyala

1700-1800

UNDSS Security Briefing
UNDSS Office Nyala

1800-2000

Dinner with Paul White - Senior Field Officer (Protection) UNHCR

Sunday 29 January

1100-1500

UNDP Rule of Law Seminar: Sudanese Legislation & International Human Rights
Conference Hall University of Nyala

1530-1600

HAC Commissioner Nyala
UNDP Office Nyala

1600-1900

Lawyers UNDP Legal Aid Network
UNDP Office Nyala

1900-2100

Dinner with Joseph Aguezzant - IRC Senior Protection Coordinator

Monday 30 January

0900-1400

UNDP/IRC Rule of Law Training Kalma
UNDP/IRC Justice & Confidence Centre Kalma

1400-1600

UNDP/IRC Paralegals
UNDP/IRC Justice & Confidence Centre Kalma

1730-1900

Management University of Nyala
University of Nyala

1900-2100

Dinner with Joseph Aguezzant, Seynabou Dia, William Ngeze - IRC Protection Nyala

Tuesday 31 January

1400-1600

Oumar Kane, Sergio Polifroni, Caroline Waudou, Ubeme Essien - UNMIS Human Rights Nyala

UNMIS Office Nyala

1600-1730

Gladys Atinga - UNFPA GBV Coordinator

UNFPA Office Nyala

Wednesday 1 February

Travel to Khartoum

Thursday 2 February

1400-1700

Debriefing UN/Donor Group on Rule of Law

UNDP Small Conference Room

ANNEX 3

Impact measurement

The measurement of impact in Rule of Law programming relates to:

Activities (Concrete actions to achieve outputs): e.g. training for lawyers in international standards **or** IDPs are provided with copies of the Guiding Principles.

Outputs (Direct results of project): e.g. international instruments are used in court arguments **or** IDP leaders use the Guiding Principles in negotiations with aid agencies and local authorities

Outcomes (Changes in social / institutional patterns): e.g. judges allow legal representation in specialised courts on the basis of international standards and the national Constitution **or** HAC and aid agencies convene meetings with IDP leaders regarding relocation to relieve camp overcrowding

It is important to bear in mind that assistance to national structures and professional groups will not immediately (or perhaps even eventually) lift performance to perfect adherence international standards and that assistance is especially required in situations and by institutions that operate imperfectly and in an unhelpful environment

The crucial matter, therefore, is not to measure according to an eventual yardstick (e.g. perfect compliance with international standards,) but to changes made and progress achieved. The most relevant factor is whether there has been a reasonable degree of positive change from the starting position.

Change has to refer to **demand** (e.g. how aware are the IDPs of their rights) as well as **supply** issues (e.g. how likely is it that police will investigate and prosecute rape cases). Demand and supply operate in a loop rather than linear. Information, training, access all can turn a vicious circle into a virtuous one, and enables the ‘demanders’ to start again if the circle is broken.

Attribution issues

In situations where an organisation (or partnership of organisations) is not working in isolation, it may be difficult to attribute change to that one organisation (or partnership). This is particularly so where the required change relates to knowledge, attitudes or policy change, rather than, say, physical infrastructure or the delivery of a direct service to a group of beneficiaries. At one extreme, we can be boastful and claim all credit for any change which leads to competition with other actors and / or can detract from work of national partners; at the other extreme we can pass all credit over to others. The best balance is where international assistance has been **catalytic in effecting and leveraging change** (e.g. an opinion by the International Commission of Inquiry for a view that the Darfur Specialised Courts are contrary to international standards supports local lawyers in their assertion that the denial of legal assistance is contrary to the Interim National Constitution which automatically integrates relevant international law. Combined with support from UNDP to pursue cases at the specialised courts this means that the lawyers are in a position to back advocacy and rhetoric with action – also demonstrating to local judges that the latter can benefit from the advice and support of the lawyers in hearing these cases.

In the case of Darfur Rule of Law project, it may be found that work undertaken by national organisations (or even INGOs) may be attributed to UNDP (or other UN bodies) because it is safer (for the NGO) for this to happen; the risk is that this can appear as if the UN body is attempting to take credit for others' work.

On the other hand, it may be found that international publicity for the work of a UN or otherwise internationally-supported project may highlight the work done by the national or INGO partner, making the latter more likely to be sustained and thus to have more of an impact is able to be sustained, even if the publicity does not state that it is conducted by the NGO.

Measuring the achievement of human rights

The “But for” test: Achieving rights may include intangible gains. In this case it is better to think in terms of “but for” than “because of”.

Two examples will suffice, one from education and one from Rule of Law:

(a) Registration of children; education will not be available to IDP children in towns if they are not registered. But it is not possible to say that IDP children go to school because they are registered. *But for* the registration of the children, they would not be educated.

(b) Access to formal justice is impossible without at least a basic knowledge of the legal system and that there is a grievance, but it is not possible to say that getting a lawyer to go to court is because of knowledge about the system. *But for* the knowledge of the system, the claimant would not be able to go to court.

Rights per se: A lack of immediate (or even longer term) apparent impact does not mean that the project or its activities are worthless. Achieving rights may be an end in itself; e.g. the right not to be discriminated against on the basis of ethnicity is an achievement per se, not only because it may increase health and education outcomes.

Unexpected results: Achievements can be unexpected (e.g. a paralegal is selected to represent internally displaced women at peace talks as a result of current standing in her community). These results are not less worthwhile because they were not in the work plan or log frame.

