

RECOMMENDED READING



RECOMMENDED READING

Chapter One: Introduction To Access To Justice

Fukuda-Parr, S., C. Lopes and K. Malik, (eds.) 2002. "Capacity for Development: New Solutions to Old Problems." United Nations Development Programme.

Available at <http://www.undp.org/dpa/publications/capacity.html>

This book discusses new approaches to capacity development by focusing on areas of ownership, civic engagement and knowledge.

United Nations Development Programme. December 2004. "Access to Justice Practice Note."

Available at <http://www.undp.org/governance/docs/A2J%20PN%20Final.doc>

This practice note suggests strategies for UNDP support for access to justice, particularly for the poor and disadvantaged, including women, children, minorities, and persons living with HIV/AIDS and disabilities.

United Nations Development Programme. June 2003. "Human Rights and Poverty Reduction: A Practice Note."

Available at http://www.undp.org/governance/docshurist/030610PracticeNote_Poverty.doc

This practice note outlines UNDP's approach to human rights and poverty reduction. It argues that poverty is a denial of human rights and proposes a framework for human rights integration in poverty reduction strategies.

Chapter 2 – Ten Steps to Developing an Access to Justice Programme

Center for Democracy and Governance. 1998. "Handbook of Democracy and Governance Program Indicators." USAID.

Available at http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacr211.pdf

The handbook explains indicators in the context of strategic planning and performance monitoring. It provides guidance on developing indicators that are useful for management decisions and performance monitoring. However, as the handbook is geared towards strategic objective teams, it is rather exhaustive and technical.

Hijab, N. June 2003. "Human Rights-Based Reviews of UNDP Programmes – Working Guidelines" HURIST.

Available at <http://www.undp.org/governance/docshurist/030617Guidelines.doc>

A revision of the Working Guidelines issued by UNDP in October 2002 which sought to encourage UNDP programmes to include a human rights perspective in all its work. This paper includes the UN Common Understanding on Human Rights and the methodology for human rights-based reviews as well as an HRBA Checklist.

International Council on Human Rights Policy. 2004. "Enhancing Access to Human Rights." ICHRP, Versoix, Switzerland.

Available at <http://www.ichrp.org/ac/excerpts/150.pdf>

This study examines the steps beyond law and legal reform to ensure that rights and entitlements are available and accessible to all. The report considers internalized inhibitions and external factors contributing to the systematic vulnerability of the poor and disadvantaged groups. The paper further explores the responses of institutions, civil society, and informal systems and identifies remedies that would provide access.

Teehankee, J. C., Ph.D. 2003. "Background Paper on Access to Justice Indicators in the Asia-Pacific Region." La Salle Institute of Governance (with the support of the United Nations Development Programme).

The paper uses the UNDP rights-based approach framework to develop indicators that can be used for comparing access to justice in the Asia-Pacific region. The indicators, collected from various government and international organization sources, are categorized by their inputs, outputs, outcomes, and impacts.

Theis, J. 2004. "Promoting Rights-Based Approaches: Experiences and Ideas from Asia and the Pacific" Save the Children.

Available at <http://seapa.net/external/resources/crp.htm>

A collection of experiences from the Asia-Pacific region in utilizing a rights-based approach to programming. It provides an overview of rights-based approaches, how they can be implemented in different situations, and provides some examples. It also has a list of web resources on rights-based approaches and some tools that may be useful for analysis, planning and monitoring and evaluating.

Vera Institute of Justice. November 2003. "Measuring Progress toward Safety and Justice: A Global Guide to the Design of Performance Indicators across the Justice Sector." New York.

Available at <http://www.vera.org/indicators>

The guide provides an in-depth discussion on the role of indicators, the different levels of indicators, and their design process. It also includes examples of policy goals that require different indicators and a description of the strengths and weaknesses of these suggested indicators. The guide covers indicators that cut across the safety and justice sector.

Chapter 3 – Normative Protection

Bulloven, H. P. 2002. "Cultural and Legal Barriers to Justice in Guatemala." UNDP Guatemala. Part of the UNDP conference on UNDP's Role in Access to Justice. March 3-6 2002. Oslo, Norway.

Available at <http://www.undp.org/governance/cd/document/34.pdf>

The paper relays UNDP Guatemala's experience in implementing judicial reforms in a post-conflict environment. It discusses the role of Mayan customary law and the new opportunities for reform created by the Guatemalan Peace Accords of 1996. The paper concludes with a list of barriers to accessing justice and an outline of complementary projects to UNDP judicial system capacity strengthening measures, e.g., support of civil society and customary law as a low conflict solution, and radio programming to answer legal questions.

Dinnen, S. 2003. "Interfaces between Formal and Informal Justice Systems to Strengthen Access to Justice by Disadvantaged People." Paper presented at the UNDP Access to Justice: Practice in Action Workshop. October 2003, Sri Lanka.

