



**ASIA-PACIFIC
RIGHTS AND JUSTICE INITIATIVE**

**LESSONS FROM OPERATIONALIZING
THE PRACTICE CONCEPT**

Consolidated by

*Kathmandu and Bangkok SURFs
March 2004*



1. Introduction:

Access to justice is critical for poverty reduction, and a major area of UNDP's Democratic Governance Practice. Inspired by UNDP's endeavor to become a knowledge-based organization and the organization's efforts to operationalize the concept of practice development, the Asia-Pacific Rights and Justice Initiative (AP-A2J) was launched in August 2002 as a substantively focused, results based and tightly facilitated regional practice initiative.

As such, it intended to complement the work of the large, mainly demand-driven global networks. The initiative aimed to build individual and organizational capacities by engaging UNDP Country Office practitioners in systematic knowledge sharing, action research and producing a toolkit as a (mainly) virtually coordinated team. For more information on the design of the initiative refer to the [process note](#).

In terms of substance, the AP-A2J initiative explored and conceptualized the links and synergies between access to justice and human rights and contributed to defining UNDP's niche ([UNDP Global Practice Note](#)) in this field. The initiative sought to ensure that the voices of disadvantaged people themselves, as well as those of institutions, form the basis of UNDP's work in this area.

This document explores the experience of the Asia-Pacific Access to Justice Initiative from a process and knowledge management perspective and aims to assess **what worked, what did not and why**. After a descriptive section (Part 2) that outlines the evolution of the initiative in a time-sequential manner and sketches some of its achievements (Part 3), Part 4 discusses the application of knowledge management in AP-A2J. The main part of the paper (Part 5) presents lessons emerging from the overall experience of the initiative and the implementation of major conceptual components of the initiative. Throughout the paper hyperlinks enable the reader to obtain more information on specific subjects if required.

2. Outline of the AP-A2J process

AP-A2J can be divided into five distinct stages since its launch in August 2002; the preparatory stage, the visioning workshop, the research and compilation phase, the 2nd(validation) workshop, the codification and tool development phase.

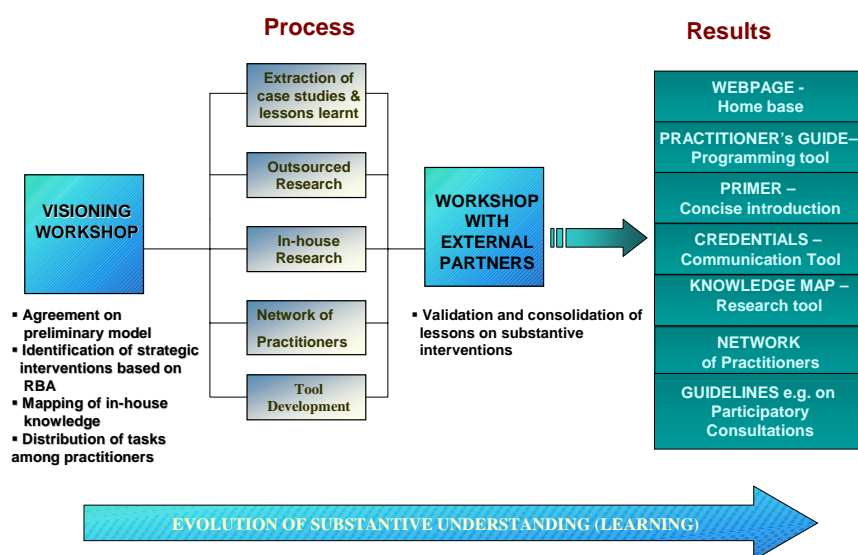
During the **preparatory phase** a methodology for a time bound, results-based network was identified through a small number of committed practitioners, a network and webpage was set up, network members were engaged in relatively "time-light" activities (such as the sharing of existing documents) and a management structure was established. It was soon recognized that meaningful knowledge codification was much more time

consuming than originally anticipated and that a full-time facilitator needed to be employed (see the [Terms of Reference](#)). With the additional human resource available for facilitation/management the initiative began to thrive.

After a process of internal consultations within the Network, in April 2003 a “[Visioning workshop](#)” was held in Kathmandu, Nepal, that set the substantive scope of the access to justice practice and established a work plan for practice development. With the facilitation of the Kathmandu and Bangkok SURFs, practitioners from a core group of 11 country offices defined knowledge needs to promote people-centred justice programmes, mapped UNDP’s activities in this regard, and committed to provide specific lessons depending on each country’s experience.

The **research and compilation phase**, where several activities to screen regional knowledge on access to justice took place in parallel (see below Figure 1), lasted from April to October 2003. UNDP internal knowledge was collected by field practitioners, and codified with SURF facilitation. 12 country offices¹ contributed 17 case studies with specific lessons and recommendations for access to justice programming. The Network also engaged with external partners to obtain lessons in areas where UNDP’s experience was considered insufficient. Simultaneously, internal research at the regional SURFs was taking place to screen additional lessons. The distillation of various inputs for the final tools also started in this phase.

Figure 1: Process and Products in the Asia Pacific Rights and Justice Initiative



In November 2003 these processes converged at a [second regional workshop in Sri Lanka](#), attended by 15 COs and 17 external partners. This workshop had a very different focus than the first one. While the visioning

¹ Including Bangladesh, Cambodia, China, Fiji, East Timor, India, Indonesia, Iran, Mongolia, Nepal, the Philippines, and Vietnam.

workshop screened the general field of access to justice and identified the areas where lessons could be and needed to be extracted, the second workshop focussed on discussing and validating the lessons (through CO case studies, outsourced studies and inhouse research) that had been compiled in the meantime.

Finally, the last phase of the initiative to date concentrates on the **distillation and packaging of the plethora of identified lessons into a number of tools²**, which aim to make the various experiences transferable for better and more targeted programming.

Throughout its “life cycle” the Asia-Pacific Rights and Justice Initiative evolved around the concept of a “**community of practitioners**”, presently involving approximately 30 UNDP staff from 17 Country Offices in the region, and supported by an electronic network of more than 80 members globally. This approach significantly influenced the quality and type of results of the initiative.

3. Results from using a Practice Approach

The use of a practice approach significantly influences the quality and type of results that were achieved. Figure 2 below provides a detailed results framework of outputs, outcomes and impact, which is complemented by feedback from participants of the initiative (see [documentation on results of the initiative](#)). Key results from using a practice approach include the following:

