



ASIA-PACIFIC RIGHTS AND JUSTICE INITIATIVE

OPERATIONALIZING THE PRACTICE CONCEPT

“VISIONING” WORKSHOP REPORT

Kathmandu, 28 – 29 April 2003

***Consolidated by
Kathmandu and Bangkok SURFs***

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EXECUTIVE SUMMARY

Justice is an area of increasing importance in development cooperation, and UNDP views it as closely related to human development and poverty eradication. Accordingly, access to justice appears explicitly as a service line in the new UNDP Strategic Results Framework (SRF). The Asia Pacific Rights and Justice initiative is an attempt to develop organisational capacities in this field, by enhancing a regional community of practitioners on access to justice, with adequate knowledge, tools and networks.

A total of fourteen country offices have so far been actively involved in the development of the Rights and Justice Initiative, and other country offices will continue to be encouraged to join their colleagues in developing the access to justice sub-practice. The present report presents the consolidated results of the Asia-Pacific Rights and Justice “Visioning workshop”, attended by a core group of justice practitioners in the region with three major objectives: (i) to strengthen the community of practitioners, (ii) to define a substantive scope for the access to justice sub-practice, and (iii) to refine the process by which practitioners work together to achieve the intended goals, distributing tasks accordingly.

After reviewing the workshop’s programme and process and its background, the report is divided into two main sections. The first section centres on the substantive scope of the access to justice sub-practice that the core group developed through the application of rights-based analytical tools. The report provides a conceptual framework for access to justice, and delineates substantive areas of focus for practice development. It presents an overview of the state of current UNDP’s activities in the region, and some process lessons learnt from past UNDP’s experience. It also includes an overview of key capacity issues and related knowledge needs in each of the sub-practice areas (normative protection, legal empowerment, and capacity to provide effective remedies). Capacities are examined at the institutional level as well as at that of poor and other disadvantaged groups, such as women, indigenous peoples and ethnic minorities, internally displaced people, migrants, persons living with HIV/AIDs, and persons with physical or mental impairment.

The second part of the report focuses on the operationalization of the practice concept. It reviews the role of knowledge management techniques in sub-practice development and presents an overview of the specific activities and processes that will be undertaken to achieve the initiative’s goals. The section includes a consolidated list of knowledge-related needs and individual commitments to extract lessons and comparative experiences on them. It further describes specific activities and presents a consolidated work plan.

Finally, the report includes a section on the evaluation of the workshop, and suggests some useful lessons learnt from both the workshop process itself as well as on practice development more generally.

The report is completed by a number of Annexes including the workshop programme and participants, and specific results of different workshop sessions.

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1. BACKGROUND

Justice is an area of sharply increasing importance in development cooperation. It is also a field of practical and conceptual complexity, and development agencies tend to view the relationship between justice and development in different manners. For institutions such as the World Bank, a functioning justice sector is a precondition to spur economic growth. Consequently, most programmes tend to focus in increasing the capacities of the judiciary to deal with civil and commercial matters.

UNDP views justice as closely related to poverty eradication. Rather than simply a mechanism to foster economic growth, access to justice is a means to prevent and overcome human poverty by strengthening disadvantaged people's choices to seek and obtain a remedy for grievances, and thus effectively levelling-off the playing field in the pursuit of human development.

Consequently, UNDP has become significantly active in justice programming over the past years. At the global level, justice and human rights represented around 40% of the overall Governance Trust Fund allocation in 2002. At the regional level, 16 out of 25 country offices in Asia and the Pacific are currently involved in justice and human rights-related initiatives.

The growing importance of access to justice portfolios in poverty reduction strategies creates a need to systematize and enhance overall UNDP's niche and knowledge in this field. With that purpose, the idea of establishing an Asia-Pacific Network of justice practitioners was first suggested in Oslo at a the 2002 UNDP global workshop on access to justice, and launched later that year during a regional meeting held in Phnom Pehn, Cambodia. The Asia Pacific Rights and Justice Network has currently over 70 members from different Country Offices, as well as headquarters.

The objectives of this initiative are the following:

- 1) In terms of substance, to strengthen UNDP's work and niche on access to justice from a rights-based perspective, as an essential strategy for human development and poverty reduction.
- 2) In terms of process, to enhance both individual and organisational capacities on access to justice, operationalizing the practice concept and transforming individual into corporate knowledge through systematic knowledge sharing and codification.

A total of fourteen country offices have so far been actively involved in the development of the Rights and Justice Initiative. Of these, eleven attended a Visioning Workshop held in Kathmandu, Nepal on 28 and 29 April w003. Its objectives were to strengthen the Access to Justice community of practice, define its substantive scope and refine the process by which practitioners work together to achieve the intended goals.

1. WORKSHOP PROGRAMME AND PROCESS

The Visioning workshop brought together practitioners from eleven Country Offices, together with staff from the Oslo Governance Centre and the PARAGON Regional Programme. They had the task of providing a rights-based framework to practice development, defining and sequencing the type of resources and activities required, and distributing tasks and responsibilities accordingly.

The workshop flow consisted on¹:

- Recapitulation of genesis, process and objectives of the Asia Pacific Access to Justice initiative.
- A preliminary identification of sub-practice areas within an agreed definition on the scope of access to justice
- Stock-taking of current UNDP's initiatives in the region, challenges and lessons learnt from UNDP's experience.
- Alignment of UNDP's activities within the sub-practice framework.
- Assessing the scope of access to justice programming from a rights-based perspective, for systematic identification of the type of knowledge and products required in order to develop organisational capacities in this field.
- Types of partnerships to be pursued to achieve this task, both within and outside UNDP.
- Planning of specific activities required in order to take the initiative forward
- Distribution of responsibilities and tasks among practitioners.
- Identification of modalities for mutual support and cooperation.

The Rights and Justice initiative follows a capacity development perspective in both substance and process. Capacity is understood as “the ability to solve problems, perform functions, and set and achieve objectives”². A capacity development approach opts for building on existing strengths, rather than substituting them.

The community of practice is characterized by a participatory and non-hierarchical structure. Practitioners themselves carry out major tasks and the SURFs play a facilitating role. As a practice development process, the workshop strengthened practitioners' capacity to analyse access to justice problems, encouraged them to set knowledge development targets accordingly, and managed to distribute functions and enhance accountability and networking to achieve them. It attempted to build on existing strengths within the organisation by actively involving all practitioners as resource persons.

The following sections reflect the core group's inputs on the substantial scope of the access to justice sub-practice, as well as the strategies and commitments established to transform information collection and dissemination into organisational capacities and knowledge.

¹ For an overview of the workshop programme and objectives per session, see Annex 1.

² “Capacity for Development: New Solutions to Old Problems”, Ed.: S. Fukuda-Parr, C. Lopes and K. Malik, UNDP 2002

2. DEFINING THE SUBSTANTIVE SCOPE OF ACCESS TO JUSTICE

A rights-based approach to sub-practice development

Lack of access to justice is a defining attribute of poverty³, and an impediment to poverty eradication. Using a rights-based approach within the sub-practice's framework has four major objectives:

- 1) To focus the problem on the immediate causes impeding access (lack of safeguards to access or insufficient performance of them);
- 2) To define who are those most affected (the poor and other people who are disadvantaged) – claim holders,
- 3) To define who is in the position to ensure performance (institutions, groups and individuals) – duty bearers;
- 4) To focus capacity development analysis on the capacities of both of them to address the problem.

Practitioners applied a rights-based approach in defining the substantive scope of the access to justice sub-practice through a series of steps:

- 1) Problem identification (Immediate causes): What types of safeguards are not performing and impeding access. This was reflected in the definition of access to justice and its areas of focus (see Table 1).
- 2) Role and capacity analysis (Underlying causes):
 - a. Accountability Analysis: Identification of who are duty-bearers in those areas, and what type of capacity problems they have to perform their duties effectively.
 - b. Empowerment analysis: Identification of the capacity problems that the poor and other disadvantaged people have to claim and exercise those safeguards.
- 3) Suggestion of lessons and other resources needed to support strategies that strengthen their capacities for accountability and empowerment accordingly.

The sub-practice's focus is on enhancing people's own capabilities, which means assessing their existing strengths and building on them. Poor and disadvantaged people have already developed their own solutions, in many parts of the world, in order to increase their legal awareness and self-reliance, and to deal with justice issues through informal and traditional systems. The access to justice sub-practice will seek to build on poor and disadvantaged people's strengths and remove the obstacles they face in protecting their fundamental rights, whether by formal or informal systems.