This paper provides a historical and social background to the ongoing efforts for law and justice reform in the Melanesian context and discusses the significance of such systems and states why the informal justice systems in Melanesia need to be appreciated. The paper mainly argues that the operations of both formal and informal justice systems should ideally be complimentary, however, it also clarifies from the outset that 'traditional' and informal justice systems should be recognized and supported when they are consistent with the rule of law and respect for human rights.

Department for International Development. 2002. "Better Livelihoods for Poor People: The Role of Land Policy." Consultation Paper. DFID, UK.

Available at <http://www.eldis.org/static/DOC11008.htm>

This DFID consultation paper examines the importance of land, land rights and land reform in developing countries, and considers how land policies can contribute to poverty reduction and the achievement of the Millennium Development Goals. It advocates a rights-based approach to land through advocacy and representation of the poor in land management, and suggests a series of recommendations.

Department For International Development. July 2002. "Safety, Security and Accessible Justice: Putting policies into practice." DFID, UK.

Available at <http://www.dfid.gov.uk/pubs/files/safesecureaccjustice.pdf>

Meant for advisors, managers and officials, this guide offers a series of suggestions on how to implement the Safety, Security & Accessible Justice (SSAJ) policy to make the justice system work better, particularly for the poor and vulnerable. Information and examples are given to establish user perspective and sector breakdowns, to further identify linkages and entry points, as well as outlining of common problems faced.

Faundez, Julio. 2001. 'Legal Reform in Developing and Transition Countries', in "Comprehensive Legal and Judicial Development: Towards an Agenda for the 21st Century," Puymbroeck, R. (ed.). The World Bank, Washington, DC.

Available at http://www4.worldbank.org/legal/legop_judicial/ljr_conf_papers/Faundez.pdf.

From the proceedings of a World Bank Conference held in Washington, DC. 5-7 June 2000. The article addresses obstacles to and models for legal reform. It acknowledges that the legal reform now encompasses a broader dimension than in prior years and insists on the importance of building institutional infrastructure and contextualizing the systems. Also outlined are the influences of external factors, ownership issues (technical and legal).

Chapter 4 – Capacity to Provide Justice Remedies

Abregu, M. 2001. 'Barricades or Obstacles: The Challenges of Access to Justice', in "Comprehensive Legal and Judicial Development: Towards an Agenda for a Just and Equitable Society in the 21st Century", R.V. Van Puymbroeck (ed.). World Bank, Washington, DC.

Available at http://www4.worldbank.org/legal/legop_judicial/ljr_conf_papers/Abregu.pdf

The paper explores obstacles to access to justice deriving from operational and structural factors, and points out a series of responses that the judiciary could offer to address such barriers.

Amnesty International Fair Trials Manual. 1998.

Available at <http://www.amnesty.org/ailib/intcam/fairtrial/fairtria.htm>

This manual provides a guide to individuals using relevant human rights standards to examine the fairness of a criminal trial or a justice system. The manual is divided into three sections focusing on 1) right to liberty and terms of detention, 2) rights to a fair trials, and 3) standards that are invoked in special cases involving the death penalty, children, and armed conflicts. It is designed for those who seek to evaluate whether a country's justice and trial systems conform to international standards.

Amnesty International (AI). 2001. "National Human Rights Institutions: Amnesty International Recommendations for Effective Protection and Promotion of Human Rights." AI Index IOR/40/007/2001, 1 October 2001.

Available at <http://www.nhri.net/pdf/IOR4000701.pdf>

The paper discusses all aspects of establishment and operation of NHRIs to ensure independence and effective action including membership, mandate and powers. It also includes general recommendations on investigations, methodologies for investigations, how to deal with individual complaints and addressing failed investigations effectively. Other issues discussed are human rights education, visits to places of detention, publicity, accessibility, and budgets for NHRIs.

Anderson, M. R. 2003. "Access to Justice and Legal Process: Making Legal Institutions Responsive to Poor People in LDCs." IDS Working Paper 178, Institute of Development Studies.

Available at <http://www.ids.ac.uk/ids/bookshop/wp/wp178.pdf>

The paper examines some of the principal factors that deny poor people access to justice and suggests a number of legal reform strategies. The paper focuses on the judiciary and its accountability functions. It proceeds to examine the institutional obstacles to legal accountability by the poor and the anti-poor bias of many legal institutions. The paper's focus then turns to civil society and examines a number of economic and social factors that keep the poor from obtaining access to judicial systems. The next section explores how democratization and the incorporation of human rights concepts into national law have (or have not) enhanced access to justice. The conclusion suggests a number of policy reforms and strategies that state and civil society groups can deploy to increase the responsiveness of judicial systems to the poor.