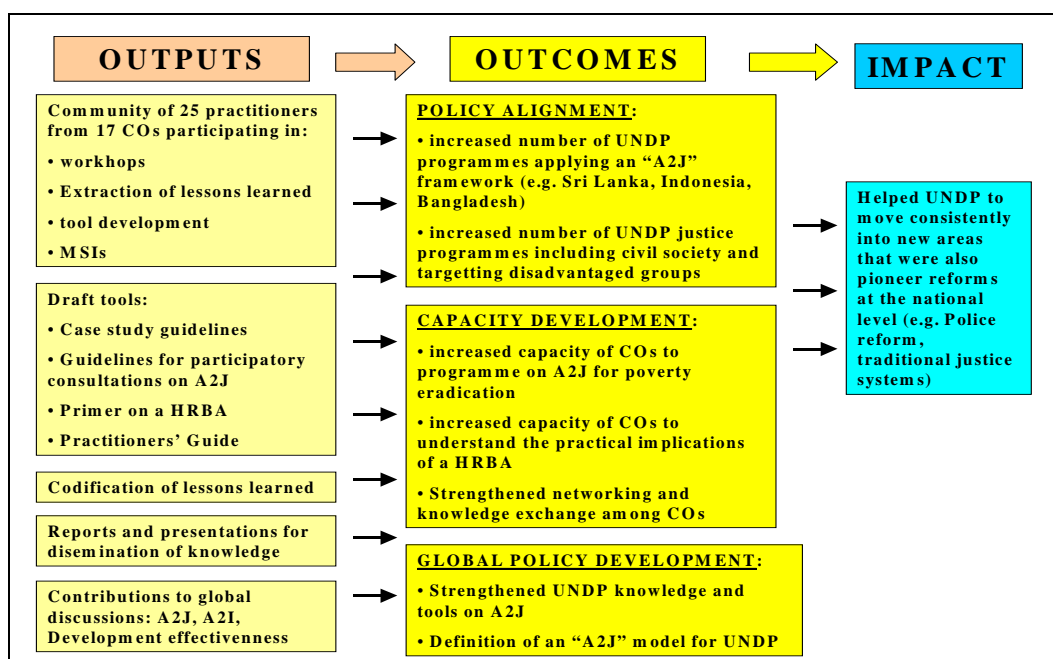
- **Knowledge codification and production of tools tailored to UNDP’s needs:** The tools that have been produced as a result of AP-A2J are tailored toward UNDP’s needs, largely due to an innovative process that systematically linked knowledge production to capacity development.
- **Capacity development of UNDP practitioners:** The process of AP-A2J developed the capacity of some thirty CO practitioners in the region. Over the past year, practitioners have developed substantial knowledge on access to justice, and instruments to apply it in policy and programme development. Learning channels included the two workshops (which were designed in a participatory format, thus being learning rather than training events) and tasks through which practitioners were engaged in rethinking their own work (e.g. extraction of lessons learnt). The network also reached some 80 members through electronic network activities, which resulted in additional learning and knowledge sharing.
- **Increased staff satisfaction and motivation:** Capacity development goes hand in hand with the intangible, but crucial benefit of increased staff motivation. Staff that contributed feel connected to fellow practitioners as part of a joint undertaking.

² Tool development occurred throughout the initiative. While some tools are necessary to gather lessons and collect information, phase 5 concentrated on knowledge codification tools.

They also feel empowered to work professionally in the A2J field. Hence AP-A2J is a motivated, dynamic network of UNDP staff able to perform effective roles in pursuing justice for development.

- Global policy development:** The Initiative has had a significant influence on UNDP policy development. Guided by UNDP’s human development framework and MDG paradigms a clear substantive niche for UNDP in access to justice was developed, which profoundly influenced the global Practice Note for UNDP. AP-A2J had an important impact on practice initiatives in A2J in RBEC, RBAS and RBLAC. The Policy Position on A2J that was drafted by the Initiative.
- Organizational learning in terms of operationalizing a regional bottom-up practice approach:** Besides carving a substantive niche, AP-A2J produced a wealth of lessons in terms of process and knowledge management methodologies. Also in this regard the Initiative has influenced the regional A2J initiatives in RBEC, RBAS and RBLAC. The lessons that are being distilled in this paper aim to further facilitate this process and to provide input into the global knowledge management strategy.

Figure 2: AP-A2J achievements



4. Using knowledge management in AP-A2J – process components and tools

“Knowledge Management (KM) can be defined as a collection of activities and processes, which enable people and institutions to apply knowledge to improve effectiveness, innovation and quality. The purpose of Knowledge Management is to turn individual knowledge into collective knowledge, thus potentially multiplying efficiency and quality of work of users”.

Why did AP-A2J use such an elaborate process to develop knowledge? The design was inspired by knowledge management precepts, according to which knowledge is difficult to capture and record, since it is created in the heads of people. Experience has shown that the means to capture complex knowledge, such as problem solving, most effectively is by providing platforms that facilitate knowledge sharing.

Communities of practice (or practitioners) (COPs), the core concept of Knowledge Management, are groups of people who share a concern, a set of problems, or a passion about a topic or thematic area, and who deepen their knowledge and expertise in this area by interacting on an ongoing basis. The value is in the collective knowledge of the participants, and is scalable to reach out to larger groups of participants. This is a particularly important approach for development practitioners whose *raison d’etre* is to regularly identify effective and innovative solutions to complex multidimensional development problems and challenges. Of course knowledge codification and electronic tools are important for knowledge management, but should be driven by CoPs.

Following this conceptual background, the AP-A2J endeavour of building individual and organizational knowledge had the following principles:

- Bottom-up or non-hierarchical approach
- Community of Practice and connection of people as the central concept.
- Practitioners and in-house staff as driving force, while external help was only sought as the last resort

The core group designed different components of the process and determined the various tools needed for practice development. This sought to accelerate the speed and enhance the quality of knowledge acquisition and application for practitioners. Knowledge management solutions aimed to address three capacity development/knowledge management challenges i.e. a) acquisition of UNDP in-house knowledge, b) acquisition of external knowledge and c) enhancement of individual learning. As shown in Figure 3 process components (the lessons of which will be discussed in part 5) and tools were designed as part of these knowledge management solutions.

OBJECTIVE: Accelerating the speed of K-acquisition

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.

Figure 3: Applying knowledge management in AP-A2J

The range of tools was designed to respond to a variety of capacity needs of a CO practitioners: familiarization of a subject and programming, communication, programming, research. The tools are as follows:

Programming tools:

- The **Primer** is a concise 5-page introduction into access to justice, designed for a newcomer to be familiarized in a minimum time period.
- The [Practitioner’s Guide to Access to Justice](#) is the most comprehensive tool and is conceptualized as a programming handbook, outlining typical obstacles and interventions to enhance access to justice for disadvantaged people.
- [Guidelines on how to conduct participatory consultations](#) in the justice sector

Other tools to assist CO practitioners’ work:

- The **Credentials** are being designed as a communications tool (a PowerPoint presentation) that can easily be adapted by CO practitioners for fundraising and advocacy, summarizing UNDP’s access to justice model, the gist of the organization’s work in the region and key lessons learnt.
- A **Knowledge Map** – a research tool that summarizes the best in-house and external resources on access to justice and human rights.
- These tools and a plethora of screened and annotated key resources are accessible on a single [Website](#) – the virtual home base of the Initiative.

Learning tools:

- This document “Lessons from Operationalizing the Practice Concept”, compiles lessons from AP-A2J in terms of process and the application of knowledge management.
- [Lessons learnt on the application of a rights-based approach to development](#) during the implementation of this initiative.
- Lessons learnt compilation on [UNDP A2J case studies in the Asia and the Pacific](#) that codifies UNDP access to justice case studies and analyzes lessons from in-house work.
- [Workshop reports](#) of two practice workshops documenting in detail knowledge development in substantive and process terms.

Tools to assist in the extraction of lessons:

- [Guidelines on the codification of case studies/lessons learnt](#)

5. What Worked, What Did Not and Why - Lessons Learnt from the Initiative

5.1. Overall lessons from the initiative:

Results-oriented communities of practice (CoPs) are a powerful approach to knowledge development: The AP-A2J experience is an important validation of the practice approach to knowledge development. Communities of practice have two distinct advantages in comparison to more “academic” approaches to knowledge development and codification. Involving practitioners from the field enhances the chances of achieving the twin objectives of (a) consolidating a policy position and tools in a sub-practice that is relevant to the field and (b) developing the individual and organizational capacity to translate it into action.

Relevant knowledge is difficult to find and develop: Much of the knowledge that UNDP practitioners need to improve their work is applied knowledge. This knowledge is situated at the interface of substance and process (namely how to address substantive development problems from a programmatic perspective) – knowledge that is very difficult to find externally, either in academia or in management consultancies. However, UNDP has not systematically codified that knowledge in the past – it resides in the people, not in the institution. This is why development of applied knowledge should rely considerably on in-house expertise.

Practice building is more resource-intensive than anticipated: Meaningful knowledge sharing, codification and development, which is facilitated through a practice approach, is immensely time-consuming. Lessons are rarely readily available in documents; more often they are dispersed in many sources, and need to be screened and adapted to be useful for knowledge development. What takes equally immense time and resources is (a) to implement an organizational learning and capacity

development process, (b) to distill raw inputs from practitioners and external partners, and (c) to crystallize a policy position backed up by useful tools.