³ As shown by studies such as the "Voices of the Poor" series, the poor perceive themselves as lacking access and they also consider lack of access to justice an obstacle to overcome their situation.

Capacity development requires empowerment and accountability in both claim holders and duty-bearers. Despite the analysis is split into two, claim holders also need to strengthen their capacities to become accountable in the exercise of rights, and duty-bearers often need to be empowered with respect to other duty bearers to be able to fulfil their obligations more effectively. In defining the scope of the access to justice sub-practice, this perspective has been reflected through the analysis of strengths and weaknesses in both of them.

Practitioners undertook step 1 (problem identification) in the plenary, and steps 2 and 3 (accountability and empowerment analysis) in small group work. Workshop discussions were not aimed at obtaining a comprehensive picture of the issues, not only because of time and capacity constraints, but also due to the need of involving claim-holders and duty bearers in the assessment process. Rather than aiming for a comprehensive assessment, workshop sessions were oriented to test and apply an analytical framework in establishing programming options, which was needed to systematize and learn from the process of collecting information. A deeper assessment of issues will be facilitated by a number of planned activities, including post-workshop network discussions, expansion of partnerships, extraction of lessons, outsourced research and participatory consultations at the country level (see next section: "Operationalizing the Practice Concept").

Step 1: Problem identification: Stating the problem in human rights terms

With a view to facilitate programme development and knowledge management, and in line with the UNDP Access to Justice Practice Note, the core group adopted a definition of access to justice specifying its substantive areas of focus (see Table I).

The definition focused the problem on poor and disadvantaged groups and their choices, and qualified the nature of "justice" as one that respects fundamental human rights guarantees, such as access to information and counsel, effective adjudication and due process, and effective enforcement and redress for grievances. As a means to address human poverty, justice should also be affordable and physically and culturally accessible to disadvantaged populations.

The cluster of the sub-practice's scope reflects human rights-related problems as immediate causes preventing access, including lack of normative protection guaranteeing the existence of a remedy for grievances, as well as the incapacity to seek such remedies even where they formally exist, or the incapacity to provide them when sought.

Table I: Definition and scope of access to justice

Definition of Access to Justice	
<i>Ability of people from disadvantaged groups to prevent and overcome human poverty by seeking and obtaining a remedy, through formal and informal justice systems, for grievances in accordance with human rights principles and standards</i>	
Major areas in practice development (immediate causes of deficient access):	
1) Normative Protection <i>(Existence of remedy):</i>	<ul style="list-style-type: none"> a. By international and constitutional law b. By legal and regulatory frameworks c. By customary norms and jurisprudence
2) Capacity to seek a remedy <i>(legal empowerment):</i>	<ul style="list-style-type: none"> a. Legal awareness b. Legal counsel c. Capacity to access formal and informal justice services
3) Capacity to provide a effective remedy <i>(adjudication, enforcement and oversight)</i>	<ul style="list-style-type: none"> a. Effective adjudication and due process: judicial, quasi-judicial, informal and traditional systems. b. Enforcement: Police and Prisons c. Civil society oversight.

The workshop highlighted that lack of access to justice is not only a defining feature of poverty, but also an impediment to level-off power inequalities and prevent human poverty. While recognizing the political sensitivity of many of the issues, the assessment undertaken in group work and in the plenary underlined the key role of access to justice in the process of human development.

Discussions pointed at the value of a people-centred approach in the definition of access to justice and a explicit concern not only for the poor, but also for other most disadvantaged groups within the wider scope of “human poverty”, stressing that increasing people’s abilities required developing capacities not only of people, but also of institutions.

Participants highlighted the relevance of both formal and informal justice systems in order to overcome purely legalistic perceptions and address the connection between poverty and illegality, and the fact that formal justice systems are often perceived by disadvantaged groups as “alien” and “unfair”.

They concluded there was a need to clarify the synergies between access to justice, poverty reduction and human development. Participants stressed the importance for UNDP to better communicate the rationale for its involvement on access to justice issues, and to strategically place human rights in the context of capacity development and poverty reduction. This would require strengthened partnerships with civil society groups as well as with other UN agencies with expertise and networks in the field of human rights. The need for close collaboration with the Office of the High Commissioner for Human Rights

(OHCHR), through its Regional Representative for Asia and the Pacific, was identified as an important strategy for sub-practice development.

Stock taking

Workshop participants started by providing each other with a comprehensive overview of the scope of current UNDP initiatives in the region, commented on challenges encountered, shared lessons learnt and identified issues and opportunities for mutual support and collaboration. The Matrix on UNDP justice and human rights projects in Asia and the Pacific provided in Annex 2 reflects practitioners' inputs and some of the specific commitments adopted for developing lessons on current and past experiences.

Process lessons provided through knowledge sharing

Country presentations highlighted a number of important process issues in access to justice programming. Access to justice is an area that requires willingness to take risks and advocacy at all levels, including government officials and the citizenry, and this may be complicated when there are issues in conflict with traditional systems. Although sympathetic officials can be effective entry points, political will and institutional support are not a given. Political will may indeed exist without financial commitment, and individual capacities without institutional ones. Some contexts represent an extra level of complexity, such as conflict situations and those where there is a diversity of judicial subsystems. Reaching out to civil society organizations and strengthened coordination within UN Country Teams become essential strategies in this field.

Adequate choosing of partners and constituency building were repeatedly highlighted as important process lessons for the sub-practice. Rather than aiming for short-term perfection, strategies should be approached step by step with a long-term perspective. A modest entry point may have a very significant impact if chosen strategically. There is a need for adequate advocacy to donors on long-term support, and better impact monitoring of development outcomes.

Alignment of current UNDP activities within the scope of the sub-practice

After having agreed on a conceptual framework for the sub-practice (Table 1 above), workshop participants used it as a tool to align their specific programme interventions. This provided an overall picture of the current state of the sub-practice in the region, and helped understand the framework's dimensions. It highlighted the fact that UNDP is active in most of the areas of the proposed access to justice's scope (see Figure 1 below), and that most programmes tend to adopt an integrated approach towards justice reform. By having a comprehensive overview of current initiatives in the region, it was also revealed that the majority of UNDP's activities are focused at the institutional and formal levels, that support to legal awareness and counsel is significant while with some exceptions, there is a weaker involvement in the areas of customary norms, informal and traditional systems, enforcement and civil society oversight.

Inputs from Country Offices who were unable to attend the workshop will help provide a more accurate picture of the current state of UNDP's activities on access to justice in the region.

Figure 1: Scope of UNDP access to justice initiatives in Asia and the Pacific

NORMATIVE PROTECTION OF RIGHTS	LEGAL EMPOWERMENT	CAPACITY TO PROVIDE EFFECTIVE REMEDIES
<p align="center">By International and Constitutional Law</p> <p>FIJI SRI LANKA INDONESIA CHINA NEPAL MONGOLIA IRAN PRAJA</p>	<p align="center">Legal awareness</p> <p>BANGLADESH FIJI NEPAL IRAN PHILIPPINES INDIA MONGOLIA PRAJA INDONESIA YEMEN</p>	<p align="center">Accessible adjudication</p> <p align="center"><i>Judicial System</i></p> <p>CAMBODIA NEPAL FIJI IRAN INDONESIA PRAJA YEMEN PHILIPPINES</p> <p align="center"><i>Quasi-judicial bodies</i></p> <p>NEPAL INDONESIA BANGLADESH MONGOLIA SRI LANKA PHILIPPINES</p> <p align="center"><i>Indigenous/ traditional systems</i></p> <p align="center">INDIA</p>
<p align="center">By legal and regulatory frameworks</p> <p>INDONESIA BANGLADESH CHINA YEMEN NEPAL VIETNAM CAMBODIA PRAJA</p>	<p align="center">Legal counsel</p> <p>BANGLADESH IRAN PHILIPPINES</p>	
<p align="center">By Customary Law</p> <p align="center">INDIA</p>	<p align="center">Capacity to access justice services</p> <p>INDIA IRAN PHILIPPINES INDONESIA</p>	<p align="center">Enforcement</p> <p><i>Police</i> <i>Prison System</i></p> <p>BANGLADESH INDIA PRAJA</p>
		<p align="center">Civil Society Oversight</p> <p align="center">SRI LANKA PHILIPPINES</p>

Defining the scope of the sub-practice (Step 2): Accountability analysis

Through group work, practitioners applied a rights-based framework in assessing the capacity problems of duty-holders for effective accountability in each of the sub-practice areas, and suggested a number of related knowledge needs⁴.