Anaya, S. J. 2004. "International Human Rights and Indigenous Peoples: The Move Toward the Multicultural State." Vol. 21, No. 1, p. 13-62. Arizona Journal of International & Comparative Law.

Available at <http://www.law.arizona.edu/Journals/AJICL/AJICL2004/Vol211/Anaya.pdf>

The article examines the rights of Indigenous Peoples in terms of the international human rights framework. Issues concerning Indigenous Peoples such as collective rights, non-discrimination and cultural integrity, land and natural resources, etc. are discussed. It finally proposes a model of a multicultural state which recognizes, respects and includes indigenous peoples.

The Bangalore Principles of Judicial Conduct. 2002.

Available at http://www4.worldbank.org/legal/publications/Bangalore_principles.pdf

The Principles establish a set of standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. The document covers: 1) judicial independence; 2) impartiality in judicial decision-making; 3) integrity; 4) propriety of judges; 5) equality of treatment to all; and 6) competence and diligence in due performance.

Basic Principles on the Independence of the Judiciary. 1985.

Available at http://www.unhchr.ch/html/menu3/b/h_comp50.htm

The Principles were formulated to assist states in securing and promoting the independence of the judiciary within the government framework. The Principles are categorized into 4 sections on the selection and functioning of the judiciary: 1) freedom of expression and association; 2) qualifications, selection and training; 3) conditions of service and tenure; and 4) discipline, suspension and removal.

Basic Principles for the Treatment of Prisoners. 1990.

Available at http://www.unhchr.ch/html/menu3/b/h_comp35.htm

Adopted in 1990 by the General Assembly, this set of principles spells out the standard for treating all prisoners. In line with basic human rights principles, prisoners should have access to opportunities and health services available in the country so that their inherent dignity and value as human beings can be protected.

Basic Principles on the Role of Lawyers. 1990.

Available at http://www.unhchr.ch/html/menu3/b/h_comp44.htm

A document formulated by the United Nations to promote and ensure the proper role of lawyers. It is divided into eight sections: 1) access to lawyers and legal services; 2) special safeguards in criminal justice matters; 3) qualifications and training; 4) duties and responsibilities; 5) guarantees for the functioning of lawyers; 6) freedom of expression and association; 7) professional associations of lawyers; and 8) disciplinary proceedings. The document helps to establish the standards for how lawyers should behave in the justice system.

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. 1990.

Available at http://www.unhchr.ch/html/menu3/b/h_comp43.htm

The main objective of the Principles is to promote the proper role of law enforcement officials in administering justice. Aside from urging states to establish rules and regulations on the use of firearms, the Principles have prescribed circumstances under which non-violent means or firearms can be used.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. 1990.

Available at http://www.unhchr.ch/html/menu3/b/h_comp36.htm

This resolution formulates important principles regarding the treatment of detained individuals. The resolution focuses on the application of human rights principles and ensures that all detained persons have the right to counsel, communications, explanation of their detention, and a prompt trial.

Buscaglia, E. 2001. "Justice and the Poor Formal vs. Informal Dispute Resolution Mechanisms: A Governance-based Approach."

Available at http://www4.worldbank.org/legal/ljr_01/doc/Buscaglia.pdf

This study has introduced a methodology where the links between access to justice, governance-related factors, and the impact on the poor can be identified and assessed. This same methodology can be applied in any other context or country through the use of objective and perceptual survey indicators. This paper has also identified the main governance-related advantages of the informal dispute resolution mechanisms used by the poorest segments of society within three rural jurisdictions in Colombia's Andean Region.

Code of Conduct for Law Enforcement Officials. 1979.

Available at http://www.unhchr.ch/html/menu3/b/h_comp42.htm

The Code defines the role of law enforcement officials in fulfilling the duty imposed upon them by law. It also delineates the extent to which law enforcement officials should employ force while performing their duties and protecting the health, privacy, human rights, and safety of persons they arrest.

Commonwealth Human Rights Initiative. 2004. "Policing – A Human Rights Perspective." India.

Available at <http://www.humanrightsinitiative.org/publications/police/mha-report.pdf>

This paper describes the results of a seminar organized by the Ministry of Home Affairs, the Government of India in association with Commonwealth Human Rights Initiative and Delhi Police. Discussions are centred on two thematic areas: 1) police-public interface and 2) good practices in policing. The paper is split up between a description of the ground realities, accountability mechanisms and recommendations.

Commonwealth Secretariat. 2001. "Best Practice for National Human Rights Institutions." London.

Available at http://www.asiapacificforum.net/about/paris_principles/nhri_bestpractice.pdf

A major resource on National Human Rights Institutions, their functions and best practices on establishing NHRIs, setting up the composition of NHRIs, ensuring that they have adequate authority, as well as other significant issues concerning NHRIs.