As an example AP-A2J will have become a significant undertaking in both human (total of 2 1/2 work years) and financial resource terms (USD 230,000) at the expected finalization of the present stage in mid-2004.

Funding is necessary, but not from the beginning: Communities of practitioners evolve organically and don't necessarily have to follow a grand plan supported by resources right away. When funding was not forthcoming at the start, AP-A2J focused on a number of low-cost activities, such as the setup of a core group, a management structure, a network and a webpage (see chapter 2 – preparatory phase). Funding opportunities were pursued throughout the initiative in the effort to respond flexibly to emerging requirements.

Sub-practice as unit of analysis is useful: The analytical unit of sub-practice is a viable entry point for an initiative such as A2J that shared, codified and developed knowledge in a field that was relatively new for UNDP. As a result of the learning process during the initiative the analysis penetrated into more and more complex dimensions and led to the successive disaggregation of a once "plain" playing field. This led the initiative for example to focus the 2nd workshop around four priority areas within A2J. A follow up knowledge building exercise may have to focus on a few clearly defined key problems of A2J knowledge areas rather than the whole sub-practice. This is an indication of the organizational learning process that was achieved. The challenge with a narrowly defined theme, however, is to mobilize the interest of a sufficiently large number of practitioners working in different country situations.

Results-oriented regional networks can complement the global networks: There may be several comparative advantages of regional networks, if results are to be produced that need sustained collaboration of practitioners. First, a network of a limited number of practitioners that know each other increases the likelihood of individual contributions, especially if these contributions are significant in terms of time investment. In addition, the geographic limitations make it manageable in terms of scope and viable in terms of funding requirements. While the AP-A2J experience shows that regional networks can flourish and produce results, participation could have even been more extensive if knowledge sharing were seen as part of rather than an "add-on" to normal work. Incentives for this are still missing and impeding knowledge development initiatives.

Results-oriented networks need a clear conceptual framework: The second important precondition to make practitioners contribute and to achieve specific results in knowledge development is a clear conceptual framework. This was evidenced by the experience of the extraction of case study write-ups. Guidelines, a facilitation mechanism and a clear time frame resulted in a number of practitioners participating in the exercise.

While this may be a general lesson of results-based management, it is even more important when contributions are solicited from a variety of participants that interact with each other (mainly) virtually.

Strong facilitation is needed: It is unrealistic to expect that the facilitation of a complex process such as AP-A2J (especially of the outputs include the production of distilled tools) can be done as a side job. The process should be spearheaded by UNDP manager or policy advisor, but needs to be backed up by a full time facilitator that ideally has (a) relevant experience within UNDP, particularly in the field, and (b) a thorough understanding about the substance.

Because knowledge development initiatives are dynamic processes, it is difficult to predict from the outset the actual dimensions of research and the type of tools and products that need to be developed. In the case of AP-A2J the task facilitator got overburdened with the production of drafts, research, etc., that distracted her from more “facilitation” tasks. This harmed some of the components of the initiative, such as electronic discussions. Hence, the lesson is that because of the unpredictable nature of communities of practices it is important to respond swiftly and flexibly to **emerging resource requirements**.

Bonding is important for thriving CoPs: AP-A2J would have not led to the same achievements without face-to-face meetings that, apart from clarifying the conceptual framework and fostering a common objective were also about human interaction and trust building. This trust is indispensable to reduce the threshold that some people feel in sharing information on an electronic network.

Ownership is necessary: Another precondition for working together in the primarily electronic realm is ownership over the exercise. The AP-A2J experience demonstrates that a facilitation approach is more successful than an “expert” approach to build ownership. Apart from using a facilitation approach, face-to-face meetings and engaging practitioners in the tasks of the initiative served to build ownership. UNDP practitioners were driving the process, while external expertise was tapped only for specific purposes and as a last resort.

Knowledge development needs a delivery mechanism: If one trusts the premise of knowledge management theory that knowledge is primarily in people’s heads and therefore difficult to codify or transfer, it is essential that a process of capacity building includes elements of “connection” rather than only “codification”. This lesson was clearly validated by the AP-A2J, where the workshops were by far the most important elements of capacity development. Without the workshops, it would not only not have been possible to draw on field experience, but also not to develop the capacity of the “delivery mechanism”, i.e. the practitioners that are supposed to apply the knowledge.

Knowledge needs should be assessed before codifying: Because of the vastness of development knowledge it is essential to tie knowledge

codification to specific knowledge needs. Hence, a results-based initiative ought to (a) define what knowledge is needed, b) to identify whether it is available within the organisation, c) to identify how it can be provided.

Knowledge codification should take into account external lessons:

From the very beginning the initiative aimed to complement in-house lessons with external ones. During the initiative this approach was validated as UNDP lessons were available only in a few areas in of the sub-practice (perhaps 10% of overall lessons).

Not only experts can contribute: The AP-A2J experience demonstrates that in applied knowledge development there is often no clear dichotomy between “novices” and “experts”. Knowledge that is needed is often “practical” and “analytical”, where practitioners other than substantive experts can contribute significantly.

Substantive capacity needs to be complemented by other skills: If UNDP is to become a knowledge organisation, there is a critical need to develop in-house capacity not only in substance, but also in “consultancy skills”. Observations during the implementation of AP-A2J experience indicate that presentation and communication skills are especially important.

5.2. Specific lessons per activity

5.2.1: Electronic Network – ap-a2j@groups.undp.org (rating: partially successful)

Participation in the e-network was not always satisfactory. It regularly picked up after face-to-face workshops, but there were also periods where traffic was fairly low. This had possibly three reasons:

- Even despite the efforts to build ownership and trust as a tightly knit CoP there were not sufficient incentives for sustained contributions.
- The Network was used as a feedback and communication mechanism, but did not have a constant agenda to discuss specific topics (workshops were used instead).
- Although electronic discussions formed an original part in the work plan, overburden of tasks prevented paying sufficient attention to this component – other components that seek to produce tangible results (e.g. guidelines, reports and other tools) tend to be prioritised, as they have clearer deadlines.

The lesson emerging from this experience is that one should not overestimate the power of e-networks. They may be efficient for queries and dissemination of information, but are possibly not adequate for the production of knowledge. For this purpose it may be better to use very small virtual teams or workshops backed up by strong incentives.

5.2.2. "Visioning Workshop" (rating: very successful)

The visioning workshop (see [agenda and workshop report](#)) was one of the very successful activities of the initiative. Some of the parameters that explain why it was so successful include the following:

- **Participatory preparation:** The lengthy, yet rewarding process of consultation on the network prior to the workshop resulted in the fact that the workshop could start with a common denominator. Hence an analytical framework could be presented for validation rather than discussing the basics.
- **Clear distribution of roles:** Through consultations before 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 (using templates to ensure uniform presentations) and lessons learnt. Internalising their role as core group members facilitated later commitments and their accountability to the network.
- **Non-hierarchical workshop atmosphere:** The community of practitioners engaged in discussions with a non-hierarchical spirit, actively participating and demonstrating their willingness to commit time and energy to develop specific outputs. Facilitation ensured an informal yet work-intensive atmosphere, and a flat structure for discussions so that all participants would be able to provide inputs.
- **Action-oriented agenda:** The workshop was divided into four sections, using a participatory process to translate a complex substantive framework into action:
 1. Definition of the substantive scope of the practice (A2J model, the "what")
 2. Application of a rights-based methodology to define the analytical framework (the "how to analyze")
 3. Application of practice (knowledge management) principles and components to translate the analytical framework into action (the "how to manage")
 4. Planning of next steps, distribution of tasks and commitment session.

Hence, 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.

