

TEN STEPS TOWARDS DEVELOPING AN ACCESS TO JUSTICE PROGRAMME

CHAPTER



Overview of the Chapter

2.1 Human Rights-Based Programming for Access to Justice

2.2 Programming Steps

OVERVIEW OF THE CHAPTER

Access to justice is a human rights-based objective. However, not every access to justice strategy has a human rights-based outcome as its objective. A human rights approach focuses not only on the intended goal of a programme or project, but also on the process of its design and implementation. Therefore, when adopting a human rights-based approach, UNDP programme officers also need to make sure that initiatives to ensure access to justice are present.

This chapter provides a guide on how to develop programmes that ensure access to justice using a human rights-based perspective. The approach of this chapter is based on the UN Common Understanding on the Implementation of a Human Rights Approach to Development reached by UN agencies in 2002.

The guide is presented in ten steps, each of which has specific objectives. The different sections within the chapter provide tips and recommendations on how to attain the objectives, as well as illustrative examples.

2.1 HUMAN RIGHTS-BASED PROGRAMMING FOR ACCESS TO JUSTICE

Human rights-based programming, or rights-based programming (RBP) is a methodology to develop programmes and projects that include the key elements of so-called “good” programming. It is based on a human rights framework.

The rationale for using human rights-based programming is two-fold: firstly, to promote empowering development processes, and secondly, to enhance the accountability and effectiveness of development initiatives.

As explained in Chapter 1, human rights help to define a scope for individual and state accountability. They also help to determine the claims people can make when holding others accountable for the achievement of their rights. The ability to make claims is especially important for poor people. Poor people can use this ability to protect their personal, physical, political, economic and social capital, and thus enhance their well-being. Human rights contribute to empowerment by defining a minimum basis for claims.

Flexibility should not compromise accountability and non-discrimination.

Human rights standards set the overall direction a programme should take. The twin principles of accountability (of duty bearers) and empowerment (of claim holders) provide an objective for capacity development strategies. Non-discrimination implies a particular focus on disadvantaged groups and paying attention to the impact of the programme on those who are not the focus of other development interventions. Participation is a key principle underlying all stages of the programming process.

Key Considerations in the Programming Process

■ Be respectful of whoever is leading the process, but ensure basic standards:

Projects and programmes supporting access to justice may be initiated following a request from a government, civil society or any other development partner, or as a result of UNDP’s own will to address a particular issue. UNDP’s involvement in the programming process varies according to the situation. Sometimes political situations can limit UNDP’s ability to ensure participation or to address critical access to justice issues. However, while guidance should always be given allowing flexibility, UNDP should continue to strive for accountability and non-discrimination in all its activities.

■ Do not lose sight of the big picture:

All UNDP access to justice initiatives should be geared towards one ultimate goal: to empower poor and disadvantaged people to access fair justice remedies that can help them to enhance their well-being. This goal should guide all analysis and strategy formulation. However, it is important not to idealize logical frameworks or programming steps. Encouraging access to justice by vulnerable people implies a process of social change, and such a process cannot be captured in project documents. Development results require creative and dynamic development processes.

The following section sets out ten steps to a human rights approach in programming. Annex 1 presents a table with key parameters in rights-based programming, their programming implications and examples from UNDP programmes. The key components of rights-based access to justice programming are summarized below.

Key Features of Rights-based Programming for Access to Justice

Rights-based programming is different from conventional tools and methods in that it:

- Situates access to justice in the context of a human rights/legal framework
- Analyzes different degrees of vulnerability with regard to a particular problem, and selects those groups who may be more seriously impacted as priority beneficiaries of the project
- Divides relevant stakeholders into claim holders and duty bearers
- Focuses on enhancing empowerment of people with legitimate claims, and accountability of those who are mandated or able to respond
- Assesses the capacity of both the claim holders and the duty bearers to address the problem and aims to ensure there are capacity development strategies for both sides
- Attempts to establish participatory processes where those who are impacted on as a result of the problem are freely and meaningfully involved

2.2 PROGRAMMING STEPS

The process of developing an access to justice programme can be summarized in ten steps:



PROGRAMMING STEP 1: FAMILIARIZATION WITH THE PROGRAMMING CONTEXT

OBJECTIVES

To gain an understanding of:

(a) The rationale for UNDP's policy on access to justice, and

(b) The type of access to justice issues in the country that are impacting on poverty and/or violent conflict

Before starting the programming process, it is important to understand how empowering poor and other vulnerable groups to access justice may impact on poverty reduction and other development goals. Chapter 1 provides an overview of UNDP's policy on access to justice. Key documents on access to justice by UNDP and other authors are included in the annotated bibliography at the end of this Guide.

Further information on UNDP policy and experiences on access to justice can be accessed through:

- UNDP Regional Centre in Bangkok
- UNDP Oslo Governance Centre
- UNDP Bureau for Development Policy
- UNDP global and regional knowledge networks (e.g., the AP-A2J network, the Democratic Governance network, Human Rights Policy network)

Programme officers should start by gathering an overview of the major access to justice-related issues in the country. Information should be gathered not only on legal and judicial issues, but also on other issues related to the overall capacity of poor and vulnerable people to seek and obtain remedies.

The relevant scope of information on access to justice includes not only legal and judicial issues, but also other issues related to the situation of poor and other vulnerable people in the country.

UNDP is sometimes asked to formulate programmes on a particular issue such as women's empowerment or police reform. In these cases,

programme officers need to gather country-specific information on that particular issue and seek lessons learned from other countries and projects.

Information should be gathered through national and international sources. International sources can include articles, reports and other documents – a selected list is provided in the bibliography. For access to justice issues in a particular country, reports of the UN Special Rapporteurs and the Recommendations of UN Treaty Bodies (e.g., human rights committees on CRC, CEDAW etc.) as well as the Commission on Human Rights are key resources. These documents can be found on the Office of the High Commissioner for Human Rights (OHCHR) website.¹

People are a critical source of information: listening to informed perceptions will enhance understanding

National sources may involve assessments, government and non-government reports, newspaper and journal articles, etc. At the local level, a critical source is people: it is important to seek informed perceptions on the issue, for example through personal conversations, attending strategic seminars and conferences, etc. Listening to contradictory opinions and the perspectives from both the demand and supply sides of justice will enhance understanding.

Rapid mapping exercises through in-depth interviews can provide a wealth of information, although they are intensive in terms of staff time. However, they may produce valuable results for the country office (for instance by establishing detailed profiles of relevant actors in both government and civil society). Annex 2 provides sample interview guidelines for NGO mapping prior to an access to justice assessment.

¹ Office of the High Commissioner for Human Rights - www.ohchr.org

PROGRAMMING STEP 2: SELECT A DEVELOPMENT PROBLEM



Selection of what to address is a critical step. Experience shows that programming often deals with general capacity development of institutions without focusing on addressing specific development problems.

When selecting a particular issue as the basis for programming, programme officers should avoid assumptions and define problems as specifically as possible. Access to justice issues that need UNDP's action arise whenever a development problem (e.g., violent conflict, poverty or environmental degradation) is exacerbated by people's inability to claim and obtain remedies through the justice system.