1. Normative Protection of Rights: By international and constitutional law, legal and regulatory frameworks, and customary norms.

Group discussions highlighted that for some disadvantaged groups, the existing legal framework with regard to the justice system is not adapted to either their problems or their needs and is often inaccessible to them, thus perpetuating exclusion and sometimes displaying gross discrimination. Discrimination can flow not only from “legal frameworks” (in a formal sense), but also from informal systems and customary laws. Decriminalisation of violence against women is common in both frameworks, whereas poverty and “formal” illegality are strongly interconnected. Because normative frameworks play an essential role

⁴ For an overview of the analysis and conclusions reached by all groups, see Annex 3 (Results of Accountability Analysis)

in promoting human development goals, UNDP is currently active in the region through a significant number of initiatives aimed to strengthen the normative protection of rights⁵.

During the workshop, group analysis identified a wide range of actors with specific duties regarding normative protection at different levels, from local governments to the UN. Further discussions focused on the strengths and weaknesses of a strategic number of them, including Ministries of Law and Justice and legal cells of government, Parliament, National Human Rights Institutions, Ministries of Foreign Affairs, judiciary and civil society.

The analysis suggested the need for knowledge development in a series of areas, such as:

- Advocacy at various levels, including officials as well as traditional community leaders. Impact and sustainability of advocacy efforts.
- Developing capacities of Ministries of justice and legal drafting cells of government for human rights-related legislation.
- Assessment of legal processes.
- Promoting civil society participation in the legal drafting process.

2. Capacity to seek a remedy (Legal Empowerment): Legal awareness, legal counsel, capacity to access justice services.

Being informed expands people's choices to prevent and overcome poverty. However, when disadvantaged groups are subject to grievances, they are often unaware of potential remedies at reach and how to claim them (including legal awareness and basic knowledge of the justice system), or have inadequate access to such mechanisms (including access to legal counsel by government and non-government institutions, availability of formal and informal mechanisms of justice, etc). The notion of a public legal aid system is almost non-existent in many countries, and legal processes and practices are formalistic, complex and cumbersome for the poor. UNDP is already supporting in the region a substantive number of initiatives on legal empowerment, particularly with regard to legal awareness⁶.

Duty holders in this field include Law Commissions, Ministries of Justice, line ministries and local governments; Bar associations, alternative law groups, lawyers and prosecutors; police and prison institutions, and the international community, particularly the UN. Discussions centred on strengths and weaknesses in such institutions to fulfil their duties

Sharing experiences identified some lessons needed on:

- Development of legal aid institutions
- Strengthening non-discriminatory dispute resolution mechanisms
- Expanding targeted legal information to reach the most disadvantaged people, in adequate and cost-effective ways.

⁵ Including Bangladesh, Cambodia, Fiji, China, India, Iran, Indonesia, Nepal, Mongolia, Sri Lanka, Vietnam and Yemen. See Annex 3: Sub-practice alignment of current UNDP initiatives on access to justice in Asia and the Pacific.

⁶ Including Bangladesh, Fiji, India, Indonesia, Iran, Mongolia, Nepal, the Philippines, Vietnam and Yemen. See Annex 3: Sub-practice alignment of current UNDP initiatives on access to justice in Asia and the Pacific.

Network discussions may suggest further types of areas where lessons are useful.

3. Capacity to provide effective remedies:

A) *Effective adjudication and due process*

UNDP activities in the region have a strong focus on developing institutional capacities to provide effective remedies, particularly regarding the judiciary and national human rights institutions⁷. Duty holders in this area can be found in judicial, quasi-judicial, informal and traditional institutions. The workshop undertook a brief analysis of strengths and weaknesses in some of them, indicating major obstacles in accessing justice that did not refer to the presence/absence of an adequate legal framework, but rather to its inadequate implementation. Causes can be traced to insufficient capacities and resources, together with the persistence of discriminatory biases (“behavioural discrimination”) in the implementation of the law.

Group discussions suggested some areas for extraction of lessons, including:

- Developing the capacities of informal institutions and alternative dispute resolution mechanisms, which are often perceived as more accessible by disadvantaged people, and their sensitisation on human rights and gender.
- Extension of justice to remote areas, and interface between formal and informal systems for the protection of rights.
- Sensitisation of justice professionals (judges, lawyers, etc.): how to transform awareness into reality. Impact and sustainability of human rights education/awareness strategies.
- Promotion of professional codes of conduct.
- Strengthening financial and political independence of judicial and quasi-judicial bodies.
- Building on the potential of national human rights institutions and judicial activism.
- Strengthening access to information, and improve adjudication through simplified procedures and fast-track.
- Strengthening coordination and dialogue among national institutions with a role in the justice system.

B) *Enforcement*

The group stated that a higher priority should be given to enforcement in programming. An overview of the scope of current UNDP initiatives in the region (see Annex 2), revealed that support to enforcement institutions (police and prison systems) as well as support to civil society oversight were still weak, with some exceptions⁸. Police reform is a pending issue in most countries, and prison reform is too often a low priority in countries with

⁷ Including Bangladesh, Cambodia, Fiji, India, Indonesia, Mongolia, Nepal, the Philippines, Sri Lanka and Yemen. See Annex 3: Sub-practice alignment of current UNDP initiatives on access to justice in Asia and the Pacific.

⁸ As Bangladesh, India, the Philippines, Sri Lanka and Yemen. See Annex 3: Sub-practice alignment of current UNDP initiatives on access to justice in Asia and the Pacific.

scarce resources. The group concluded that systems and the processes that take place within them should be the unit of analysis and action.

Relevant enforcement systems and processes should include those for economic, social, and cultural rights, in addition to those for civil and political rights. This implies duty bearer roles for the public administration in enforcing these rights. Accountability needs that not only the state is viewed as the duty bearer, but also individual officials. This requires a clear understanding of what are the existing incentive structures, including perverse incentives such as capture of power structures, rent seeking, social and political contacts, etc. The reforms themselves need to put into place virtuous incentives that can modify the overall incentive structure, such as civil service salaries to a liveable level, as well as merit based recruitment and promotions.

C) Civil Society Oversight

Reinforcing civil society oversight is critical for effective accountability and prevention of impunity. Besides, civil society and the media fulfilling watchdog functions can enhance accountability and participation, although this requires access and free flow of information. For example, disclosure of information on police detentions, timeframe of pending court cases, judgments, among others, as well as localized social indicators, can strengthen accountability and facilitate civil society participation. Building up pressure groups to a critical mass can make this a powerful force for enforcement.

From the conclusions of the group on enforcement and civil society oversight, some suggestions for lessons could be drawn, such as:

- Police reform within the context of systemic justice reforms, and the role of incentive and accountability structures.
- Good practices on justice programmes that have successfully incorporated enforcement/ civil society oversight elements
- Enforcement of economic, social and cultural rights in public administration
- Transparency and disclosure of information as a means to promote accountability and participation

Network discussions may be used to suggest further types of areas where lessons are needed.

Defining the scope of the sub-practice (Step 3): Empowerment analysis

Practitioners deepened the assessment by analysing the obstacles faced by poor and disadvantaged groups to access justice, and their capacities and opportunities to overcome them⁹. They proposed examples of capacity development strategies and suggested further needs for knowledge development in each of the sub-practice areas.

Together with urban and rural poor, the assessment covered other disadvantaged groups such as women, indigenous peoples and other minorities, internally displaced persons, people living with HIV/AIDs and persons with physical or mental impairment. These groups' difficulties in accessing justice are common to most countries in the Asia-Pacific region¹⁰.

1. Urban and Rural Poor

Group analysis recognised that poor people are not a homogenous group, and that some of them face special hardships and discrimination in accessing justice. Examples include members of low castes; bonded labourers; individuals such as women, youth, orphans, and the elderly; and those living in the fringe of illegality such as beggars, squatters and homeless. Migrant workers and people with temporary jobs or unemployed, illiterate people and those living in remote areas, or groups such as sex workers, also face specific vulnerabilities.