5.2.3 Extraction of Case studies (rating: partially successful)

Case studies were written up (see [Codification of Case Studies](#)) to capture the in-house knowledge (lessons learnt from experience) of UNDP on A2J issues. For reasons of capacity development the initiative sought to engage practitioners to write up their own experiences. The initiative also emphasized the usefulness of extracting failure lessons rather than only lessons from success.

General Lessons:

- **Clear guidelines** are essential for meaningful knowledge codification. The Guidelines developed under AP-A2J (link to guidelines) included a series of questions/issues to facilitate the extraction of substance, process, and operational lessons of CO cases.
- **More UNDP capacity is needed** to draw out lessons learnt. Lessons learnt are the transferable core of a localized experience, which makes them a key element of knowledge management. This is why to reflect and write up lessons learnt so that they can be applied in different situations is an essential skill for practitioners in a knowledge-based organization.

In the case of AP-A2J the quality of case studies drafted by practitioners was widely differing. Often, case studies generated too country- or project specific knowledge. One lesson learnt was that professionals that work in multiple countries have a significant advantage to extract lessons in a sufficiently transferable way.

- **Learning lessons from failure** is as important as learning from success (this is why AP-A2J focused on “case studies” and “lessons learnt” rather than on “best practices”). Analyses as to why certain strategies failed and how UNDP responded can often provide considerable insights. While the Initiative tried to clarify this again and again, actual case study write-ups were often still preoccupied with reporting achievements.

Process lessons:

- The Visioning Workshop was key to obtain **commitment** from the practitioners; it is unlikely that this would have been obtained merely through e-discussions. It worked well that the workshop had a dedicated session to obtain commitments from the practitioners.
- The process for the write-up of case studies included virtual groups of four practitioners that were tasked to conduct a **peer review** of advanced drafts. These peer reviews did not happen as expected, probably because of capacity gaps or the time involved in the task. While peer reviews can be a powerful tool in the case of A2J the incentives it did not work, possibly due to a lack of incentives.

- The initiative also experimented with a “**lessons learned workshop**” to bring several practitioners together in order to write up case studies. This approach aimed to enhance mutual learning and to ensure minimum distraction from everyday duties. However, the workshop was only partially successful, as people came unprepared and much of the information needed to complete the write up was not available. Other problems were that the workshop was insufficiently structured and that it was conducted at the SURF office, rather than in a retreat environment.
- According to the AP-A2J experience the most efficient way to extract case studies and lessons is simply to **ask various stakeholders**, structuring questions according to knowledge needs, rather than extracting information from project or other documents.

5.2.4. Outsourced research (rating: very successful)

In areas where UNDP did not have sufficient expertise e.g. police reform, prison reform, linkages between formal and traditional justice system, etc.) AP-A2J, in cooperation with the relevant COs, contracted external partners – both academic institutions and NGOs – to conduct action research studies to obtain an additional set of lessons (see [Terms of Reference for outsourced research](#); see [research papers](#)).

- The quality of research is better, if the contracted institution and researchers have **both analytical and practical experience**. This may have been the reason why some of the NGO papers were of better quality than the academic papers.
- Outsourcing research to (regional) institutions that have already extensive experience in a certain area can be a **cost effective** way to capture additional lessons.
- **Partnerships** are sometimes more important than the quality of the papers. In two cases AP-A2J had to accept papers of limited quality for the sake of keeping the CO partnership with NGOs/academia.

5.2.5. In-house research (rating: partially successful)

Extensive in-house research was (and still is) conducted in the SURF to complement the range of lessons emerging from CO case studies and outsourced research. Hence, the purpose of in-house process was not to miss out on the lessons that are readily available.

- **UNDP knowledge is often only a small part** compared to external knowledge. Complementing knowledge from experience with lessons through research is important, especially for the development of comprehensive tools.

- **Clear guidance is needed** for screening the plethora of resources available. During research on specific topics it is essential to go beyond Internet research. Practitioners and external partners can help to guide internal research by providing resources.
- **Research support is necessary.** In the case of AP-A2J a research assistant was hired to support the capacity of the Task Facilitator, although only for three months. Insufficient research support resulted in delays in the finalization of tools and products. Research support needs should be realistically assessed from the beginning and ideally be provided throughout the process.
- In several cases AP-A2J offered **short fellowships to practitioners**, during which they visited the SURF and conducted research on specific topics under close guidance. The experience with this modality (which was arranged under the business process of the **SURF Mutual Support Initiative**) for both sides was extremely positive. For CO practitioners it was a welcome break from their everyday tasks to work on substantive matters; the practitioners provided critical research inputs for the Initiative.

5.2.6. Second workshop – “Practice in Action” (rating: very successful)

Activities 5.2.3. - 5.2.5 were converging in the second workshop of the initiative that included CO practitioners and external partners. The objectives of the workshop (see [workshop agenda](#)) were basically twofold: a) to validate the interim results from case studies, outsourced research and in-house research, and (b) to serve as a learning event in areas of limited in-house expertise. The workshop report further consolidated AP-A2J's substantive framework.

- The workshop was a **reflection of the learning process that UNDP had undergone on A2J**. While two years ago it might have been difficult to fill an agenda with relevant access to justice issues, now it was felt that the workshop timeframe prevented many important issues to be adequately examined in three days.
- The **mix of internal and external participants** proved very beneficial for knowledge development. It gave the Network the opportunity to validate its own framework with external perspectives, and to obtain new insights on issues where UNDP's experience is lacking.
- Given the presence of non-UNDP participants it was more challenging to ensure an informal atmosphere throughout the discussions. The workshop was nevertheless successful as it responded by allocating adequate time outside the workshop sessions to strengthen personal contacts, on the premise that a community of practitioners is first about connecting people and then about collecting knowledge.

5.2.7 Tool development

The lessons on tool development are limited at this time, as the Initiative is still in the process of completing this task. However, it can already now be confirmed that it is an extremely challenging and time-consuming process. Some of the principles that are followed in preparing the tools are:

- Thorough assessment of UNDP's knowledge needs as starting point
- Reduction of practitioner's time to acquire knowledge as objective
- Rigorous prioritisation and screening of resources
- High-quality analysis
- Avoidance of re-inventing the wheel – re-packaging of screened resources that are already available

5. Conclusion

Practice development, which is an innovative way of developing organizational knowledge and capacity, works, but it is a complex and time-consuming process. This is the core lesson from the experience of the Asia-Pacific Rights and Justice Initiative. We believe that the results – *tailored* and *relevant* tools, and capacity to *apply* knowledge – warrant this process. Technically, tools and knowledge products can also be developed by policy advisors or external experts in isolation, but then the result is a document, which is information, not knowledge. A practice approach is critical to ensure that knowledge produced is “shared” rather than “shelved”.

ANNEX 1

ENHANCING DEVELOPMENT IMPACT THROUGH CAPACITY DEVELOPMENT IN A RIGHTS BASED APPROACH TO JUSTICE PROGRAMMING IN ASIA AND THE PACIFIC

1. Context

The **Asia-Pacific Rights and Justice initiative** was launched in August 2002 following several months of consultation with UNDP field and headquarters staff to explore and conceptualise the links and synergies between access to justice and human rights and to contribute to the definition of UNDP's niche in this field. The initiative is part of the global UNDP work in one of the six sub-thematic priorities of the democratic governance theme, namely access to justice and human rights. A human rights approach to access to justice concentrates directly on the rights of disadvantaged people by adding *inter alia* a participatory approach to institutional reform, and ensuring their voices are being heard and responded to. For the purposes of this initiative, "disadvantaged groups" are considered to be those who face special difficulties and obstacles in accessing justice, including women, religious and ethnic and other minorities, persons living with HIV/AIDs, persons with physical/mental impairment and other groups relevant to the Asia-Pacific region³. The initiative is based on a broad definition of the justice sector, including government and non-governmental institutions, laws and policies involved in the administration of justice, as well as institutional human rights systems. In line with BDP's role in practice development, the initiative is facilitated by both the Kathmandu and the Bangkok SURFs.