UNDP action is needed whenever a particular development problem is exacerbated by people's inability to claim and obtain remedies.

To assess whether a particular problem requires UNDP's action on access to justice, you may want to ask the following questions:

- To what extent is harm being done without appropriate redress?
- How is lack of redress causing or sustaining people's poverty?

Selection of a specific problem may be based on different factors such as linkages to UNDP's activities at the country level or that of other donors. UNDP may also be requested by government or national partners to programme on a specific issue.

Make sure that challenges to access to justice are defined in clear terms, regardless of whether the challenge is dealt with by UNDP or by its partners. The clearer the problem, the more systematic the analysis will be. Concrete problems also facilitate setting clear strategies and targets.

Access to justice can be approached in two distinct and complementary ways:

- **Within the context of the justice system**
Sector-based justice initiatives seek to develop the country's capacities for democratic governance by improving accountability and resolution systems. These types of initiatives reflect a human rights approach to democratic governance and are a necessary component of development strategies, although their impact is often only evident in the long-term.
- **Within the context of a particular development problem** – Cross-cutting initiatives seek to address the access to justice dimensions of specific development problems. Such an approach aims to enhance the human rights aspect of development strategies, and can be linked to livelihoods initiatives such as micro-credit schemes or expansion of health services. Cross-cutting strategies on access to justice can provide meaningful results in the short- to medium-term, although they usually require sector-wide strategies for sustainability.

The choice of one starting point over another, or of a combination of both, depends on the programme focus. For instance, programmes can focus on the justice system as a whole or on one or more of its components (e.g., courts), on the access to justice dimensions of a general development problem or on the situation of specific vulnerable groups (e.g., their health), or on a combination of both (e.g., situation of indigenous peoples involved in court processes). It is important to state what the specific problem is, for example, insufficient independence of the courts, increasing poverty and marginalization of indigenous peoples, or disproportionate number of indigenous peoples incarcerated.

TABLE 2: STARTING POINTS FOR APPROACHING ACCESS TO JUSTICE PROGRAMMING

STARTING POINT	OPPORTUNITIES/CHALLENGES	COUNTRY EXAMPLES
JUSTICE SECTOR-BASED STRATEGIES	<p>Pluses:</p> <ul style="list-style-type: none"> ■ Can highlight inter-linkages of institutions and their problems ■ Can generate ownership/political will of vital stakeholders ■ Resource mobilization potential ■ Strategic in comprehensive governance reform processes <p>Minuses:</p> <ul style="list-style-type: none"> ■ Impact usually felt only in the long-term ■ Focuses typically on institutions, often at the expense of focus on disadvantaged groups ■ Time and resource constraints ■ Raising of expectations for follow up 	<p>The Viet Nam CO conducted a comprehensive legal sector assessment to identify strategic entry points.</p> <p>In Bangladesh, the CO recognized several serious malpractices in the police that triggered the programming process.</p> <p>In the Philippines, the CO supported a Blueprint for Judicial Reform that later triggered reforms in the Police and the Department of Justice.</p>
CROSS-CUTTING STRATEGIES (WITHIN THE CONTEXT OF AN EXISTING DEVELOPMENT PROBLEM)	<p>Pluses:</p> <ul style="list-style-type: none"> ■ Highlights inter-linkages of access to justice with other poverty-related problems - strategic to support other outcomes in the Country Programme ■ Early identification of disadvantaged groups, and easier to obtain their participation in analysis and strategy setting ■ Facilitates disaggregation of data ■ Can be more focused and produce impacts in the short- to medium-term <p>Minuses:</p> <ul style="list-style-type: none"> ■ Requires sector-wide strategies for sustainability of access to justice outcomes ■ Requires multi-sectoral collaboration and political will 	<p>The Asia-Pacific Regional Environmental Governance Programme supports pilot projects in the region that seek to build access to justice components into environmental management initiatives.</p>

PROGRAMMING STEP 3: SECURE ADEQUATE CAPACITIES FOR PROGRAMME DESIGN

OBJECTIVES

To find and secure time, financial and technical capacities prior to designing a project or programme

The programming process requires different capacities at different stages. Key capacities include funding, time and technical skills (such as analysis, planning, budgeting). Programme officers need to assess the minimum capacities required to complete the task, including capacities to conduct participatory processes.

UNDP country offices can maximize their programming capacities through internal coordination and external outreach.

UNDP country offices can enhance their technical capacities by bringing together people from different programme areas within the office (such as local governance, gender, poverty or conflict), or through the UNDP electronic networks and regional offices.

Obtaining a broad overview of an access to justice issue through networking and conversations can be a useful way to find out what available local capacities for programming exist. In this regard, mapping local partners in government and civil society may be a necessary first step.

PROGRAMMING STEP 4: ENSURE PARTICIPATION

OBJECTIVES

- a) To identify the level and means of participation for those affected by the problem
- b) To identify obstacles and incentives to participation
- c) To develop strategies to increase participation
- d) To establish mechanisms to ensure participation is incorporated into all stages of the programme cycle

Participation is a means to improve development programmes, and a vehicle for empowerment. From a technical point of view, the value of participation is in enhancing the knowledge base of access to justice programmes, thereby increasing the relevance and effectiveness of development initiatives. Participatory methods can vary from consultation to decision-making. Access to justice programmes need to build on participatory processes primarily for two reasons:

- **The most knowledgeable people about a particular problem are generally those experiencing it.** Both users and providers of the justice system know what specific obstacles they face, and what type of strategies they use to deal with them. This type of information is necessary for capacity development strategies that build on existing strengths and solutions.
- **Apart from objective indicators, access to justice, or the lack thereof, is often based on personal perceptions.** Therefore, it is necessary to draw together people's perceptions on the meaning of access to justice in a particular context to fully understand the problem (see next point on "analyzing the access to justice problem").

The UNDP Asia Pacific Rights and Justice Network has developed *Guidelines for Participatory Consultations on Access to Justice*. This is a tool which can be used in consultative processes for programming purposes.

As a vehicle for empowerment, however, not every participatory process is equal. Empowerment requires meaningful participation – that is, one that involves a degree of decision-making and control over the final outcomes. In a truly participatory process, participants make all key decisions on goals and activities; UNDP's role is limited to that of a facilitator. Similarly, the process should enhance participants' capacities to analyze access to justice problems and seek solutions.

Empowerment requires "meaningful" participation – that is, one that involves a degree of decision-making and control.

Participatory approaches have contributed to the conceptualization of a rights-based approach to development. A human rights perspective brings two added values to participatory development:

- **The meaningful participation of those being affected by a problem is considered as a right in itself.**
- **A human rights perspective helps to recognize that power imbalances influence participatory processes.** For instance participatory processes may be vulnerable to corruption and control by one group at the expense of another. Vulnerable and marginalized groups are likely to be the ones with the least control, and therefore the least able to influence decision-making. Therefore, a human rights approach requires the participation of those who are most excluded.