Group work and previous discussions in the network highlighted a number of significant obstacles that poor people face in accessing justice, including:

- a. Lack of awareness and legal knowledge.
- b. Structural and personal alienation
- c. Lack of access to public services, which are often expensive and cumbersome and with inadequate resources, personnel and facilities. Police stations and courts may be non-existent in remote areas, and the cost of legal processes (such as legal fees and fines) are often unaffordable to the very poor. Quasi-judicial mechanisms may also be non-accessible.
- d. Lack of organized civil society, which may be due to insufficient expertise, resources and capacity to organize, as well as government restrictions.
- e. As a consequence of their exclusion from the mainstream, there is a lack of normative protection and sufficient recognition by policies and provisions, which together with limited education and illiteracy leave the poor in a permanent "illegal" status (e.g. prostitutes, street vendors).
- f. Procedural discrimination, on economic grounds.
- g. Lack of voice, participation and inclusion in policy and lawmaking processes, including legislative drafting, consultation processes, arbitration and access to media.
- h. Corruption, individual or institutional.

⁹ For an overview of the analysis undertaken by all groups, see Annex 5 (Results of Empowerment Analysis)

¹⁰ Children and minors have not been included in order to avoid duplication with UNICEF's significant interventions in this field, although strengthened coordination among UN agencies becomes necessary.

- i. Lack of democratic practices/cultures in some NGOs, community-based organizations and groups, which are conducted through top-down processes in a way that limits their ability.

However, poor people have significant strengths where capacity development strategies can build on to increase access to justice. International instruments and constitutions recognize fundamental human rights, and their strong moral ground can be supported by vibrant civil societies in many countries. Conflict resolution mechanisms exist in indigenous and informal systems, and poor people often perceive these as more accessible. Poor persons can also build on community solidarity, group identity and commitment to improve their situation.

As a result of discussions, some strategic areas for extraction of lessons, good practices and comparative experiences were identified. These included:

- o Pro-poor legislation, participation and inclusion in the legislative process.
- o Expansion of legal aid services to the poorest areas.
- o Strengthening of alternative dispute resolution mechanisms.

2. Women

Obstacles for women's access to justice may be found at two levels: structural and individual. Structural obstacles include the fact that the majority of the poor are women and lack representation and participation in decision-making, while being discriminated in access to economic resources. Some obstacles are reinforced at both individual and structural levels, such as illiteracy and lack of education, powerlessness, lack of awareness, economic status reflected in lower wages, and those deriving from customary practices.

However, there are also a number of strengths for capacity development. As an example, women may benefit from peer support and formal and informal networking. Women are socially pro-active and able to communicate and articulate their problems, which has often resulted in effective lobbying for special legal provisions. Women are able to promote long-term social changes by their ability to influence the future generation.

The analysis indicated a number of strategic areas for knowledge development in order to enhance gender dimensions in access to justice:

- o Law reform to ensure gender equality and adequate representation/ court access, including through special provisions.
- o Awareness, advocacy and outreach (thru. NGOs and community-based organizations), and expanded legal literacy and legal counsel for women.
- o Gender-sensitive dispute resolution mechanisms
- o Engendering budgeting processes to address women's access to justice.
- o Capacity development of law enforcement agencies to strengthen women's access.

3. Indigenous Peoples, Ethnic Minorities, Migrants and Internally Displaced Persons

Indigenous people and ethnic minorities' obstacles in accessing justice may derive both from the attributes of minorities themselves as from the features of socio-political

systems. Weaknesses in minorities include lack of literacy and awareness of the justice system, and “ghetto” mentality. System features reinforce such weaknesses through misperceptions by outsiders, biases within the legal framework and the justice system, the persistence of a historical tradition of discriminating customary practices, and susceptibility of abuse by law enforcement officials. All of which results in these groups perceiving formal legal systems as “alien” and “unfair”.

Migrants and internally displaced persons share some common obstacles in accessing justice, such as inadequate legal recognition, susceptibility to mental disorientation/dislocation, and hostility of host populations. They tend to be characterized by limited or non-existent organizational capacity.

However, empowerment analysis revealed a number of important strengths in these groups, including the existence of traditional justice institutions (in the case of indigenous peoples and some ethnic minorities), a strong sense of ethnic identity and group cohesion, and the support of a rich cultural background.

The group indicated some issues where lessons and practices need be collected for knowledge development in this field, including:

- Practices on strengthened legal frameworks for IDPs and ensuring legal recognition of indigenous peoples
- Developing adequate legal aid systems with sufficient mobility and cultural adequacy, e.g. through mobilizing indigenous NGOs.
- For indigenous and ethnic minorities, effective adjudication and due process require cross-fertilization of traditional institutions and human rights values. Lessons are needed on working with religious leaders and “insiders” (gatekeepers, persons with authority, tribal elders/chiefs), identifying major shortcomings of traditional institutions but building on them and instilling human rights values.
- Further knowledge is needed on strengthening linkages between informal and formal systems, including appeal to formal systems, and defining the mandate of informal systems for minor crimes/sentences.

4. *Persons living with HIV/AIDs and persons with physical or mental impairment*

Persons living with HIV/AIDs face very significant obstacles to access justice, such as social stigma and feeling of shame (which may prevent them from seeking a remedy in order not to disclose their status), and the family and community impact of revealing their condition. In addition, people with HIV/AIDs face special economic hardships, which are aggravated by discrimination in the workplace. Institutional and social apathy create an additional burden that is reflected by weak systems of prevention, whereas social alarm risks that criminalization of HIV/AIDs transmission can be used against specific groups, such as sex workers and drug addicts.

Persons with physical or mental impairment also suffer from social ostracism, but there are fewer non-governmental organisations working in this field. Physically or mentally impaired people face other important obstacles such as special difficulties in accessing information, and inadequacy of justice services. This includes not only inadequate physical access, especially of people living in remote areas; but also inadequate skills in judges, police, etc., who may find it difficult to distinguish persons with mental impairment from

those under the effects of alcohol or drugs. This is aggravated by the fact that mentally impaired persons are susceptible to be used by others in criminal activities without proper awareness. Sometimes due process guarantees in determining the existence of mental impairment are too weak.

Empowerment analysis highlighted there were a number of strengths, such as the existence of capable HIV/AIDS related NGOs with access to funding, and significant progress in legal frameworks. A major strength is the strong willingness of people from these two groups to overcome the obstacles they face in leading normal lives, without discrimination.

The group identified a number of knowledge development needs to support more effective strategies on access to justice by these two groups:

- At the normative level, comparative studies on legal frameworks incorporating HIV/AIDS and disability issues could be useful, as well as the compilation of ground-breaking jurisprudence against discrimination.
- Lessons on how to target legal aid for these groups, who have special difficulties in physical access; mapping NGO and government work in this field could be a first step.
- There is a need to reach out to networks of persons with HIV/AIDS and physical or mental impairment if we are to get a clear picture of their legal needs. Research on double jeopardy (HIV/AIDS and disability in the context of other disadvantaged groups, such as prostitutes and migrants) is required to understand and address their multiple causes of vulnerability.
- Lessons to develop capacities for effective adjudication include comparative experiences on codes of conduct of judges, prosecutors, and other justice professionals; as well as the establishment of “sensitive” judicial procedures (e.g. fast-track, in-camera proceedings) and mechanisms for effective redress. There is also a need to explore the role of quasi-judicial bodies (ombudsman, national human rights commissions) in dealing with HIV/AIDS and disability-related cases.
- Examples of sensitive prison reforms to ensure prevention of HIV/AIDS and non-discrimination of these groups need be collected.

5. OPERATIONALIZING THE PRACTICE CONCEPT

Applying knowledge management in the Asia Pacific Rights and Justice Initiative

The Asia Pacific Rights and Justice Initiative seeks to develop UNDP's capacities to provide high quality policy advice to programme countries and partners. A major challenge in this regard is to transform individual knowledge and capacities into organizational ones. This requires a good understanding of the differences between "knowledge" and "information". *Knowledge differs from information and data in that knowledge is **complex and contextual**, created as part of an **interactive process**, essentially a **human attribute, value laden, and connected to action**. It is about people and trust, rather than simply material assets (such as compilations of data).*

Knowledge is indeed the single most important asset of organizations. Generally, around 70% of organisational learning is unstructured and informal. Furthermore, knowledge stays with individuals, and it may be lost when individuals leave the organisation, or when major tasks in knowledge development are left to external persons. The Asia Pacific Rights and Justice Initiative aims to respond to such challenges by applying certain tools that facilitate solutions to practitioners in the field. The basic feature of this initiative, as an exercise in organisational capacity development, is that both tools and solutions are provided and applied by practitioners themselves, with the support of each other and with SURF facilitation (see Table 2).