Several results have been achieved to date:

- The development of a methodology for a time-bound, results-based network
- The set up of a network and web-page (<http://intra.undp.org/bdp/surf-wsa/ap-a2j>)
- The compilation of existing documents in that web-page through the contributions of different network members.
- The initiation of significant work on a knowledge map on access to justice and human rights.
- The establishment of an institutional structure (steering committee and core group)
- The establishment of a partnership with OHCHR to implement the rights-based approach, with due regard to the different mandates and approaches in the field of human rights.

2. Objectives

³ For example, migrant workers, those displaced by conflicts, members of "scheduled" castes or tribes etc. While juveniles are often a disadvantaged group, UNICEF's substantive work in this area should provide the needed guidance and knowledge in this regard.

- 1) To develop capacities of UNDP Country Offices in Asia and the Pacific for undertaking a rights-based approach in the design and implementation of access to justice-related programmes.
- 2) To strengthen knowledge sharing among UNDP practitioners, operationalizing the notion of a community of practice that works together to enhance UNDP's overall capacities and knowledge.
- 3) To refine UNDP's work in the sub-practice area by bringing a human rights approach to access to justice. Defining UNDP's niche in the justice sector and strengthening the position of access to justice within overall UNDP policy will be facilitated by providing international comparative experiences, that can in turn be linked to the similar on-going process in Latin America .
- 4) To expand UNDP's networks in the justice sector at national and regional levels, in order to promote its role as a key partner in Asia and the Pacific.
- 5) To strengthen individual capacities of UNDP programme staff as valuable organizational resources in the justice field.
- 6) To develop rights-based tools and methodologies that will be useful for other UNDP access to justice practitioners.

3. **Outputs**

- 1) **A regional community of practitioners** in the sub-practice area of access to justice.
- 2) A **toolkit** for practitioners consisting of (i) *credentials* (a communication tool summarizing UNDP's work and comparative advantage in the area of access to justice), (ii) *a primer* (concise introductory document for practitioners new to the area), and (iii) a *guide to options for entry points* in the sub-theme.
- 3) A **knowledge map** on access to justice and a rights-based approach to development.
- 4) A **web-page** on access to justice and human rights approach to development.

4. **Process**

The current phase of the initiative is expected to end by December 2003. The process is based on the following premises:

- **Active involvement and participation of Country Offices and field staff**, aiming to:
 - a) Strengthen their knowledge on access to justice and their capacities in assessment, analysis and programme design from a rights-perspective.
 - b) Expand their networks within the country and with relevant regional and international partners in the justice sector
 - c) Strengthen institutional learning through knowledge sharing and codification.
- Respecting **basic requirements of a rights-based approach**, particularly including participatory dimensions and focusing on the

concerns of disadvantaged groups as well as on the capacities of institutional duty-holders to respond to such concerns. The initiative will take into account CO's needs for further familiarization with a rights-based approach to development to pursue this objective.

- **Practice orientation:** In line with UNDP's efforts to build vibrant communities around thematic (sub) practices the initiative will be active in identifying linkages and seeking partnerships with RBAP, BDP/IDG, the Oslo Governance Center, and programmes such as PRAJA, GOLD, PARAGON and HURIST under which complementary activities can be pursued as a result of the possible identification of entry points – e.g. scanning of national legislation in the region. Results and lessons will be shared with the larger UNDP networks, such as DGPN and HURITalk.
- **External partners** – governmental, non-governmental and inter-governmental, active in the justice sector (such as DFID, ADB, the World Bank, Asia Foundation, the Ford Foundation, etc.) will be invited to participate in the initiative, sharing their knowledge and experiences on the justice sector in Asia and the Pacific. A **special partnership with the Office of the UN High Commissioner for Human Rights (OHCHR)** will provide professional expertise on human rights as required, and help identify relevant national partners, particularly among NGOs.

This document presents **suggested steps** to carry the initiative forward. Such steps reflect only an indicative outline of the process; therefore they may be revised and adapted in the course of implementation. Furthermore, not all steps should necessarily include all participants in the initiative. Some activities – and particularly the consultation process (step 4), may only take place in a few pilot countries where national circumstances and availability of staff time allow doing so.

Therefore, the following steps are suggested:

- 1) **Identification of COs and their respective focal points** willing to participate in this phase of the initiative. The draft objectives, outputs and suggested process will be shared among focal points for discussion, fine-tuning and finalization.
- 2) In consultation with CO focal points, preparation of a **2-day regional workshop**, to be held at the end of April, in order to
 - a. Establish a basic conceptual framework for access to justice from a rights-based perspective that provides a rationale for information gathering and collection of good practices at the country level.
 - b. Develop a common approach to information gathering in pilot countries willing to undertake in-country consultations. The approach should include participatory dimensions and ensure the concerns of most disadvantaged groups among the poor are included, particularly women, religious and ethnic minorities,

- persons living with HIV/AIDS, and other groups relevant to the Asia-Pacific region.
- c. Brief participants on how to collect success stories and distil lessons learnt from projects and programmes.
 - d. Refine the process by which the community of practice works together to achieve the intended goals. This workshop will be therefore strongly linked to the objectives and content of a second regional workshop opened to external partners (see point 5)
- 3) CO focal points will draft success stories and lessons learnt in the field of access to justice in their respective countries. Drafting lessons learnt may be facilitated by fellowships at the SURF, where policy specialists and/or the Task Facilitator will coach field staff in this task, and/or by SURF missions to COs with a similar objective.
- 4) Conduction of **in-country consultations** through participatory techniques aimed to provide a general picture of the major issues regarding access to justice by the disadvantaged from a rights perspective. It is suggested that four kinds of group discussions could be conducted⁴:
- a. One with NGOs, civil society organisations, community organizations and academic institutions, to brainstorm on the major obstacles faced by disadvantaged groups when accessing justice, and the type of responses being developed by communities themselves to overcome them.
 - b. One with national institutions, to brainstorm on the major capacity problems faced at the institutional level in order to strengthen access to justice by the disadvantaged, and the type of responses being developed to overcome capacity gaps.
 - c. One with donor agencies to collect information on the type of programmes being supported in the justice sector within the country.
 - d. One with detainees and victims of offences to obtain information on access to justice as experienced by disadvantaged groups.

To the extent this is possible, in-country consultations should ideally take place within the timeframe of this initiative. However, as their aim is not just to collect information but also to expand UNDP's networks within the country, there is a need to adapt such a process to the requirements of national circumstances. Consultative mechanisms

⁴ The SURF will provide pilot COs willing to embark in such consultative process with a **facilitating team** to assist them in the conduct of the meetings. In-country consultations should not raise expectations among national partners on potential UNDP funding for specific programmes regarding the issues under consideration. It should be explained at all times that the goal of the initiative is to **enhance knowledge and facilitate the exchange of experiences in the justice sector** and not necessarily to develop specific programmes.

should aim to become sustainable once the process has been completed.

- 5) The information gathered at the national level will be refined and consolidated by the SURFs and form the basis of a **second regional workshop, opened to external partners** – who will be involved immediately after the finalization of the first workshop -, with the aim of identifying major issues for further research and planning next steps. Key actors within UNDP are strongly encouraged to participate, particularly BDP/IDG, HURIST, PARAGON, RBAP and the Oslo Governance Centre. In partnership with the Oslo Governance Center and PARAGON, the initiative may also serve to facilitate regional consultations on access to justice issues among government and non-government representatives.
- 6) **Consultants will be engaged to conduct further research** on the core issues identified by the network – their scope, types of responses developed so far by both communities and development agencies, etc.
- 7) On the basis of the results of in-country consultations and consultants' research, the SURFs will draft the main output of the initiative: **a toolkit** consisting of (i) *credentials* (a communication tool summarizing UNDP's work and comparative advantage in the area of access to justice), (ii) *a primer* (concise introductory document for practitioners new to the area), and (iii) a *guide to options for entry points* in the sub-theme. The draft toolkit will be distributed among the members of the network and other key actors within UNDP for discussion and finalization. The **web-page and knowledge map** will be finalized by the network of practitioners in the course of the above suggested process.