Although participation is a right, meaningful participation is not always feasible, particularly if it involves poor and marginalized groups. Meaningful participation requires capacities such as information gathering, organization, and analytical skills to assess the problem and possible solutions. Political constraints to ensure participation of certain groups may exist too. Consequently, when only some groups can participate meaningfully, while others are left out, participatory processes can result in discrimination.

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Although meaningful participation may not always be feasible, participation is a fundamental right, which requires as a minimum, that access to justice programmes:

- **Undertake, where possible, capacity building activities with disadvantaged groups as part of a preparatory phase to programmes.**
- **Adopt a medium-term perspective to enhance the capacity for participation of those who are most disadvantaged in influencing decision-making.**

It is necessary to assess the obstacles that marginalized groups encounter to meaningful participation. Programme Activities need to address these obstacles. For instance, by strengthening organizational capacities and access to information, future initiatives on access to justice (by government, UNDP or other development actors) can benefit from the participation of those who are now being excluded. These types of activities should ensure follow-up to assess whether these capacities have an impact in the medium-term.

- **Review how programme decision-making takes place so as to ensure non-discrimination.**

This should be done even when participatory processes are possible, but it becomes particularly critical in their absence (see Step 9: Establishing an Implementation Framework).

- **Where political considerations may not allow participation of all groups at the same time, parallel capacity building initiatives may need to be considered.**

The following box provides some tips on how to establish a strategy for participation. These strategies can be developed prior to designing a programme, within the context of the implementation of the programme, or for monitoring and evaluation purposes.

Designing a Participation Plan

1) Identify level and means of participation of those affected by the problem

The scope of participation depends on a number of factors, including political constraints, and time or financial resources. For instance, participation may be politically feasible in analyzing the problem, but not in deciding the type of solutions to deal with it. Similarly, financial and time resources may limit the number of stakeholders that can participate, or the extent of their participation.

Different groups of stakeholders need to be involved in different ways. For example, policy-makers and NGO representatives may be part of consultative or steering committees, while poor and marginalized people may be more effectively involved by using community networks and organizations. It is important to identify what existing channels of participation can be used, prior to establishing new ones.

2) Identify obstacles and incentives to participation

Once the potential scope and channels of participation have been identified, a participation plan analyzes (a) what type of obstacles inhibit stakeholders' engagement in the process, and (b) what type of incentives would ensure their sustained commitment to the task.

The assumption that everybody would like to participate in a programming process if given the opportunity is not necessarily true. Participation requires stakeholders' commitment of time and resources, and the difficulty of making such commitments should not be underestimated. Obstacles to participation may include elite capture of key positions, intimidation, geographical distance, and lack of time, information, skills or organization capacities.

When providing incentives, UNDP programme officers should make sure not to promote a culture of nepotism and corruption, particularly among policy-makers.

Lastly, programme officers need to be aware that participation may create conflict, particularly when there are contradictory perspectives on the same issue. Conflict is natural and should not be avoided, but its potential scope should be clearly identified so conflict-management strategies can be prepared in advance.

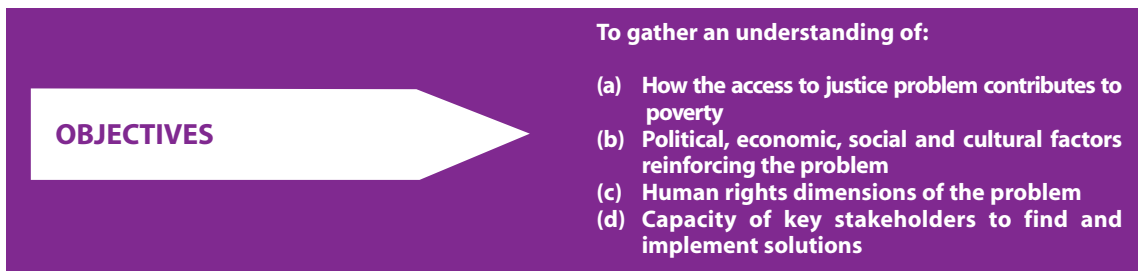
3) Develop strategies to strengthen capacities for participation

Strategies should be put in place to address any critical capacity gaps in stakeholders. For instance, training sessions, assurances of confidentiality, outreach to community-based organizations, etc. can serve to overcome problems of lack of skills, intimidation or lack of organization.

4) Establish mechanisms to incorporate participation into all stages of the programming cycle

Mechanisms for participation vary depending on the context. They may include the assignment of specific tasks and functions, as well as the establishment of committees, public audits, discussion groups, etc. Specific mechanisms should be incorporated into four stages in the programme cycle: (a) analysis, (b) formulation, (c) implementation and (d) monitoring and evaluation.

PROGRAMMING STEP 5: ANALYZE THE PROBLEM AND ITS CAUSES AND EFFECTS



The main objective of programme analysis is to provide a clear understanding of the access to justice problem that can then be used as a basis for action. This requires identifying cause-effect relationships and assessing capacity gaps.

Sound analysis requires adequate data, and gathering these data is time-consuming and costly. There is also a need for technical skills and participatory processes, as desk research or secondary data are insufficient to bring out all key dimensions of access to justice problems.

Some tips regarding assessment and analysis:

■ **Think in terms of issues, not institutions.**

The entry point is the issue or problem, the question is who is entitled to the solution for this problem (claim holders) and who is obliged to solve the problem (duty bearers). Don't be confined by the boundaries of individual institutions. Instead, see justice as a sector with an array of institutions, whose functions complement each other. Problems are usually interrelated and may need interventions or strategies that target a number of players.

■ **Use baseline data when available.** To specify the access to justice problem it is important that assessments identify quantitative and qualitative baseline data that can be cost-effectively monitored to assess impact (see section on Monitoring and Evaluation – Step 10).

■ **Use participation to complement analysis of secondary data.** The problem assessment needs to be conducted through a participatory process, using appropriate techniques for

To gather an understanding of:

- (a) How the access to justice problem contributes to poverty
- (b) Political, economic, social and cultural factors reinforcing the problem
- (c) Human rights dimensions of the problem
- (d) Capacity of key stakeholders to find and implement solutions

involving poor and disadvantaged groups (for guidance on using a rights-based approach to participation refer to the Guidelines on Participatory Consultations).

■ **Identify the most disadvantaged groups at an early stage.** The most disadvantaged groups should be identified in relation to the goal. From a rights-based perspective this step is essential in order to keep a clear focus on the groups who will gain the most from the achievement of the goal. Without this step there is a risk that programmes and projects will lose sight of the most disadvantaged people and instead concentrate on groups that are easier to work with.

■ **Think in terms of the duality of rights and responsibility.** Where there is a right, there is also a responsibility. Correspondingly, where there are claim holders, there are also duty bearers. Both capacities need to be strengthened if an effective solution is to be found.

■ **Avoid analysis deadlock.** A comprehensive rights-based analysis can be very time consuming and complex. To avoid analysis deadlock keep the analysis simple and focused on the important issues and the bigger picture. Do not try to solve all aspects of the analysis right at the beginning. Instead, do a preliminary analysis and then improve on it.