Table 2: Applying knowledge management in AP-A2J

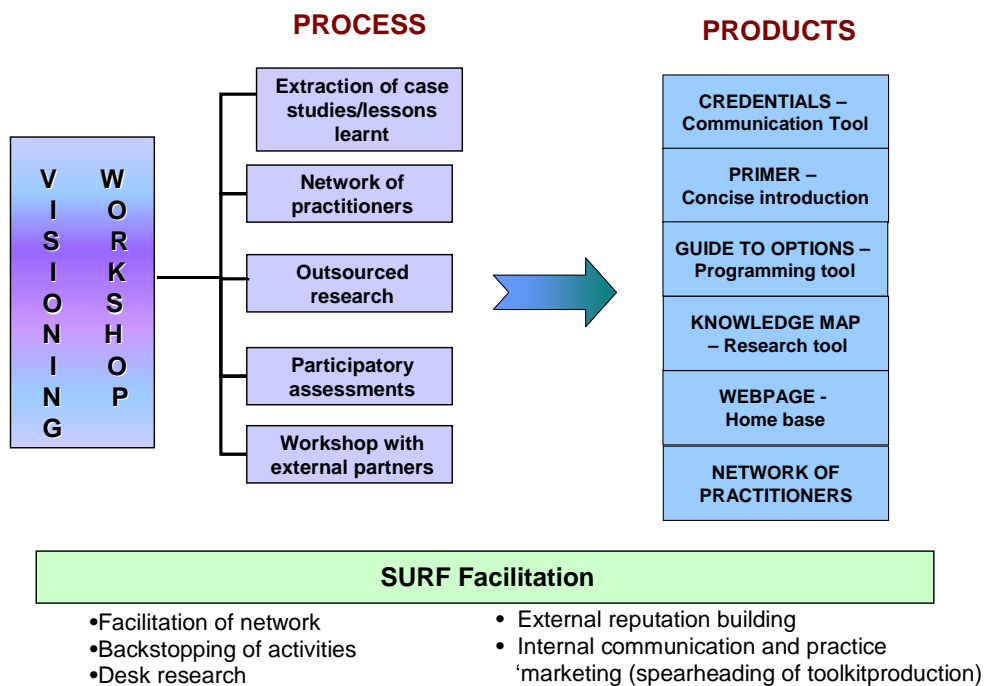
CHALLENGES	SOLUTION	AP-A2J TOOLS
Acquisition of UNDP in-house K	<ul style="list-style-type: none"> ➤ Connecting practitioners ➤ Codification of lessons ➤ Compilation of documents 	<ul style="list-style-type: none"> ➤ Network, Mutual Support, workshops ➤ Lessons Learnt/Case Studies ➤ Web page
Acquisition of external K	<ul style="list-style-type: none"> ➤ Structuring plethora of external resources ➤ Screening & abstracting best Resources ➤ Connecting to partners 	<ul style="list-style-type: none"> ➤ K-Maps ➤ Web page ➤ Participatory Assessments
Accelerating Learning (Individual and CO)	<ul style="list-style-type: none"> ➤ Engagement in Activities 	<ul style="list-style-type: none"> ➤ Workshops ➤ Lessons learnt, research etc.

Planning the process

The Visioning Workshop detailed the process of the Rights and Justice Initiative by planning a number of **activities** aimed to develop a set of knowledge-related **products**.

- A) **Products** to be developed consist of a primer to practitioners new to the area, UNDP “credentials” on access to justice, a guide to entry points for programming, and the continuing improvement of the already existing access to justice web page and knowledge map. The main product of the initiative is however the community of practitioners itself, whose strengthening is also the backbone of the process.
- B) The **activities** aimed to develop such products include:
- *Strengthening the network of practitioners.*
 - *Extraction of case studies and lessons learnt* from UNDP’s experience, and outsourced research on issues where knowledge and partnerships need to be developed to improve UNDP’s capacities.
 - Conduction of *participatory consultations at the country level*, with the aim of expanding UNDP’s networks and involving claim-holders and duty-bearers in the assessment process.
 - *A second regional workshop* where the above activities will converge, and which will be opened to external partners to extract further lessons and to develop the initiative’s products.

Figure 2: Process and Products in the Asia Pacific Rights and Justice Initiative



During the workshop, the core group planned the specific activities and assigned responsibilities accordingly. The following sections reflect participants' inputs and agreements on these issues. In line with BDP's role in practice development, the SURFs will play a facilitating role to assist the community of practice in its tasks (see Figure 2).

A consolidated Community of Practice's work plan is included at the end of this section.

A. Extraction of case studies and lessons learnt

Workshop sessions managed to identify areas where lessons, good practices and comparative experiences are needed by providing practitioners with the tools and the opportunity to engage in problem analysis and knowledge sharing.

After having obtained an overview of the scope of the access to justice sub-practice and current UNDP's position in the region, all core group members assumed specific tasks to develop particular lessons, depending on their experiences. Extraction of lessons learnt will allow developing the initiative's products, as well as enhancing individual practitioners' capacities to learn from the process. It could also contribute to global UNDP publications on access to justice, by strengthening information flows through the Oslo Governance Center.

The following matrixes reflect a consolidated overview of suggested knowledge development needs in each of the sub-practice's areas, and the specific commitments adopted by the core group to provide lessons and experiences to address some of them. Other network members will also be encouraged to join the core group in developing specific lessons on these issues, or suggesting additional issues. The workshop further indicated a number of strategies for mutual support in undertaking this task (see the point on "Strengthening the Community of Practice" under this section)

AREA 1: NORMATIVE PROTECTION OF RIGHTS

SUGGESTED ISSUES WHERE LESSONS/PRACTICES/EXPERIENCES NEED BE COLLECTED		SPECIFIC COMMITMENTS ADOPTED BY CORE GROUP	
<ul style="list-style-type: none"> • Needs assessments for legal reform 		<i>Vietnam: provide experiences/ lessons learnt</i>	
<ul style="list-style-type: none"> • Parliament: Enact enabling legislation based on treaties <ul style="list-style-type: none"> ○ Evaluate structure and process used for review of laws 		<i>Indonesia: provide lessons on institutionalisation through constitutional changes</i>	
<ul style="list-style-type: none"> • Review of existing legislation's compliance with human rights treaties 		<i>Sri Lanka: undertake a study that can serve as a model and from which lessons can be extracted</i>	
<ul style="list-style-type: none"> • Inclusive legislative drafting process <ul style="list-style-type: none"> ○ Public hearings ○ Consultation with civil society stakeholders ○ Legal guarantees for inclusive processes 		<i>Yemen: provide lessons learnt on the role of civil society in promoting HR and A2J</i>	
<ul style="list-style-type: none"> • Judicial activism in promoting human rights jurisprudence 			
<ul style="list-style-type: none"> • Role and capacities of NHRCs in promoting legal change/ratification 		<i>Mongolia and Nepal: provide lessons learnt on the role of NHRC in promoting access to justice by the disadvantaged</i>	
<ul style="list-style-type: none"> • Capacity development on HR sensitive legal drafting of Parliament and legal cells in ministries 			
<ul style="list-style-type: none"> • Consortium/platform NGOs successfully advocating for legal change 			
<ul style="list-style-type: none"> • Establishment of Ministry of HR 		<i>Yemen: collect lessons learnt on the establishment of Ministry of Human Rights and Ministry of Justice</i>	
<ul style="list-style-type: none"> • Role of HR Plans in strengthening legal frameworks 		<i>Mongolia and Nepal; provide lessons learnt on NHRAPs</i>	
KNOWLEDGE REQUIRED ON SPECIFIC DISADVANTAGED GROUPS' NORMATIVE PROTECTION			
Urban/ Rural Poor	Women	IPs,, minorities, migrants and IDPs	Persons living with HIV/AIDs and persons with physical/mental impairment
Recognition of international law, pro-poor legislation; transparency, participation and inclusion in legislative processes	Law reform to ensure gender equality and adequate representation and court access, if necessary through special provisions	<ul style="list-style-type: none"> - Legal framework for IDPs - Legal recognition of indigenous people - Work with religious leaders (as in Bangladesh, Iran, India, Yemen) <i>Bangladesh: provide lessons learnt on working with religious leaders</i>	<ul style="list-style-type: none"> - Comparative studies on legal frameworks incorporating HIV/AIDs and disability issues - Compilation of ground-breaking jurisprudence (especially when the State was condemned, and that resulting from public interest litigation)