ANNEX II

Task Facilitator, Asia-Pacific Rights and Justice Initiative Terms of Reference

Background:

UNDP views access to justice and human rights as means, as well as ends of development itself. Both are inextricably linked: The justice sector is crucial in ensuring that human rights are respected and enforced. The quality of justice in turn is closely linked to human rights as an overarching normative framework. This ensures that both the outcomes and processes of justice are supportive of human rights, going beyond formal improvements in justice delivery. Furthermore, such a human rights perspective also stresses the importance of empowering the most disadvantaged sectors of society and not merely the institutions.

To explore and conceptualise the links and synergies between access to justice and human rights and to contribute to the definition of UNDP's niche in this field, the **Asia-Pacific Rights and Justice Initiative** was launched in August 2002. The initiative is part of the global UNDP work in one of the six sub-thematic priorities of the democratic governance theme, namely access to justice and human rights. In line with BDP's role in practice development, the initiative is facilitated by both the Kathmandu and Bangkok SURF.

Objectives of the initiative:

The initiative aims to use cutting-edge knowledge management techniques to further clarify the links between access to justice and human rights and to build in-house capacity in this field. Using the strategy of scanning regionally (and to some extent even globally) to reinvent locally, the initiative has the following specific **objectives**:

- 1) To build a regional community of practitioners in the governance sub-practice of access to justice and human rights, composed of the human rights and justice focal points of the COs of RBAP⁵, a relevant regional programme and SURF staff;
- 2) To build capacity of UNDP practitioners through the codification and modularisation of access to justice and human rights projects and best practices;
- 3) As a team of practitioners to develop products that can serve as tools in providing advisory services, such as:
 - a. Credentials: To help practitioners market UNDP services to national governments and donors by providing ready-made material summarizing UNDP's experience and expertise in the subject

⁵ The community of practice will eventually include practitioners outside UNDP and outside the region.

- b. Primer: A concise overview and introduction to the topic for UNDP staff with little knowledge in this area, and to point them in the right direction for further information.
- c. Guide to Options for Entry Points: Possible UNDP signature services to help countries analyse options of various entry points for human rights and access to justice programming. This will include country examples, synthesized lessons on each option and evaluation of each option on cost, time and prerequisites for success.

With its focus and results-orientation the network complements the existing larger global network. All synthesized lessons will also be shared with the DGPN and IDG for further processing to feed into policy development and to ensure policy alignment between corporate strategies and lessons learnt in the field.

Progress to date:

Several results have been achieved to date:

- o The development of a methodology for a time bound, results-based network.
- o The setup of a network and web-page (<http://intra.undp.org/bdp/surf-wsa/ap-a2j/>).
- o The compilation of existing documents in that webpage through the contributions of different network members.
- o The initiation of significant work on a knowledge map on A2J/HR.
- o The establishment of an institutional structure (steering committee and core group).
- o The establishment of a partnership with OHCHR to implement the rights-based approach.

One of the lessons emerging from the first months of the initiative is that the process of systematic knowledge sharing and distilling lessons learnt is very work intensive. While the SURFs have an important role as focal point for regional practice development (i.e. systematic knowledge sharing and distilling lessons learnt), it has to be ensured that such an activity does not negatively impact the SURFs role as demand-driven consultancy unit. Therefore, the involvement of an international expert is needed to achieve its objectives for an initial time span of six months.

Task Facilitator's duties and responsibilities:

Under the overall guidance of the steering committee (consisting of the two Asian SURFs and OHCHR) and day to day oversight and cooperation of the Deputy Chief, Kathmandu SURF and the Rule of Law Advisor, Bangkok SURF, the Task Facilitator will support and guide the initiative in order to achieve its objectives in a high quality and effective manner (the task facilitator will have part time support by a research assistant). Specifically his/her duties will include:

1. Design the initiative's implementation strategy and plans to strengthen its results-orientation. Strengthen the methodology, both

in terms of substance and process (e.g. extraction of lessons learnt from A2J/HR activities in the Asia-Pacific region) to achieve the goals of the initiative.

2. Design the format and content of the various activities of the initiative (such as workshops, attachment of CO programme officers, etc.).
3. Mobilize the network members to share knowledge and contribute actively to the initiative.
4. Take the lead in the conceptualisation and design of the products, such as the primer, the credentials and guide to entry points.
5. Monitor progress of the initiative and advise on remedial measures in case of slippage.
6. Record the lessons learnt from the process for possible replication within the practice context.
7. Complete other related tasks as required by the steering committee.

Timing and location

The Task Facilitator will be required initially for a time period of six months, starting in March 2003. While the assignment will begin in Kathmandu, it is possible that the Task Facilitator will spend significant time in Bangkok as well. Missions to other countries will almost certainly take place.

Qualifications

The successful candidate shall have the following qualifications:

- (a) Masters degree in law or a comparable experience in justice and human rights reform and the rights-based approach for a minimum of three years.
- (b) Strong knowledge about UNDP's work in sub-practice of access to justice and human rights and the rights based approach. Ideally the task facilitator should have experience working with UNDP.
- (c) Familiarity about the needs in justice and human rights in the Asia and Pacific region;
- (d) Experience in translating complex substantive concepts into modalities and language that can be used by practitioners;
- (e) Knowledge about UNDP's work in practice and capacity development;
- (f) Experience as a facilitator/trainer in the areas of justice, human rights and the rights-based approach;
- (g) Experience in the coordination of similar initiatives/activities with various partners, including "virtual parties"; able to work with diverse national, donor, academic and other constituencies in the region;
- (h) Knowledge in the use of information technology, including the internet;
- (i) Able and willing to travel in the region, including at short notice.
- (j) Be fully proficient in both written and spoken English.

Annex III

Asia Pacific Rights and Justice Initiative (AP-A2J) Summary of Results in 2003

This document aims to provide a succinct overview of the results, which the Asia Pacific Rights and Justice Initiative (AP-A2J) has achieved in 2003. It also includes a cost-benefit analysis. The SURF is working on a comprehensive lessons learnt document that will be shared in due course.

Outputs:

- **Knowledge codification and production of tools tailored to UNDP's needs:** Much of the knowledge that UNDP practitioners need to improve their work is at the interface of substance and process (namely how to address substantive development problems from a programmatic perspective) – knowledge that is very difficult to find externally, either in academia or in management consultancies. The tools that have been produced as a result of AP-A2J are tailored toward these needs, largely due to an innovative process that systematically linked knowledge production to capacity development .

Tools	Status
Practitioner's Guide to Access to Justice – a programming handbook, codifying some 20 intervention strategies and 300 lessons under a comprehensive conceptual framework of people-centered access to justice	Ca. 60% completed – available in Mar 2003
Access to justice website – the virtual home base of the Initiative, including all tools	Ca. 40% completed – available in Feb 2003
Knowledge map – a research tool on access to justice and human rights	completed
Primer – a concise 5-page introduction into access to justice	Ca. 70 % completed – available in Mar 2003
Credentials – a communications tool for fundraising and advocacy, summarizing the gist of UNDP's work in the region	To be drafted – available in Mar 2003
A2J case studies – Codification of UNDP access to justice case studies and analysis of inhouse lessons	Ca. 70% completed – available Mar 2003
Guidelines on (a) codification of case studies, (b) participatory consultations	completed

Compilation of process lessons – lessons on practice development for stimulation and replication of similar initiatives	Currently being drafted – available by 31 Dec
Workshop reports of 2 practice workshops – documenting in detail knowledge development in substantive and process terms	Report 1 – completed. Report 2 available by 19 Dec