This following section explains the major objectives when analyzing an access to justice problem. In addition, Annex 3 provides a sample mapping framework on access to justice with general information on each stage of the justice process.

Major Objectives in Analyzing an Access to Justice Problem

Consider ways in which the problem is contributing to poverty

In what ways does the absence of justice remedies increase a person's vulnerability to poverty?

The justice system is a means to ensure accountability, but it is not the only one. Sometimes justice remedies are not adequate or sufficient to bring people the sense of “justice” they demand. Other remedies – administrative, political, or social – may be necessary. Further, different groups may have different perceptions on the role of formal and informal justice systems; perceptions may also be different for users and providers of justice services.

Political, economic, social and cultural factors can reinforce the problem

What factors contribute to the problem?

This step seeks to identify the direct causes and effects of the access to justice problem. Remember that development problems are complex; they are not trees with distinctive root causes, but rather, they resemble webs of factors that impact on and reinforce each other.

Access to justice programmes need to adopt a multidisciplinary approach to explore these factors. For example, lack of independence of the judiciary may be favoured by bureaucratic cultures, or economic factors may lead to the growing number of women incarcerated. Look beyond the legal and institutional reasons underlying the problem. Those who are experiencing the problem are in the best position to identify the main causes.

Situate the problem in a human rights/legal context

What human rights are at stake and what type of remedies are needed?

Once the access to justice problem has been broadly identified, it needs to be interpreted in terms of human rights. To do this, compare the actual situation to how it should ideally be according to international human rights conventions and treaties and the national legal framework.

The reason for situating the problem in a human rights context is to determine a basis of accountability that people can claim, and which institutions and other actors should strive to comply with. The human rights framework relevant for UNDP's action in a particular country is based on the Universal Declaration on Human Rights². It also includes human rights recognized by international conventions ratified by the State, by the Constitution and by national legislation, or supported by the State in UN bodies or conferences (such as the UN Guiding Principles on the Treatment of Prisoners).

² UN. 2002. “UN Common Understanding on a Human Rights Approach to Development.” Stamford, Connecticut.

The human rights framework provides guidance on access to justice problems in at least three ways:

- **It provides a broad roadmap for development goals (e.g., equality before the law).**
- **It provides detailed guidance on specific obligations for selected duty-bearers (such as the police and prisons).**
- **It helps to define the scope of remedies (e.g., there is a right to free speech; hence there should be a remedy when that right is not respected).**

Human rights are interrelated. Therefore, there will be a number of rights at stake in any particular situation that demand accountability. In line with the access to justice framework, the focus should be on those to which the justice system is best positioned to provide a remedy to. This will depend on the type of right, and on the situation. For instance, the justice system is likely to be the most appropriate mechanism for human rights claims related to the process of justice (e.g., fair trial), but it can also play a key role in other rights (e.g., the right to remedies for medical malpractice or discrimination which restricts access to health).

The focus of access to justice programmes should be on those rights to which the justice system is best positioned to provide a remedy

Sample questions:

- Who are the duty bearers that need to fulfil their obligations in order for the claim-holders to effectively secure their rights?
- Who are the duty bearers most able to provide a solution to the root causes?
- Who are the duty bearers that are absolutely necessary to achieve a solution?
- What specific duties are the duty bearers responsible for?

A human rights approach views stakeholders as bearers of claims and duties

Conventional stakeholder analysis considers stakeholders as any person, group or organization that has an interest in the solution of the problem. A human rights approach views programme stakeholders as bearers of claims and duties.

Rights-based analysis establishes a distinction between claim holders (those who hold a right), and duty bearers (those who have a corresponding obligation to act in defending such a right). Human rights claim holders are always people, individually or collectively. The major duty bearer of human rights is the State, including national as well as local government in all the branches of state power (executive, legislative and judicial).

UNDP access to justice programmes prioritize as claim holders the poor and other disadvantaged people. Poverty and discrimination (e.g., on the grounds of gender, ethnicity or caste) can disadvantage those seeking justice remedies through existing institutions.

Duty bearers in access to justice programmes include state and non-state actors at national and local levels. Non-state duty bearers are key actors that may affect people's capacity to access justice (e.g., universities, civil society organizations, religious leaders and the media).

The analysis should bear in mind that legal pluralism of societies implies that rights recognized at one level may be denied because of norms operating at another level³. For instance, judges may have contradicting duties to refuse bribes under national law and an unwritten right to accept them under bureaucratic "living law". Women may have the right to reproductive health under customary norms, but it may be denied by legislation, etc. Thus the analysis needs to identify whether and where contradictions exist, and whether justice systems can play a role in resolving such contradictions to ensure respect for human rights.

Dealing with sensitive human rights language

In some countries reference to international human rights can be very sensitive. Don't get overly constrained about human rights language – you can carry out a rights-based analysis without necessarily referring to international human rights. You may find it more compelling for national partners if the argument of why the problem needs to be addressed is based on the Constitution or on national law.

Sample questions:

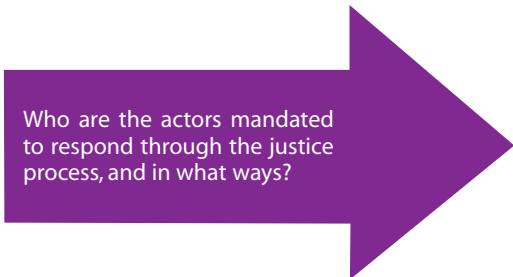
- How does the situation compare to the international human rights framework?
- Is the national legal framework in line with international human rights? Is a legal framework in place at all?
- If no legal framework is in place, is there political support for establishing a legal framework or is there a need for prior constituency/coalition building for legal reform?
- How do regulations, customary laws or other informal cultural norms promote or hinder respect for legally recognized human rights?

³ Moser, C. and A. Norton. 2001. "To Claim Our Rights: Livelihood security, human rights and sustainable development." Overseas Development Institute, United Kingdom.

Identification of key stakeholders in the problem

The next step is to identify what type of remedies justice institutions could provide for the situation. This requires the assessment of which specific actors could be involved in the solution and what specific role they should play. Table 1 in Chapter 1 can be used as a guide to the key actors in each of UNDP’s access to justice support areas.

Most actors will have a duty to provide a solution according to human rights, others may have a duty under other locally accepted frameworks (e.g., customary norms or legislation). Those that critically impact on people’s capacity to access justice (e.g., universities) also have a duty to contribute to the realization of this right.




Sample questions:

- Who are the duty bearers that need to fulfil their obligations in order for the claim-holders to effectively secure their rights?
- Who are the duty bearers most able to provide a solution to the root causes?
- Who are the duty bearers that are absolutely necessary to achieve a solution?

Key duty bearers with regard to access to justice problems are identified in Chapter 4. Duty bearers in relation to legal protection are mapped in Chapter 3 and those in relation to legal literacy and legal aid are detailed in Chapter 5. Each section explains the typical obstacles and capacity development strategies facing duty bearers and claim holders.