Unexpected changes: It is to be remembered, also, that in situations of frequent and rapid change, constraints may change literally overnight; a collaborative official may be removed or become obstructive for reasons that are unrelated to the merits of the project. The converse is true, of course, but gains made on the basis of positive personalities are less likely to be felt in such a short time-span.

Significant change: It is not possible (nor desirable) to reduce empowerment to a set of statistical terms. Instead, it is more helpful to seek the achievement of change and, within that, to identify the *significant* or the *most significant* change. This will depend on the real lived situation of the recipient group and their opportunities. For instance, for some IDPs in Darfur who have been made aware of the Guiding Principles, for

instance, the most significant change may be that they are more prepared to negotiate their situation with government and non-state actors. In another example, when judges are made aware of the international and Constitutional right to a fair trial, the most significant change may be a reduction in cases adjourned at the request of the prosecuting authorities on spurious and / or politically motivated grounds.

Beware Reporting: A further word about statistical measurement: There is often a temptation to measure the achievement of human rights-based activities by reference to reporting of human rights violations. By definition, this is unreliable. An increase in reporting may be positive (increased access to or trust in police or other reporters) or negative (increased incidence of violations). An decrease in reported rape cases may be as a result of an decrease in incidence thanks to AU firewood patrols, whereas a sudden increase in reported cases may be as a result of a ‘crackdown’ on single women and girls who are found to be pregnant outside of marriage and as a result, explain that their pregnancies are as a result of hitherto unreported rape that took place some months ago.

Stages of accessing justice¹¹ (formal and informal)

- i) Naming (the grievance).
- ii) Blaming (identifying the perceived or actual perpetrator).
- iii) Claiming (asserting a right (cessation of the violation, compensation, redress...).
- iv) Winning (obtaining a judgement / administrative order, opinion by a local leader).
- v) Enforcing (translating the judgement / order / opinion into action)
- vi) Sustaining (ensuring that the violation does not happen again and that other violations do not occur as a result of the claimant seeking justice – eg. being robbed of the compensation, being displaced again).

If process is halted at any stage, do we say that there has been failure? ie. is there only ‘success’ if the final outcome is reached? What if the success of stages 1-3 is blocked in this instance but leads to other outcomes that affect the success of later cases?

Example: Madame X is raped by men in uniform. She has learned from the general human rights training that this is a crime that should be investigated. She goes through the correct referral pathway and the case is investigated by the local police. Then there is some political interference and the investigation is stopped. Publicity about the case results in a change of police procedure. Six months later Madame Y reports that she was raped by the men in the same uniform as in Madame X’s case. This time, the procedures are followed correctly and the perpetrator is arrested and sentenced to a term of imprisonment. Can we say there has been a success?

(What would we say if the perpetrator had been dismissed for unrelated reasons before he was arrested?)

This applies to informal as well as formal justice mechanisms because the persons or institutions that are approached at stage 3 (claiming) may be community mediators or leaders, rather than formal court or administrative structures.

¹¹ Largely based on Anderson’s typology but developed further in the crisis context

Including a monitoring and evaluation component in the project cycle:

Consider the following:

- Is the project aimed at all stages or a limited number?
- What are the main barriers at each stage?
- What activities and outputs are expected at each stage?
- What outcomes are expected at each stage?
- How do the activities and outputs relate to the expected outcomes?

Generally, project design (including the monitoring stage) should include an assessment of the barriers to accessing justice (formal or informal), an understanding of for whom is access restricted or blocked and an analysis of the social and institutional context.

The strategy for the project will include:

The identification of appropriate entry points (given the above), whether the project is aimed at supporting demand, supply or both and the sequencing of activities (although this may change as the project develops and depending on the development of the context (e.g. escalation of armed conflict or influx of other international organisations).

The indicators for a Rule of Law project should strike a balance between long and short-term outputs and outcomes. In choosing indicators, those which empower (individuals, and communities as well as intermediary beneficiaries) should be preferred.

Using the above in measuring the impact of the UNDP / IRC Darfur Rule of Law Project

Examples of **output** indicators can include:

- Increase in number of lawyers prepared to take on cases involving military and / or police activity against IDPs *Measured by the size of the membership of Legal Assistance Network (LAN), profile of cases taken on and those rejected as jeopardising the security of the LAN;*
- Public expressions of support for Rule of Law activities by local and central authorities *Measured by percentage of inaugural events addressed by authority officials, reduction in arrests of human rights defenders;*
- Increased access to SLA and Nomad areas for training *Measured by agreements with SLA and Nomad leaders to conduct training in 'their' areas;*
- Quantity and quality of trainers from communities in Darfur recruited as a result of the project's components *Measured by number and performance at actual training sessions;*
- Attendance at symposia on rule of law and associated issues *Measured by number and category of attendees;*

Examples of **outcome** indicators can include:

- Decreased percentage of cases of violence against IDPs dismissed in court proceedings because of IDP status *Measured by lawyers' and court records*
- Representation by qualified lawyers permitted in specialised courts *Measured by percentage of cases with legal representation and by comparative numbers of refusal of representation by lawyers.*
- Incidences of police and military refusing to follow orders to commit violations against IDPs *Measured by responses in follow-up training, anecdotal accounts*
- Decreased incidence of violent incidents in between IDPs in camps or between IDPs and town communities *Measured by reports from paralegals, camp coordinators, UN and NGO staff members.*
- Increased public discussions on topics relating to rule of law issues *Measured by reports from paralegals, camp and town-based international organisations, the legal assistance network, attendance and participation and quality of discussion at symposia.*