- **Capacity development of UNDP practitioners:** The process of AP-A2J developed the capacity of some thirty CO practitioners in the region. Over the past year, practitioners have developed substantial knowledge on access to justice, and instruments to apply it in policy and programme development. Learning channels included the two workshops (which were designed in a participatory format, thus being learning rather than training events) and tasks through which practitioners were engaged in rethinking their own work (e.g. extraction of lessons learnt). The network also reached some 80 members through electronic network activities, which resulted in additional learning and knowledge sharing.
- **Increased staff satisfaction and motivation:** Capacity development goes hand in hand with the intangible, but crucial benefit of increased staff motivation. Staff that contributed feel connected to fellow practitioners as part of a joint undertaking. They also feel empowered to work professionally in the A2J field. Hence AP-A2J is a motivated, dynamic network of UNDP staff able to perform effective roles in pursuing justice for development.
- **Organizational learning** both in terms of defining a **substantive niche** for UNDP (in access to justice) as well as clarifying the process and the benefits of facilitating bottom-up **practice/policy development**. The CoP's access to justice framework represents a sound niche for UNDP. It is guided by UNDP's human development and MDG paradigms and centred on people, particularly on those who are poor and disadvantaged. In terms of process the Initiative produced a wealth of lessons that will be distilled and provide input into the global knowledge management strategy.

Outcomes:

- **Capacity development of COs:** With stronger individual capacity comes stronger capacity of COs in A2J and a substantively stronger position within the donor community.
- **More and better programmes at CO level:** CO programming has already been strengthened in several cases as a direct consequence of the initiative by the efforts of practitioners themselves (e.g. Sri Lanka – RBA and A2J model, Bangladesh – participatory consultations with police, East Timor – comprehensive programme based on A2J model). This outcome will very likely be significantly enhanced through the promotion and dissemination of the comprehensive toolkit

Impact:

- **Justice programmes with increased impact for the poor:** The adjustment of UNDP's policy through the AP-A2J model and the increased capacity of COs to translate the policy into action will ultimately result in more targeted A2J programmes for the poor and disadvantaged.
- **Fund raising opportunities:** The clearly defined niche (in line with human development and human rights principles) based on a solid conceptual foundation for UNDP and the enhanced capacity of the CO will also open new avenues for fund raising with donors, both at global as well as country level. The "credential" tool is designed to directly help with this endeavor.

Some thoughts on cost-benefit:

This results need to be juxtaposed to the financial, human resource, and opportunity costs of the initiative:

- **Financial costs:** In 2003 the initiative spent around USD 185,000, funded both from the Global Governance Trust Fund (150,000) and the Global HURIST Programme (35,000). The bulk of the money was used for the Visioning Workshop (ca. 24,000), the 2nd Workshop (ca. 88,000) and the Task Facilitator (46,500). Other short term contracts (12,000), MSI missions and duty travel (12,000) and website development costs (3,000) make up for the rest.
- **Human resources:** Apart from the international Task Facilitator who worked full time for nine months, short term national consultants worked on Special Service Contracts for additional 9 months on the initiative. Additional opportunity costs were incurred as SURF international staff worked for an estimated 5 months on the initiative. Hence the SURF facilitation of the exercise to date needed (conservatively estimated) 2 work years of input.
- Considering only the achievements in terms of tool development the **cost-benefit ratio compares very favorably** to similar policy development undertakings at regional level. If external consultants had been used for the exercise, few or none of the additional results, such as in-house capacity development and real organizational learning would have happened. The fundamental value added of the practice approach is that it connects abstract knowledge to action – this task cannot be outsourced.

Conclusions:

The AP-A2J experience is an **important validation of the practice approach** (bottom-up or non-hierarchical approach; CoP and connection of people as the central concept; practitioners or in-house staff as the driving force, while external help is only sought as the last resort) to knowledge development. Hence, the AP-A2J model presents a **viable model** for achieving the twin objectives of consolidating a policy positions in a sub-practice that is *relevant* to the field and developing the individual and organizational capacity to translate it into action.

Meaningful knowledge sharing, codification and development, which is facilitated through a practice approach, is **immensely time-consuming**. The least time-consuming component is to screen readily available lessons from other development agencies. However, this approach is not sufficient

to come up with an independent UNDP position. What takes immense time is (a) to implement an organizational learning and capacity development process, (b) to distill raw inputs from practitioners and external partners, and (c) to crystallize a policy position backed up by useful tools.

Strong facilitation is needed: It is unrealistic to expect that the facilitation of such a complex process (especially if the outputs include the production of distilled tools) can be done as a side job. The process should be spearheaded by UNDP manager or policy advisor, but needs to be backed up by a full time facilitator that ideally has (a) ample experience within UNDP and (b) a thorough understanding about the substance.

Focus on sub-practice: The analytical unit of sub-practice is a viable entry point for an initiative such as A2J that shared, codified and developed knowledge in a field that was relatively new for UNDP. As a result of the learning process during the initiative the analysis penetrated into more and more complex dimensions and led to the successive disaggregation of a once “plain” playing field. This led the initiative for example to focus the 2nd workshop around four priority areas within A2J. Hence a follow up knowledge building exercise will have to focus on a number of clearly defined key problems of A2J knowledge areas rather than the whole sub-practice. The challenge with a narrowly defined theme, however, is to keep up the interest of a large number of practitioners working in different country situations.

Voices of participants

“This was a great event, superbly facilitated by Stefan, Amparo and Sanaka. I was particularly impressed by the commitment and enthusiasm of the entire facilitating team (enthusiasm which quickly extended to the entire participants group) to make this a flagship UNDP practice in the region, in a key governance area.” *Maurice Dewulf, DRR India*

“I would herewith second myself to every body who already extend their gratefulness and high appreciation to the Kathmandu A2J Visioning Workshop. The overall facilitation was so effective that the four of you could guide the process, yielding in a tremendous learning process and the globally strategic follow up agenda.” *Agung Djojosoekarto, CO Indonesia*

“RBAP has every reason to be grateful to the three of you as this workshop has provided outstandingly good ideas for a new generation of regional programmes. The AP-A2J network's website, when it is up and running in a few months, will be the envy of all organisations, including my former employer, the Ford Foundation, which rather prides itself in having pioneered innovations in the field of access of justice. I hope RBAP, when the SURFs come under its tutelage, will support the network because it is exemplary and outstanding, and will do everyone in UNDP proud.” *Sudarshan, Oslo Governance Center*

“Just a quick thanks and congratulations again on the workshop. As I think we all know, one important way of promoting institutional change and effectiveness is to show people that there are new ways they can think about their organization and their roles--to help them blaze a path rather than simply follow one, as Amparo put it. I really think your collective effort is doing that for your colleagues and UNDP.” *Steve Golub, University of Berkeley*

“A quick word of deep appreciation again for the very rare experience of last week's workshop, a success on just about all levels as far as I could perceive, and appreciation in particular for your enthusiasm for HURIST support.” *Mac Darrow, OHCHR*

Annex IV

ASIA-PACIFIC RIGHTS AND JUSTICE INITIATIVE

BACKGROUND PAPERS ON ACCESS TO JUSTICE

A Concept Note

25 June 2003

1. Objectives of Background papers

The Background Papers on access to justice seek the following objectives:

- To gather **external knowledge** on issues identified as essential for UNDP access to justice programming *in the Asia Pacific region*⁶.
- To provide **recommendations** on practice development in those areas.
- To extend/strengthen **UNDP's partnerships at regional and national levels** with institutions/organizations with adequate experience and networks in those fields.

2. Outline of Background Papers

1. Background of the problem (3-4 pages)

- Relation to the access to justice conceptual framework⁷
- Interdependences/ holistic perspective: reciprocal relations between the problem and other elements in the access to justice sub-practice framework.
- Illustrate both points above with actual examples from Asia and the Pacific.