Example – rights at stake and key actors:





What persons are least able to claim their rights when they need them?

Rights are fundamental interests protected by law (e.g., education, work, freedom of religion and opinion), therefore all human beings are claim-holders of human rights. Not everybody needs to use legal claims to defend their interests. Some people are able to use for instance their financial, human or social capital instead. Others, however, may have no other means than invoking their rights.

Programme analysis should identify the people who are least able to claim their rights in a particular situation. They may be referred to as “disadvantaged groups” in a particular context. Groups may suffer disadvantage as a result of different causes. Therefore, disadvantaged groups need to be disaggregated (see Chapter 6 for relevant obstacles and capacity development strategies for some disadvantaged groups).

Discrimination can also result in some people being unable to claim their rights. For this reason, disadvantaged groups are likely to include the poor and other groups who are discriminated against in a particular context.

Sample questions:

- Who among the claim holders are most affected or unable to obtain remedy?
- Who are least able to rectify the situation without assistance?



⁴ “Willingness”, however, can also be seen as a “capacity” constraint. Where “capacity” is analysed as authority (“may” a duty bearer act?), responsibility (“should” a duty bearer act) and human and financial resources (“can” a duty bearer act?), “willingness” is included within the concept of “capacity”.

TABLE 3: SAMPLE ANALYSIS OF AN ACCESS TO JUSTICE PROBLEM

ACCESS TO JUSTICE PROBLEM: Female offenders are disproportionately incarcerated for long sentences for minor offences	
IN WHAT WAYS DOES THE ABSENCE OF JUSTICE REMEDIES INCREASES PEOPLE'S VULNERABILITY TO POVERTY?	<ul style="list-style-type: none"> ■ Women that are incarcerated may be discriminated against in the future when trying to gain employment, or they may suffer from social ostracism ■ Families of women prisoners, particularly children, may suffer as women often play a critical role in poor families in income generation, care and education, etc.
WHAT FACTORS CONTRIBUTE TO THE PROBLEM?	<ul style="list-style-type: none"> ■ Legal factors - Penal law assigns unreasonably high sentences for minor offences ■ Attitudinal factors - Judges often give higher prison sentences because it will "teach women a lesson" ■ Economic factors - Even if fines are imposed instead of imprisonment, women are often too poor to pay ■ Institutional factors - Women are "forgotten" in prison ■ Human resource factors - Access to lawyers is difficult because the number of lawyers is insufficient ■ Human factors - Women are ignorant about the law and don't know how to appeal ■ Social factors - Women are afraid to speak out
WHAT HUMAN RIGHTS CLAIMS ARE BEING IGNORED AND WHAT TYPE OF REMEDIES ARE NEEDED?	<ul style="list-style-type: none"> ■ Penal/Procedural Code ■ Prison Act (national law) ■ Body of principles for the Protection of All Persons Under Any Form of Detention or Imprisonment
WHO ARE THE ACTORS MANDATED TO RESPOND THROUGH THE JUSTICE PROCESS, AND IN WHAT WAYS?	<ul style="list-style-type: none"> ■ The judiciary ■ The prison administration ■ The Ministry of Justice ■ Other providers of legal services
WHAT PERSONS ARE LEAST ABLE TO CLAIM THEIR RIGHTS WHEN THEY NEED THEM?	<ul style="list-style-type: none"> ■ Illiterate women ■ Indigenous women ■ Commercial sex workers
WHAT OBSTACLES PREVENT DISADVANTAGED PEOPLE FROM CLAIMING THEIR RIGHTS THROUGH THE JUSTICE PROCESS?	<ul style="list-style-type: none"> ■ Illiteracy ■ Fear and social stigma
WHAT OBSTACLES PREVENT DUTY BEARERS FROM FULFILLING THEIR OBLIGATIONS?	<ul style="list-style-type: none"> ■ Attitudes of judges ■ Women prisoners not a priority ■ Insufficient number of lawyers ■ Deficient records ■ Demotivation of prison staff because of low wages ■ Lack of awareness of women's rights, prison standards
WHICH OF THESE OBSTACLES REFLECT A LACK OF CAPACITY, AND WHICH ONES LACK OF WILLINGNESS?	<ul style="list-style-type: none"> ■ There is a general unwillingness to deal with the rights of prisoners as this may be considered as being 'lenient' towards crime ■ Some women prisoners are unwilling to seek help because of fear of being punished by prison staff
WHAT OPPORTUNITIES ARE WITHIN THE REACH OF DISADVANTAGED PEOPLE TO OVERCOME SUCH OBSTACLES?	<ul style="list-style-type: none"> ■ A number of NGOs working in prisons are starting paralegal services for women
WHAT OPPORTUNITIES ARE WITHIN THE REACH OF DUTY BEARERS TO OVERCOME SUCH OBSTACLES?	<ul style="list-style-type: none"> ■ National Human Rights Commission and Ministry of Labour are champions of women's rights ■ Media are paying attention to the situation of prisons ■ Some donors have expressed willingness to assist the Government in improving prison conditions

PROGRAMMING STEP 6: SET OBJECTIVES/SELECT OUTCOMES

The changes that UNDP aims to bring about in the lives of disadvantaged people are the general objectives, or outcomes, of UNDP support. UNDP projects are not sufficient on their own to achieve meaningful changes in people’s lives, but they can contribute to them in a measurable way.

Outcomes cannot be achieved by UNDP programmes on their own, but the outputs of UNDP programmes can contribute to the achievement of outcomes

Outcomes of UNDP programmes should focus especially on positive changes for disadvantaged groups. “Positive changes” in access to justice are those that reflect a greater ability to obtain the type of justice remedies disadvantaged people need to improve their well-being.

The following questions may be asked to assess whether the programme outcome is consistently formulated:

- Does the outcome describe a change in people’s lives?
- Will the change be in accordance with human rights standards?
- How does the outcome reflect a greater capacity to obtain justice remedies by people who could not previously obtain them?
- Does the outcome lessen people’s vulnerability to poverty?
- Will the outcome enable a baseline to be established against which improvements can be measured?

Outcome – an example

The problem identified in the assessment stage was:

Female offenders are disproportionately incarcerated for long periods for minor offences.

If the outcome does not take a human rights-based approach, such as:

Prison system significantly strengthened.

It will not (a) reflect a change in people’s lives, (b) specify in what direction the change will take and (c) is difficult to measure.

Alternatively, an access to justice programme that applies a rights-based approach and seeks to address this problem may have as its outcome:

All women prisoners are able to secure their release after completing a reasonable prison term that is in accordance with international and national human rights standards and principles.

PROGRAMMING STEP 7: DEFINE AND PRIORITIZE STRATEGIES

OBJECTIVE

To define what needs to be done, how, in partnership with whom and when, to produce results on access to justice that are pro-poor and promote equity

Outcomes are general objectives, which development programmes can contribute to achieving. While there may be more than one strategy to achieve the desired result, prioritization of strategies requires the selection of the strategy likely to be the most effective. UNDP defines “development effectiveness” as a process that

produces results that are pro-poor and promote equity⁵.