AREA 2: CAPACITY TO SEEK A REMEDY (LEGAL EMPOWERMENT)

SUGGESTED ISSUES WHERE LESSONS/PRACTICES/EXPERIENCES NEED BE COLLECTED		SPECIFIC COMMITMENTS ADOPTED BY CORE GROUP	
<ul style="list-style-type: none"> Development of legal aid institutions (institutional and human resources) 		<p><i>Fiji: collect lessons on community paralegals</i></p> <p><i>China: provide lessons on the development of legal aid institutions</i></p> <p><i>India: provide lessons on creating legal information and awareness</i></p> <p><i>Mongolia: provide ADB study on legal literacy</i></p>	
KNOWLEDGE REQUIRED ON SPECIFIC DISADVANTAGED GROUPS' LEGAL EMPOWERMENT			
Urban/ Rural Poor	Women	IPs,, minorities, migrants and IDPs	Persons living with HIV/AIDs and persons with physical/mental impairment
<p>Expansion of services (<i>legal protection/ representation/ counsel/ awareness) and sensitization of service providers</i></p> <p>Use of ICT to expand awareness in remote areas</p>	<p>Awareness and advocacy (thru. NGOs and CBOs)</p> <p>Legal literacy and education</p> <p>Legal counsel and legal aid</p> <p><i>Gender components to be included in Fiji, China and India studies</i></p>	<p>Legal aid mechanisms for ethnic minorities</p> <p>Mobile legal Aid for IDPs</p> <p>Mobilize indigenous NGOs for legal aid</p> <p>Identify "insiders" (Gatekeepers, Persons with authority, Tribal Elders/Chiefs)</p>	<p>Study on double-jeoprady (HIV/AIDs and disability in the context of other disadvantaged groups (prostitutes, migrants) as compared to privileged groups</p> <p>Map NGO and government work in targeted legal aid/ information</p> <p>Map networks of HIV/AIDs and disabled people groups to get to know what are their legal needs</p>

AREA 3: CAPACITY TO PROVIDE EFFECTIVE REMEDIES

Effective adjudication and due process

SUGGESTED ISSUES WHERE LESSONS NEED BE COLLECTED		SPECIFIC COMMITMENTS ADOPTED BY CORE GROUP	
<ul style="list-style-type: none"> Sensitisation on Gender and HR to courts, lawyers, prosecutors, community leaders, policy makers, etc: Sustainability and Impact. 		Iran to extract lessons on establishment of Master and Center for HR studies <i>Philippines: provide lessons learnt on promoting gender sensitivity in the courts</i> <i>Fiji: extract lessons on professional training (University South Pacific)</i>	
<ul style="list-style-type: none"> Access to information 		<i>India: provide experiences on promoting access to information</i>	
<ul style="list-style-type: none"> Strengthened coordination and dialogue among institutions 			
<ul style="list-style-type: none"> Simplified procedures/fast track 		<i>India: collect good practices on innovations to reduce case backlog, comparative experiences on pro-poor court management and simplification of laws</i> <i>Sri Lanka: facilitate an example of user survey of justice systems</i>	
<ul style="list-style-type: none"> Promote judicial activism 			
<ul style="list-style-type: none"> Promote code of conduct among professionals 		<i>India :outsource study on codes of conduct in the legal profession</i>	
<ul style="list-style-type: none"> Mobile courts, justice in remote areas 			
<ul style="list-style-type: none"> Access to ICT 			
<ul style="list-style-type: none"> Interface formal and informal systems 		<i>Fiji: provide lessons on convictions in Court</i>	
<ul style="list-style-type: none"> Develop capacities of informal and ADR institutions 		<i>Nepal and Bangladesh: collect lessons learnt on mediation and ADR mechanisms</i>	
<ul style="list-style-type: none"> Promote financial and political independence of quasi judicial bodies 			
<ul style="list-style-type: none"> Role of NHRC in promoting access to justice 		<i>Nepal and Mongolia: provide lessons learnt on NHRCs</i>	
KNOWLEDGE REQUIRED ON EFFECTIVE ADJUDICATION AND DUE PROCESS FOR SPECIFIC DISADVANTAGED GROUPS			
Urban/ Rural Poor	Women	IPs,, minorities, migrants and IDPs	Persons living with HIV/AIDs and persons with physical/mental impairment
Streghtened ADR systems and provide ADR where it doesn't exist <i>To be included in Nepal's and Bangladesh'lessons</i>	Gender sensitive ADRs Engendering budgeting process	Build on traditional institutions, but instill HR values Identify Major Shortcomings of traditional institutions Strengthening linkages between informal and formal system, including appeal to formal systems	Existing judicial perceptions and practices on HIV/AIDs and disability Comparative experiences on codes of conduct of judges, prosecutors, etc. <i>(To be included in India's study)</i> Study on "sensitive" judicial procedures (eg. fast-track, in-camera proceedings) and effective redress <i>(To be included in India's study)</i> Explore role of quasi-judicial bodies (ombudsman, NHRCs) in dealing with cases

Enforcement and Civil Society Oversight

SUGGESTED ISSUES WHERE LESSONS NEED BE COLLECTED		SPECIFIC COMMITMENTS ADOPTED BY CORE GROUP	
<ul style="list-style-type: none"> Police Reform 		<i>Bangladesh: outsource a study on police reform</i> <i>India: provide lessons learnt on community policing.</i>	
<ul style="list-style-type: none"> Good practices on justice programmes that have successfully incorporated enforcement/ civil society oversight elements 			
<ul style="list-style-type: none"> Enforcement of economic, social and cultural rights in public administration 			
<ul style="list-style-type: none"> Transparency and disclosure of information as means to promote accountability and participation 			
KNOWLEDGE REQUIRED ON CAPACITY TO PROVIDE EFFECTIVE REMEDIES FOR SPECIFIC DISADVANTAGED GROUPS			
Urban/ Rural Poor	Women	IPs,, minorities, migrants and IDPs	Persons living with HIV/AIDs and persons with physical/mental impairment
	Capacity development of law enforcement agencies <i>To be included in Bangladesh' and India's studies</i>	Define mandate of informal system for minor crimes/sentences	Innovative prison reforms Media practices Existing medical perceptions (codes of conduct, charters)

OTHER PRACTICES/LESSONS EXPERIENCES REQUIRED

ISSUES	COMMITMENTS
<ul style="list-style-type: none"> Constituency/partnership building for legal and judicial reforms 	<i>Iran: provide lessons learnt on partnerships</i> <i>(Tentative) Cambodia may outsource constituency building study</i>
<ul style="list-style-type: none"> Baseline study and indicators on access to justice by the disadvantaged 	<i>Philippines: provide experiences and lessons learnt on baseline/ indicators</i>
<ul style="list-style-type: none"> Undertaking integrated justice reforms 	<i>Bangladesh: provide lessons learnt</i>
<ul style="list-style-type: none"> Strengthened coordination within UNCTs on access to justice 	<i>China: provide experiences and lessons learnt (UN Think Group on Rule of Law)</i>

B. Reaching out to external partners: Outsourced Research, Participatory Consultations at the country level and second Regional Workshop

The workshop highlighted that UNDP has significant experience and individual knowledge on access to justice by disadvantaged groups in the Asia Pacific region, although they require an effort of systematisation and dissemination. Similarly, certain issues require a deeper assessment involving those being affected by the problem (claim-holders and duty-bearers), and stronger linkages with external partners with adequate expertise and networks.

Participants indicated that reaching out to external partners in sub-practice development has four major objectives:

- To strengthen UNDP's position in access to justice development cooperation, by expanding the visibility of UNDP's activities and expertise.
- To broaden the Rights and Justice Network and bringing external partners to the community of practice
- To enhance ownership by programme partners in the assessment of access to justice issues and programme development.
- To access external knowledge.

1) Outsourced research

Some of the issues where lessons and experiences need be collected cannot be addressed from within the existing capacities in the organisation (e.g. interface between formal and informal systems for the adequate protection of rights). There is a need to enhance such capacities by tapping external expertise.

Some practitioners suggested to outsource specific studies at the country level under their existing access to justice programmes. At the regional level, Terms of Reference for studies addressing major areas for knowledge development will be prepared by the Network and commissioned to strategic partners. External partners may bring not only the expertise required, but also the necessary networks to sustain UNDP's partnerships and knowledge in those areas. Whenever possible institutional, rather than individual capacities will be sought. The workshop undertook a preliminary identification of countries that could contribute with experiences and relevant information to possible areas for outsourced research.