2. Practice analysis (15-20 pages)

- Type of strategies used in Asia and the Pacific to address the problem and strengths and weaknesses of those (in relation

⁶ Strategic access to justice areas where knowledge is required were identified by UNDP justice and human rights practitioners in the region at a "Visioning Workshop" held in Kathmandu on 28 and 29 April, 2003; and through discussions in the Rights and Justice Network.

⁷ See Visioning Workshop Report, pp. 6-17.

to the problem as stated in point 1) – illustrate with actual examples from Asia and the Pacific.

3. Recommendations (10-15 pages)

- Recommendations for UNDP programme development (given points 1 and 2), including innovative experiences from other regions if relevant – these recommendations will be fed into the Guide to Entry Points on Access to Justice, currently being developed by the Asia Pacific Rights and Justice Network

4. Topics for research

The Asia Pacific Rights and Justice initiative defines access to justice as the “**Ability** of people from **disadvantaged groups**⁸ 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**”. The scope of the access to justice is divided into three main areas: (i) Normative protection, (ii) Capacity to seek a remedy (Legal Empowerment), (iii) Capacity to provide effective remedies (effective adjudication and due process, enforcement and civil society oversight).

Strengthening people’s ability requires developing **capacities not only of people, but also of institutions**. Capacity is defined as “the ability to solve problems, perform functions, and set and achieve objectives”⁹. A capacity development approach opts for building on existing strengths, rather than substituting them. From a rights-based perspective, the specific capacities to be developed are those to (i) claim and exercise human rights (in the case of poor and disadvantaged groups) and (ii) fulfil human rights obligations – for institutional and non-institutional actors.

The following is a list of **10 access to justice-related topics that need to be covered through research** for the Guide to Entry Points on Access to Justice. The topics have been identified according to the following criteria: (i) Suggested by practitioners at the visioning workshop, (ii) Lack of sufficient substantive experience within UNDP, (iii) Very strategic areas of access to justice, and. All topics below follow these basic requirements for selection.

Normative Protection of Rights

⁸ For the purposes of this initiative, “disadvantaged” groups refer to those groups who commonly face special difficulties to access justice in the whole Asia-Pacific Region, including: (i) urban and rural poor; (ii) women; (iii) indigenous peoples and ethnic minorities, (iv) internally displaced persons and migrants, (v) persons living with HIV/AIDs, and (vi) persons with physical/mental impairment.

⁹ “Capacity for Development: New Solutions to Old Problems”, Ed.: S. Fukuda-Parr, C. Lopes and K. Malik, UNDP 2002

- **Topic 1: Translation of human rights conventions into national legislation and into implementing rules and regulations.**

This paper will analyze the role of normative protection of rights at the formal level (treaties, constitution, national legislation and jurisprudence) in strengthening access to justice by poor and disadvantaged groups, and the type of obstacles to translate international human rights safeguards into national legal instruments. Special consideration in the paper should be given to the challenges and opportunities posed by decentralization processes in this regard.

- **Topic 2: Interface between formal and informal systems for the protection of human rights**

The focus of this paper is the connection between poverty/marginalization and “formal” illegality, which often leads to perceptions on the justice system as “alien” or “unfair”. The paper will explore the role of formal and informal systems in the protection of human rights, and how they can best complement each other for effective access to justice. The paper will examine the types of obstacles posed by insufficient linkages between formal and informal systems for the protection of human rights at three levels: (i) normative protection of rights, (ii) capacity to seek a remedy, and (iii) capacity to provide effective remedies, and suggest recommendations accordingly, particularly in respect to: (i) increased access by poor and disadvantaged groups to justice systems, and (ii) mechanisms to prevent impunity.

Capacity to seek a remedy (Legal Empowerment)

- **Topic 3: Strengthening legal aid and legal counsel for poor and disadvantaged groups.** (Note: this may be covered through internal research)

This paper will examine the types of capacity problems to improve **legal aid** by poor and disadvantaged groups, through government and non-government provision of services. The paper will present the types of strategies used to develop such capacities and analyze their strengths and weaknesses, as well as suggest recommendations. The paper will further look at different strategies to strengthen **legal information and awareness** by disadvantaged groups – taking into account that the notion of “capacity development” requires being able to use the knowledge acquired. It will examine strengths and weaknesses of those strategies, in terms of (i) reaching to the most vulnerable groups among the poor, (ii) impact and (iii) sustainability; and suggest recommendations accordingly.

- **Topic 4: Capacity to access justice services: non information-related barriers**

This paper will provide an overview of non-information related capacity barriers to access justice by poor and disadvantaged groups (e.g. physical access, income, cultural and gender biases, etc.) It will try to present examples of strategies used to overcome such obstacles (e.g. legal insurance schemes, etc.) whether initiated by government institutions, non-governmental organizations or poor and disadvantaged communities themselves, and suggest some recommendations.

Capacity to provide effective remedies: Effective adjudication and due process, enforcement and civil society oversight

➤ Topic 5: Civil Society Participation

This paper will examine different strategies from inter-governmental, governmental and non-governmental organizations to strengthen civil society's participation on access to justice, particularly in the fields of advocating, designing, implementing and monitoring reforms on access to justice (in all three areas of the sub-practice). This paper will provide actual examples, especially from the Asia-Pacific region, of access to justice-related projects/ programmes that have successfully incorporated civil society oversight elements (e.g. advocacy for legislative proposals, public audits of judicial performance, etc.). The aim of the paper is to assess the types of obstacles faced by such strategies, in terms of (a) entry points, (b) sustainability, and (c) impact.

➤ Topic 6: Enforcement of economic, social and cultural rights in the public administration

This paper will review mechanisms by which economic, social and cultural rights may be enforced in public administration (including judicial activism, social litigation, public audits, etc.). The paper will further assess types of obstacles to enforcement (e.g. absence of adequate normative protection) and suggest recommendations to overcome those. It will also look at potential conflicts between individual and collective rights in this regard, and how these have been managed/solved.

➤ Topic 7: Police Reform

This paper will examine common obstacles in the police to strengthen access to justice by poor and disadvantaged people, and the types of police-reform strategies used in Asia and the Pacific to overcome such obstacles. Strategies will be assessed from the perspective of a rights-based approach to access to justice, identifying their strengths and weaknesses in this regard. The paper's aim is to suggest recommendations on how to initiate, design and implement rights-based reforms in the police.

➤ **Topic 8: Prison Reform**

This paper will assess from a rights perspective types of prison reform strategies used in Asia and the Pacific. The paper will examine the strengths and weaknesses of such strategies to overcome common capacity problems prison institutions face to strengthen access to justice by poor and disadvantaged groups. The paper will provide recommendations accordingly.

➤ **Topic 9: Access to justice indicators**

This paper will review types of indicators used to measure (i) impact and (ii) process, of access to justice-related programmes and their limitations to assess improvements on access to justice by poor and disadvantaged groups. It will provide some recommendations on what type of indicators can be set, how to set them and how to ensure cost-effectiveness and sustainability in monitoring progress on access to justice.

5. Links to Regional Workshop

As mentioned earlier, the results of these papers will be incorporated into the Guide to Entry Points on Access to Justice currently being developed by the UNDP Community of Practitioners. The Guide to Entry points will be finalized at a Regional workshop scheduled for October 2003: Based on the quality of the Background papers, researchers will be invited to attend the Regional Workshop and make a brief presentations (or, in some cases, to prepare practical exercises for group work during the workshop to further expand the analysis).

6. Qualifications of researchers

Preference will be given to institutional partners in Asia and the Pacific with proven experience and networks in the particular area of research.

7. Work plan (Timeframe)

7 – 21 July 2003:	Hiring of Researchers
15 September 2003:	First Draft of Background Papers
30 September 2003:	Final Draft

8. Budget

Researchers' fees (includes all logistical support to research):
9 x USD 2,500 = USD 22,500

Travel expenses (to cover attendance to regional workshop)
USD 7,500

TOTAL BUDGET:
USD 30,000