This following section provides some tips to assist in prioritization. It is necessary to keep in mind however that many other important factors may prevail at the country level, which need to be considered.

Identify would-be “spoilers” and potential “champions”

Assess the political space for action

Who is interested in solving the problem and has the capacity to act? Is there anybody with the capacity to act who is interested in sustaining the status quo?

Come up with a number of potential strategies

Define outcomes as concretely as possible. Access to justice is a process in which an array of institutions are involved, and whose functions complement each other. Generally problems will require simultaneous strategies, and from the analysis it should be possible to identify more than one strategy.

Think in terms of issues, not institutions

Focus on accountability

Develop mechanisms that enable accountability

Accountability strengthens legitimacy and it is critical for good governance. It also helps to reduce poverty and violent conflict. Access to justice is basically about accountability and redress. Programmes should attempt to strike a balance between enhancing the capacities of claim holders to seek a remedy, and the capacities of duty bearers to provide such remedies; an exclusive focus on either the supply or the demand side risks ineffectiveness and frustration. At the same time, justice systems cannot adequately ensure accountability if they are not accountable themselves.

⁵ UNDP. 2003. UNDP Development Effectiveness Report.

Adopt multiple timeframes

Programme analysis should enable the identification of a number of short, medium and long-term strategies to address the problem. Thinking of how these strategies can reinforce each other can provide a useful basis for selection.



Seek immediate benefits for poor and disadvantaged people



One of the major obstacles that disadvantaged people face when trying to access justice is the insecurity in which they live. Access to justice is often an urgent matter to them. Medium- and long-term strategies are not cost-effective if they are not also able to be responsive in the short-term. Without immediate results there may be further human rights violations. At the same time, even small, but tangible, benefits can have a significant impact on poverty (e.g., the release of one hundred poor women prisoners can affect thousands of people because of their income-generating and/or care-giving role in their families). Equally, cross-cutting activities on access to justice can produce an immediate impact on people's livelihoods.

After identifying potential strategies, the following questions may be posed to assess whether a particular strategy is suitable for UNDP's action:

- Can the strategy help to enhance accountability and produce immediate benefits for disadvantaged groups?
- Does the strategy build on existing strengths and solutions?
- Can the strategy make a significant and measurable contribution to potential UNDP strategies in the medium-term?
- Is there sufficient space for action – in terms of existence of champions, political will, ownership, etc.?
- Does the strategy build on UNDP's comparative advantage – including in-house capacity, involvement of other donors in this field, etc.?
- Is the strategy realistic for the timeframe and the resources available?
- Is there potential for mobilizing resources for more expanded support?

Ways to enhance accountability through access to justice strategies

- Through internal mechanisms (e.g., putting internal oversight mechanisms in place; complementing these mechanisms with incentives such as performance-based promotion, etc.)
- Through external oversight mechanisms (such as building NGO coalitions to monitor performance, strengthened media, complaint mechanisms, etc.)
- Through enhancing the capacity of the user side to demand accountability
- Enhancing accountability of the development programme/project itself (see section on M&E for this)

PROGRAMMING STEP 8: DEVELOP OUTPUTS AND A PARTNERSHIP STRATEGY

OBJECTIVES

To define:

- (a) **The tangible results of the programme**
- (b) **How key partners will be mobilized to ensure that programme results impact on the goal**

Access to justice programmes make a contribution to their stated goals through a combination of outputs and partnerships. These may not be sufficient on their own to make a change in people's lives (outcome), but they can contribute to change.

Outputs indicate the tangible results of development strategies at the end of the project period.

Defining outputs

Outputs should be directly connected to the outcome being pursued by the programme. Generally the factors that influence the problem that the output is hoping to address connects it to the outcome. For instance, an outcome that seeks to "eliminate the incidence of torture," may include a project output such as "drafting penal code provisions on the prohibition of torture".

When establishing programme outputs the following questions may be asked:

- Do the outputs make a critical contribution to the achievement of the outcome?
- Are there outputs that could increase the accountability of justice providers?
- Are there outputs that could strengthen the ability of disadvantaged groups to seek justice?
- Will the achievement of certain outputs in the absence of others increase the vulnerability of disadvantaged groups? If so, can the project ensure all outputs will be achieved?

Designing a partnership strategy

A partnership strategy identifies how key partners will be mobilized and what results they are expected to contribute to the programme outcome. While the outputs are to a large extent under the programme's control, the results of the partnership strategy are less certain.

A partnership strategy identifies how key partners will be mobilized and what results they will be expected to contribute.

When establishing partnerships, adopt a capacity development orientation. For example, who are the actors that have already attempted to solve the problem? Try to involve such actors to build on their efforts.

Ideally, partnership strategies should include all partners that are in a position to ensure that outputs have an impact on people's lives— as well as all actors who are in the position to limit such an impact.

Partnership strategies should be results-oriented. They should ask, what is expected to result from a specific partnership? As with outputs, the development of partnerships should be monitored.

Partnerships can be established at the programme design stage, or they can occur as the programme develops. Partnerships can be pursued formally, such as in joint committees or in formal networks or they may occur informally – e.g., as a result of personal contact with counterparts, or within the context of other projects. To the extent possible however, UNDP should attempt to institutionalize such partnerships since access to justice initiatives may outlast the involvement of these particular individuals.

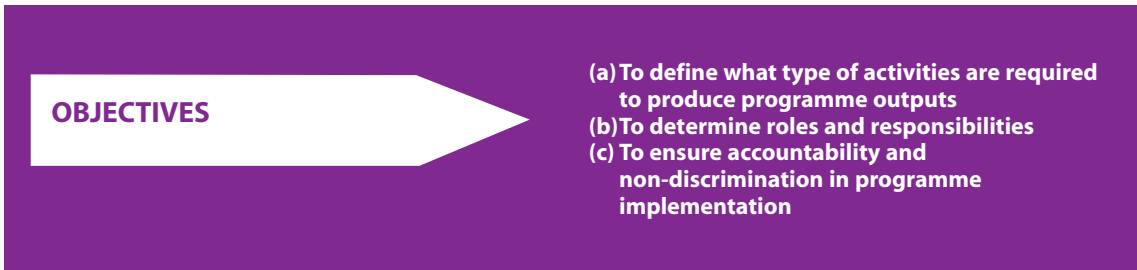
Outputs – an example

During the problem assessment and analysis it was concluded that the main reasons female offenders were disproportionately incarcerated for long periods for minor offences was because of (a) their own legal illiteracy, (b) the ambiguity in the law, and (c) because institutions charged with protecting their legal rights lack the administrative capacity to do so.

To address this, access to justice programme outputs could include:

- a) Review and revision of sentencing laws so that they are in accordance with human rights standards and principles (CEDAW, ICCPR, minimum standards, constitutional provisions etc.).
- b) Preparation of sentencing guidelines that take into account human rights.
- c) Institutionalization of legal literacy programmes for women prisoners.
- d) Provision of legal aid services to women prisoners.
- e) Strengthening of prison registries, prisoner tracking systems established and information flow about prisoners – especially women – to relevant actors in the justice system significantly improved.
- f) Establishment of a civilian oversight mechanism for prisons and detention centres that particularly focus on the conditions of women inmates and detainees.