2) Participatory consultations at the country level

According to the principle of participation, involving claim-holders and duty-bearers in the assessment process is not only a major requirement of a rights-based approach to development, but also an effective means to obtain a clear picture of the issues and to expand UNDP's networks and partnerships for justice programming.

Small group discussions identified the type of information to obtain through consultations and the type of partners to involve, including disadvantaged groups. Participants reflected on the obstacles those groups face to participate effectively, and defined strategies to overcome them. The group also indicated specific roles UNDP programme officers need to play in participatory processes.

The objective of participatory consultations is to shed light on needs and capacities regarding access to justice, as well as information on justice-related policies and programmes. This will require involving different type of partners in a series of consultations, including:

- Relevant NGOs and civil society organizations (think tanks)
- Local communities (community-based organizations and local councils)
- Relevant government agencies and policy makers, including law enforcement agencies and national human rights institutions
- Relevant development partners

Involving disadvantaged groups in participatory processes raises particular challenges for UNDP officers. The following table presents some of the obstacles disadvantaged groups may face to participate effectively, and related strategies identified to overcome them:

Table 3: Some obstacles faced by disadvantaged groups in participatory processes and strategies to overcome them

OBSTACLE	STRATEGY
Lack of outreach/ access	○ <i>Building rapport with trusted/ credible partners</i>
Groups may feel intimidated or may fear reprisals	○ <i>Assurances of confidentiality</i>
Narrow/ localized understanding/ awareness	○ <i>User-friendly approach</i>
Negative previous experience with participatory processes may discourage	○ <i>Promote participatory involvement in design of projects</i>
Institutional bias (depending on local partners)	○ <i>Sensitise local partners/ institutions on participatory processes</i>
Socio-economic condition/ status	○ <i>Highlight participatory process is empowering and allows advocating for problem recognition</i>

UNDP Programme Officers will play a key role in undertaking participatory consultations, and Country Offices willing to embark in such processes need to support them in terms of staff time and facilities. Programme officers would need to perform specific activities, such as:

- Exchanging information among COs focal points/ SURFs
- Familiarise themselves and their partners with basic methodology for participation
- Identify/ select partners for participatory consultations
- Share information/ transfer knowledge to partners
- Build trust/ relationships through consultative processes
- Use the A2J Network for facilitation, identification of expertise, etc.

Discussions highlighted the need to communicate to partners that the aim of these participatory consultations is to develop UNDP's capacities to provide them with adequate knowledge, and that involving national partners in such processes could help them broaden or refine their current access to justice programmes.

Sri Lanka CO volunteered to share with the network the methodology it has developed for participatory consultations. Bangladesh, Nepal and Sri Lanka offered to undertake and share lessons on participatory processes. Mongolia committed to share its experiences in this regard, and it might undertake further consultations on specific issues (e.g. women's access to justice). Other practitioners indicated they would share the idea with their respective Country Offices and get back to the Network with possible further commitments in this regard.

3) Second A2J Regional Workshop

A second Regional Workshop was scheduled for the end of September 2003. This workshop will be held back to back with the planned Regional Seminar on the Elimination of Discriminatory Practices in the justice sector, which is being currently organised by the Oslo Governance Centre, in order to build on its inputs and partnerships.

The second regional workshop will seek to broaden UNDP's knowledge on access to justice and to refine the final products of the Rights and Justice Initiative (primer, credentials, guide to entry points, knowledge map and web page), as well as to strengthen UNDP's partnerships and networks at the regional level.

The core group established a planning committee for the Second Regional Workshop, including practitioners from Bangladesh, Fiji, India, Indonesia and Iran. This report suggests extending that type of arrangement (task-oriented committees) for other major activities.

The plenary suggested a number of potential issues that the workshop could cover, such as:

Potential issues suggested for the second A2J regional workshop	
5) Justice sector reform: general	<ul style="list-style-type: none"> • Integrated justice sector reform • Initiating reforms in the justice sector to make it pro-people. • Equal access to courts and equality before the law. • Women and access to justice • Synergy of UN agencies and international partners on access to justice programming
6) Normative protection	<ul style="list-style-type: none"> • Closing the gap between reality and legality • Participation of disadvantaged groups in creating normative/legal frameworks. • Advocacy of human rights for ratification. • Conflict international conventions and customary law/domestic legislation. • Pro-poor legislation • Justiciability of economic, social and cultural rights • Eliminating discriminatory legal frameworks
7) Legal empowerment: information, counsel and access to justice services	<ul style="list-style-type: none"> ▪ Legal aid development. ▪ Empowering people to avail justice

<ul style="list-style-type: none">▪ Empowering of vulnerable groups towards access to justice▪ Legal literacy and awareness: role of ICT, media and civil society▪ Enhancing vulnerable groups' access to justice▪ Innovations in reducing costs of accessing justice▪ New IT tools in legal information and justice delivery• Legal literacy as a tool for empowerment
<p>8) Capacity to provide effective remedies:</p> <ul style="list-style-type: none">▪ Independence of judiciary to enhance access to justice▪ Role of ADR in access to justice▪ Corrupt and discriminatory practices▪ Incentive structures as impediments to reform and as elements of reform processes▪ Human Rights and informal/indigenous mechanisms of justice▪ Linking the informal and formal justice sector to enhance quality of justice▪ Public interest law as a weapon of the weak▪ Reforming lower judiciary through modernisation and improved civil society interface▪ Media reporting to strengthen "control" on justice sector
<p>9) Some suggested structures for workshop</p> <ul style="list-style-type: none">▪ Two parts: 1) Identification of disadvantaged groups (in A2J) through the region - may be Country presentations with a moderator who will summarize similarities and differences. 2) Targeted interventions (success stories, best practices)• Two parts: 1) Vulnerable groups and access to justice. 2) State responsibility as "duty-holder" to facilitate access to justice.

C. Strengthening the Asia Pacific Access to Justice Network

Strengthening the Network of Practitioners is not only a major activity in the initiative's process, but also its major expected result. This raises issues such as strategies for effective e-networking, how to expand the network and to whom, and how to go beyond "virtual" networking.

The core group of access to justice practitioners is an evolving group, which means that Country Offices who were unable to attend the regional workshop or who have not joined the network so far will continue to be encouraged to participate and join their colleagues in taking the initiative forward.

E-discussions in the Network will be strengthened by encouraging the group's commitment to participate, and by rotating responsibilities for facilitating discussions on different issues, on a voluntary basis. The group suggested examples of broad themes that could be the subject of specific e-discussion, such as queries and comments on programmes and initiatives, and thematic discussions on specific access to justice areas, including:

- Translation of human rights to laws, regulations and customary practices
- Corrupt and discriminatory practices in the justice system (police, judges, court administration, prosecutors and lawyers)
- Reform of the criminal justice system, including courts, prisons and police.
- Challenges to access justice in conflict situations.
- Strengthening alternative dispute resolution mechanisms

- Strengthening national human rights institutions
- Legal empowerment: legal awareness and paralegal work
- Establishment of model/pilot courts.

However, a major challenge for the Rights and Justice Initiative remains going beyond virtual networking. Practitioners' support to each other is needed to extract lessons and comparative experiences. The initiative plans to support substantive networking in knowledge development through a number of strategies, including:

- Encouraging joint work in collecting lessons through the establishment of a "peer group" system (where members of each group are in charge of reviewing each other's drafting of lessons).
- Use of the Mutual Support Initiatives (MSIs) schemes through SURF facilitation.
- Joint internships (of 2 to 3 practitioners at the same time) at the SURFs to complete extraction of lessons and good practices.

Finally, there is a need to strengthen the network by expanding it to other partners, and enhance the initiative's outreach through networks of networks. Some specific activities required in this regard are the following:

- Open the network to external partner in stages, and allow for the inclusion of focal points in other regions.
- Encourage Network members to propose strategic external partners that could join.
- Include outside partners in the discussions.
- Include an URL registry in the AP-A2J web page to know who is connected.

D. Partnerships within UNDP

The workshop highlighted that maximizing partnership opportunities within UNDP is essential for sub-practice development. Discussions on partnerships stressed the role the Oslo Governance Centre (OGC) can play in helping practitioners to extract lessons and practices from their programmes, and link them to current initiatives at the global level. Organizing the second AP-A2J regional workshop back to back with a regional justice seminar being coordinated by the OGC is an example of agreed mechanisms for mutual cross-fertilization. It was also suggested to strengthen information flows so that regional practitioners can contribute to global products and publications.