PROGRAMMING STEP 9: ESTABLISH AN IMPLEMENTATION FRAMEWORK



Activities transform programme inputs into outputs. An implementation framework establishes what key activities (including actions and decisions) need to be performed during programme implementation, who will perform

them, when and on what basis. For instance, a survey may need to be conducted to decide how to select participants, or to determine the specific contents of an advocacy campaign.

Define a timeframe for key activities and decisions

Think of the sequence of activities that are necessary to contribute to a particular output (e.g., legal aid services made available to women prisoners), and set a realistic timeframe to pursue the sequence, e.g., initial discussions with bar associations, Supreme Court and prison officials; establishment of baselines on trial sessions postponed for lack of a lawyer (design of study, conduct of study, recruitment of study team), etc. The process of preparing an indicative work plan will help you to assess whether the outputs set are realistic.



Define roles and responsibilities and establish decision-making systems

Who will be responsible for each task? How will collective decisions be taken? Programme stakeholders need to agree on roles and responsibilities during implementation. Committees and other mechanisms can be established for decision-making – there may be consultative committees, steering committees, etc. Make sure they are representative of the different perspectives that are relevant to the problem in question. Try to use existing mechanisms when available to avoid overburdening national and local administrations, and to ensure sustainability of coordination.



Establish mechanisms to demand accountability

For accountability to occur, it needs to be demanded. Establish ways in which actors responsible for particular tasks (e.g., procurement, recruitment, provision of data, preparation of technical reports) can be asked to report on their activities to other programme stakeholders and to the public at large (e.g., through focal points for information and requests, peer review systems, involvement of NGOs and independent parties in monitoring activities, public hearings, etc.). Mechanisms to demand responsibility from UNDP should also be made clear. Determine what mechanisms will be used to deal with potential complaints about the process and the results of the programme (e.g., on recruitment, corruption, lack of transparency, etc.). Make sure the mechanisms to demand accountability are known to their potential users throughout the implementation of the programme.



Ensure non-discrimination

Non-discrimination does not necessarily mean treating everybody equally. When deep inequalities exist (e.g., in human and financial capacities, or capacities for organization and representation) equal treatment may sustain and reinforce inequalities. It is important to make additional efforts to ensure those who are in a disadvantaged position are put at the centre of decision-making. Non-discrimination may require reviewing recruitment, funding and other operational criteria. Ensuring non-discrimination is especially necessary in the case of disadvantaged groups who are not able to participate in the programme process, or who are not within the focus of the programme. Non-discrimination calls for assessing how key decisions impact on affected groups who have not been involved in decision-making. For instance, in the case of the illustrative outcome on women prisoners mentioned before, it would be important to ensure that the programme does not result in longer periods of incarceration for men as a consequence of the prioritisation of women.



PROGRAMMING STEP 10: DESIGN A MONITORING AND EVALUATION SYSTEM

OBJECTIVES

To define, with respect to process and the results of a development strategy:

- (a) What to measure?
- (b) How to measure?
- (c) Who will do it?
- (d) With what frequency?
- (e) With what purpose?

Monitoring and Evaluation (M&E) consists of tracking and assessing the actual results of the programme as compared to the ones that were planned or expected. This is essential to determine the results-orientation and effectiveness of development initiatives.

Evaluations are in-depth assessments selectively undertaken at specific stages in the project cycle. Monitoring is a continuous process that lasts for the whole implementation of the project. This section explains the major components of a M&E system, and provides some tips on how to introduce M&E into programme design.

A sound Monitoring and Evaluation system is a fundamental pillar of UNDP's accountability. For this reason, M&E systems should be transparent and accessible, and be explicit about the reasons for restricting the timing and scope of information they provide (e.g., confidentiality of sources, etc).

Once the programme strategy is clear, and goals, outputs and partnerships have been defined, you can come up with an M&E system by answering some key questions:

What to measure?

- Outcomes – what are the expected changes to people's lives (see Step 6)?
- Outputs – what are the tangible results of the programme (see Step 8)?

- Partnership Strategy - how key partners will be mobilized to ensure outputs have an impact (see Step 8)?
- Participation Plan - how will stakeholders be involved (see Step 4)?
- Implementation Framework – is implementation taking place in a non-discriminatory and accountable manner (see Step 9)?

Establish general parameters for assessment

The first step towards establishing an M&E system is to define what parameters in each of these areas will be measured. When the expected result in each area (outcome, process, etc.) is adequately defined, the parameters to measure it will be few and simple.

Parameters are general categories that clarify where change should occur

Parameters may describe a situation, a condition, the level of knowledge, an attitude, or a behaviour, etc. For example, "All women prisoners able to secure their release after completing a reasonable prison sentence and in conformity with human rights principles and standards". In this outcome there are two key parameters: (1) reasonability of the period of incarceration for female offenders, and (2) conditions under which the prison sentence and release are conducted.

Characteristics of a programme indicator:

Direct: Measures as closely as possible the type of results the parameter describes.

Objective: Has no ambiguity about what is being measured and it is operationally precise.

Adequate: Groups of indicators should be able to measure a given parameter. Avoid using too many indicators.

Quantitative: They facilitate comparison through time and projects where possible.

Disaggregated: May be necessary to assess whether the results of the project impact differently on different groups of people.

Practical: An indicator is practical if data can be obtained in a timely way and at reasonable costs.

Reliable: Can sufficiently reliable data for confident decision-making be obtained?

Parameters should relate directly to what is being measured. For instance, in the case of a partnership strategy with a parliamentary body to ensure feedback on the legislative process, the parameter should relate to the occurrence of such a feedback. When the outcome or result is defined concisely, parameters would be stated similarly and there may be only one or two. General statements of outcomes, outputs or partnership strategies (such as “strengthened administration of justice” or “partnership with the Supreme Court”) make the establishment of parameters difficult, or require too many parameters.

Set indicators

Indicators define the data that measures a given parameter. Indicators only indicate, they do not explain. They can be seen as snapshots of a small part of the reality that the parameter is referring to.

A parameter will generally require more than one indicator. Try to be strategic in setting indicators: some indicators can serve to measure more than one parameter. Where possible, choose those indicators that have more than one purpose. The best indicators are those that are clear and simple.

For instance, indicators for a parameter like “coherency of the legal framework regulating the functioning of the justice system” may relate to the existence of legal vacuums/legal contradictions in laws, regulations and ordinances in three areas: (a) distribution of competencies among the judiciary, prosecutors and police, (b) distribution of competencies among civil courts, religious courts, military courts, and traditional systems of justice, and (c) legal provisions on the independence of the judiciary, prosecutors, police and lawyers. These indicators can serve to measure other parameters, such as the independence of the justice system.

Indicators should refer directly to the parameter being measured. When this is not possible (e.g., because the phenomena is not directly observable or it is only observable at a very high cost or after long periods of time) programmes can use proxy (indirect) indicators. For instance, “public confidence in the justice system” is a proxy indicator of a “fair administration of justice”.

Indicators may be qualitative or quantitative. Quantitative indicators facilitate comparisons, but they are insufficient on their own to assess parameters, which will normally include important qualitative dimensions.

Define means of verification

The means of verification are the sources of data and the methodology used to obtain that data. For instance, if the indicator is “reduction in the prison sentence period for minor female offenders”, the source of data may include prison and court records, and the method of collecting data may be conducting a survey of 150 cases in five regional courts.

The accessibility, cost and reliability of data are central criteria in selecting one type of indicator rather than another. However, as access to justice problems are new to development and often invisible, secondary data may not always be available or may be insufficient.

Finding accessible and reliable sources may be difficult, often the programme will need to invest in data gathering. Participatory processes may be cost-effective means of doing this as they can also serve to expand capacities

On occasions, access to justice programmes will need to invest a certain amount of time and resources in data gathering. The use of rapid appraisal methods, which are quick, low-cost ways to gather data systematically, should be taken into consideration. On the other hand, using participatory processes may take more time but be more cost-effective, as these processes can also serve to expand capacities in critical groups (see Step 3 to develop a participation plan).

TABLE 4: SETTING PARAMETERS AND INDICATORS – AN EXAMPLE

WHAT TO MEASURE	HOW TO MEASURE		
	Example of a parameter:	Example of indicator:	Means of verification:
OUTCOME: ALL WOMEN PRISONERS ABLE TO SECURE THEIR RELEASE AFTER COMPLETING A REASONABLE PRISON SENTENCE AND IN CONFORMITY WITH HUMAN RIGHTS PRINCIPLES AND STANDARDS	(1) Reasonability of the period of incarceration	(1) Percentage of minor female offenders granted alternative prison sentence or conditional release <i>Target:</i> 30% increase in alternative prison sentencing/conditional release for female offenders for minor offences in 3 years. <i>Baseline:</i> 5% female minor offenders with alternative prison sentencing, 2% conditional release	(1) Prison and court records – survey of 150 cases in five regional courts
OUTPUT: LEGAL AID SERVICES MADE AVAILABLE TO WOMEN PRISONERS	(1) Poor women prisoners' receiving legal aid services during revision of sentence	(1) Percentage of women prisoners whose trial sessions have been postponed due to the absence of a lawyer <i>Target:</i> Decrease to 40% of total postponements in 3 years <i>Baseline:</i> 75% of total postponements	(1) Court records – survey of 150 cases in five different prisons
PARTNERSHIP STRATEGY: PARTNERSHIP WITH THE SUPREME COURT, TO ENSURE IT PRIORITIZES REVIEW OF SENTENCES FOR WOMEN	(1) Priority revision of sentences of women prisoners incarcerated for long periods	(1) Existence of Court Guidelines on priority revision of cases of women incarcerated for long period <i>Target:</i> Guidelines established within 3 years. <i>Baselines:</i> No prioritization criteria in place	(1) Supreme Court orders
PARTICIPATION PLAN: WOMEN PRISONERS TO DEFINE QUALITATIVE PARAMETERS OF LEGAL AID SERVICES	Qualitative parameters of legal aid services respond to expressed concerns of women prisoners	(1) Number and nature of suggestions from women prisoners incorporated into the legal aid scheme	(1) Qualitative assessment of legal aid scheme against records from workshops, meetings, etc.
PROCESS: NON-DISCRIMINATION ACCOUNTABILITY	Male prisoners released after completion of sentence remains equal or improves (1) Functioning of complaint mechanisms	Rate of male prisoners release before and after the project period (1) Programme adjustments occasioned by complaints	Prison records – 50 cases in five different prisons (1) Programme reports

Set baselines, benchmarks and targets

Indicators require a baseline (starting point before a programme), a target (situation expected at the end of the programme) and benchmarks (observations taken at specific points in time or within a given period of time).

Targets and benchmarks should be realistic, and they should be agreed to by all programme partners.

For instance, for the indicator used in the previous pages a baseline could be “5% of total female minor offenders with alternative prison sentencing, 2% granted conditional release”; the target could aim for an increase to “80% of total female minor offenders granted alternative prison sentencing or conditional release in five years”; and benchmarks could be set at 5% for the first two years and 20% for the rest.

Who will be involved?

A human rights approach calls for involving those who are experiencing the problem in Monitoring and Evaluation (see Step 3). A plan for participatory monitoring can be prepared to decide who will participate, and how the capacities of those participating will be strengthened so that their involvement is meaningful. Participatory processes may risk being captured by more educated or better positioned groups or individuals. To counter the risk of elite capture, efforts should be made to involve those who are in a disadvantaged position as well.

Participatory monitoring can become a learning process and a process of social negotiation if done well. This can produce additional capacity results for the project.

It is useful to involve independent actors (e.g., NGOs, agencies not related to the programme, other donors) in monitoring activities, as this usually increases the reliability of findings.

Monitoring processes that facilitate learning and social negotiation can produce additional results to the project in terms of capacities.

What will be the frequency of the assessment?

Set a timeframe for Monitoring and Evaluation. Will data be collected monthly, every six months, or annually? With what frequency will reports be prepared? A specific timeframe responds to the purposes and the nature of what is being measured. Certain information may be needed regularly to ensure programme adjustments; especially data related to the process such as data on participation or non-discrimination (see Step 10).

Secure funding and time to collect and analyze data, even if collection happens after completion of the project, such as in evaluations.

What are the purposes of the data?

How will the information gathered in Monitoring and Evaluation be used? It is easier to set parameters and indicators that are relevant by being explicit about what specific decisions M&E data aims to support, during and after programme implementation. For instance, will particular sets of data help to design a training course in the later stages of the project? What type of data will serve to conduct a mid-term programme adjustment? Which data can be used for advocacy purposes?

Some methods of data collection

Commonly used methods include:

- *Desk research.* Involves collecting secondary data (from previous surveys, reports, etc.).
- *Key informant interviews.* Involves interviews with 15 to 35 individuals selected for their first-hand knowledge about a topic of interest. Interviews are qualitative, in-depth and semi-structured. Interview guides and listing topics can be used.
- *Focus groups interviews.* Involves several groups of 8 to 12 participants. Each group discusses issues and experience among themselves. A moderator introduces the topic, stimulates and focuses the discussion, and prevents domination of discussion by a few.
- *Community interviews.* These usually take place at public meetings. Interaction is between the participants and the interviewer, who presides over the meeting and asks questions following a carefully prepared interview guide.
- *Direct observation.* Teams of observers record what they see and hear at a programme site, using detailed observation forms. Observations may be of physical surroundings, ongoing activities, discussions, etc.
- *Mini-surveys.* Involves interviews with 25 to 50 individuals, usually selected using sampling techniques. Structured questionnaires that focus on a limited number of closed-ended questions are used.