A PARAGON presentation provided participants with a comprehensive picture of regional UNDP initiatives on access to justice. As a consequence on its concern for human security, PARAGON presents multiple areas for cooperation. These could potentially include the review of national legislation and capacities to translate and implement human rights treaties, the role of civil society in identifying legal and justice shortcomings, and the promotion of social audits and civil society oversight, among others. Given the wide range of opportunities for cooperation, the Community of Practice and PARAGON will specify concrete steps/initiatives that can be strategically taken in this regard.

The workshop considered a strong partnership potential existed with the global programme HURIST (Human Rights Strengthening), as its focus is on the practical implementation of a rights-based approach to development. Consultations with the HURIST Team may help identify specific initiatives in this respect.

E. Consolidated Work Plan

ASIA PACIFIC RIGHTS AND JUSTICE INITIATIVE: CONSOLIDATED WORK PLAN

ACTIVITY	STEPS	April	May	June	July	Aug	Sept	Oct
EXTRACTION OF COMPARATIVE EXPERIENCES AND LESSONS LEARNT	○ Assignment of responsibilities in the extraction of lessons (individual tasks and peer system)							
	○ SURF to provide draft methodology for the extraction of lesson learnt		May 30					
	○ Guidelines discussed and finalized by the Network			June 6				
	○ Write-up process							
	○ First draft of lessons learnt				July 4			
	○ Peer review of lessons learnt				July 15			
	○ Submission of consolidated lessons learnt pieces				July 31			
	○ Edit and finalize UNDP piece on lessons learnt						Aug 31	
○ Disseminate piece in Network								
OUTSOURCED RESEARCH	○ Appointment of planning committee, on a volunteer basis		May 27					
	○ SURFs provide draft ToRs for outsourced research			June 6				
	○ Planning committee to finalize ToRs			June 16				
	○ Identification of potential research partners			June 21				
	○ Hiring of services				July 8			
	○ Research process							
	○ Submission of research						Sept 21	
	○ Disseminate research in Network							

ACTIVITY	STEPS	April	May	June	July	Aug	Sept	Oct
PARTICIPATORY CONSULTATIONS AT THE COUNTRY LEVEL	o Identify COs willing to undertake participatory processes		18 May					
	o Provide methodology			June 6				
	o Planning specific processes and time frames			June 16				
	o Identify partners and outreach to them			June 29				
	o Share knowledge on participatory consultations with partners							
	o Conduct consultations					15 Aug		
	o Prepare reports (SURF to prepare format for reporting)					25 Aug		
	o Consolidate results					31 Aug		
	o Network dissemination of lessons							
SECOND REGIONAL WORKSHOP	o Appointment of planning committee, on a volunteer basis, and suggestions for broad workshop themes	29 April						
	o Identification of relevant partners (judiciary, government, CSOs, academia, media, parliaments, national human rights institutions)			End June				
	o CO consultations with partners							
	o Definition of workshop “packaging”, refining of agenda and identification of resource persons							
	o Invitations/ outreach							
	o Conduction of workshop							End Sept- Beg Oct

ACTIVITY	STEPS	April	May	June	July	Aug	Sept	Oct
STRENGTHENING AP-A2J NETWORK	o Further discussions in Network (two issues/month) with rotating facilitation							
	o Establishment of peer groups		May 15					
	o Knowledge collection through mutual support, internships, etc.							
	o Involving external partners: defining modalities/issues for participation			June 31				
	o Identification and outreach to external partners							
TOOL DEVELOPMENT	o Establishment of a planning committee on tool development, on a volunteer basis		May 31					
	o Web-page development			June 31				
	o Preparation of terms of reference and broad contents of primer, credentials and guide to entry points (SURF to provide draft)				July 15			
	o Discussion of ToRs in the Network				July 31			
	o Preparation of draft tools						Sept 1	
	o Discussion of drafts in the Network							
	o Finalization of draft tools at workshop						End Sept	
	o Editing							21 Oct
	o Dissemination of tools							

6. WORKSHOP EVALUATION

Practitioners provided a positive feedback on the results of the workshop. They collectively agreed that general workshop objectives had been achieved, and completed individual workshop evaluations.

All participants stated that their capacities to develop the sub-practice had been significantly increased as a consequence of attending the workshop, which had satisfactorily met their expectations. Their major learning was realising of UNDP's real opportunity to move the AP-A2J initiative forward, and that doing so will considerably enhance UNDP's capacities and role in the region. This encouraged them to take risks in practice development. However, some participants pointed at internal risks such as lack of adequate senior management support at the Country Office level.

Practitioners appreciated the opportunity to share lessons and learn from what others were doing, which allowed to identify opportunities for cooperation. The framework of analysis was found useful, simple and practical. Some concerns were raised on the short duration of the workshop and the limited time available for discussions. Most participants agreed there was inadequate reporting in plenary.

7. LESSONS LEARNT FROM THE WORKSHOP

A) ON THE WORKSHOP PROCESS

- Ownership and assumption of commitments were facilitated by involving participants in previous consultations on both the process and substance of the AP-A2J initiative.
- The lengthy, yet rewarding process of consultation on the scope of the sub-practice prior to the workshop resulted in the presentation of a comprehensive and useful analytical framework for validation, which facilitated assessment and systematisation of tasks.
- Through consultations on the process and during the workshop, participants were made aware of their role as core group members. They were also requested to perform tasks prior to the workshop such as preparing country presentations and lessons learnt. Internalising their role as core group members facilitated later commitments.
- Involving all participants in the identification of required lessons and devoting time during the workshop to make specific commitments also facilitated the assignment of tasks.
- The community of practitioners engaged in discussions with a non-hierarchical spirit, demonstrating clear ownership of the initiative by their active participation and their willingness to commit time and energy to develop specific outputs. Facilitation ensured an informal yet working-intensive atmosphere, and a flat structure for discussions so that all participants would be able to provide inputs. Brainstorming techniques in small group discussions proved useful in this regard.

- Facilitators devoted considerable time and resources to workshop preparations, which required coordination between the two SURFs. However, careful preparations resulted in clear workshop objectives and specific objectives per session, which allowed for effective monitoring of process and results.
- The workshop flow combined substantive inputs with practical sessions on assessment and planning. Workshop sessions were linked among each other, with each session building on the results achieved in previous ones. This facilitated individual learning and overall achievement of results.
- Time constraints prevented adequate reporting in plenary and therefore the learning potential of the workshop was not fully maximised. Half a day more for the workshop would have allowed for better internalisation of learning. A better consideration of time demands in planning should have allowed for more time.
- The workshop strengthened networking and team building among participants, although restriction of movement due to internal events in Kathmandu prevented participants from sharing experiences outside the workshop premises.

B) ON PRACTICE DEVELOPMENT

- A bottom-up approach facilitates empowerment and accountability in practice development. A participatory approach demonstrates that significant strengths within the organization can be mobilized through adequate incentives (in terms of learning expectations), encouragement and support to assume commitments.
- Knowledge sharing and networking are strategies for internal capacity development. During the workshop, UNDP practitioners were provided with the opportunity to engage in knowledge sharing, and also with analytical and planning tools for group work discussions. This managed to strengthen their overall capacity (defined as the ability to perform functions, solve problems, and set and achieve objectives).
- Systematized stock-taking, even in a relatively “new” area such as access to justice, demonstrates UNDP enjoys considerable experience and expertise to achieve quality results in knowledge development; use of external consultants needs to be strategic so that knowledge responds to practitioners’ needs and stays within the organisation.
- Practice development requires assessing current UNDP’s position and opportunities within the practice’s scope. Having a rationale to analyse access to justice (definition and scope), facilitates an overall picture of issues and possible strategies, and helps identify UNDP’s position and comparative advantages. A rights-based approach has proven useful as a framework for assessing the sub-practice and define UNDP’s niche.
- Applying a conceptual framework in sub-practice development helps to systematize knowledge, rather than simply collecting information, allowing for learning from the process of collecting information itself.

- Organisational capacity development requires more than individual capacities. The challenge for the next months is to ensure adequate institutional capacities are developed for effective sustainability, and adequate channels are built to strengthen interaction and synergies between individual capacities and organisational ones.