Coyle, A. 2002. "A Human Rights Approach to Prison Management: Handbook for Prison Staff." International Centre for Prison Studies.

Available at <http://www.prisonstudies.org/>

This handbook describes the principles of good prison management based on the international human rights standards. The handbook makes the link between these standards and practical prison management. It demonstrates that in addition to providing an appropriate framework for the management of prisons, this approach can be very effective in operational terms. The handbook is aimed at a wide readership, intergovernmental, governmental and non-governmental. Above all, it is intended for those who actually work in prisons and who deal with prisoners on a day-to-day basis.

Danish Institute of Human Rights and OHCHR. 2003. "National Human Rights Institutions and the Administration of Justice." Copenhagen: 13-14 November 2003.

Available at http://www.nhri.net/pdf/Conclusion_NHRI_AoJ.pdf

Topics discussed include the relationship between National Human Rights Institutions and the judiciary, judicial enforcement mechanisms and national institutions, direct powers of intervention and national institutions, the complaints handling powers of national institutions including civil cases and military and security force cases, and case handling systems.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. 1985.

Available at http://www.unhchr.ch/html/menu3/b/h_comp49.htm

The Declaration defines the victims of crime and describes the facilitation of judicial and administrative mechanisms that enable victims to seek redress. The Declaration also focuses on prescribing the states' responsibilities in incorporating protective measures into national laws and providing assistance, financial compensation, and fair retribution to the victims.

Declaration on the Protection of All Persons from Enforced Disappearances. 1992.

Available at [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.47.133.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.47.133.En?OpenDocument)

The Declaration states the role and duties of states in preventing and punishing acts of enforced disappearance. Further, it prohibits acts of enforced disappearance under any circumstances and highlights the right of individuals who have been deprived of liberty to prompt appearance before judicial authority.

Golub, S. 2003. "Non-State Justice Systems in Bangladesh and the Philippines." Paper prepared for DFID.

Available at <http://www.grc-exchange.org/docs/DS34.pdf>

This paper aims to help DFID assess whether and how to work with non-state justice systems (NSJS) as part of its programme to advance safety, security and accessible justice (SSAJ) in the countries where it operates. Both Bangladesh and the Philippines also have numerous cultural minorities whose non-state justice systems coexist (sometimes uneasily) with those of the State. This paper accordingly aims to draw the insights and experience regarding both their non-state and state systems to ascertain what can be done to help make SSAJ a reality for cultural minorities from the Philippines and Bangladesh.

Guidelines on the Role of Prosecutors. 1990.

Available at http://www.unhchr.ch/html/menu3/b/h_comp45.htm

The Guidelines aim to secure and promote the effectiveness and fairness of prosecutors in criminal proceedings. The Guidelines are grouped into eight sections: 1) qualifications, selection and training; 2) status and conditions of service; 3) freedom of expression and association; 4) role in criminal proceedings; 5) discretionary functions; 6) alternatives to prosecution; 7) relations with other government agencies or institutions; and 8) disciplinary proceedings. The Guidelines establish a detailed code of conduct for prosecutors.

Human Rights Watch. 2004. "Prisons: Ending the Abusive Treatment of Prisoners."

Available at <http://www.hrw.org/prisons>

This site provides information on prison conditions, prison abuses, human rights protections for prisoners, and related issues. Research and information on prisons in specific countries can also be obtained.

International Centre for Criminal Law Reform and Criminal Justice Policy. 2001. "International Prison Policy Development Instrument." ICCLR.

Available at http://www.icclr.law.ubc.ca/Site%20Map/Programs/Prison_Policy.htm

This is the compilation of a comprehensive International Prison Policy Instrument developed by the International Centre for Criminal Law Reform and Criminal Justice Policy. This instrument is a compilation of standards and policies from many national and international sources and mostly includes UN Standards, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Lawyers Committee for Human Rights. 2000. "What is a Fair Trial? A Basic Guide to Legal Standards and Practice."

Available at http://www.humanrightsfirst.org/pubs/descriptions/fair_trial.pdf

The Guide intends to provide criteria for individuals assessing the fairness of trial procedures and observing trials. Focusing mainly on the criminal trial proceedings, it ensures that the suspects' rights are protected during the pre-trial, hearing, and post-trial stages. Moreover, the manual seeks to encourage public awareness and monitoring of irregularities in trial procedures.

Morris, C. 2002. "Definitions in the Field of Dispute Resolution and Conflict Transformation." From What is Alternative Dispute Resolution (ADR)?

Available at <http://www.peacemakers.ca/publications/ADRdefinitions.html>

Includes ways of processing disputes: negotiation, mediation, conciliation, facilitation, adjudication (including courts and arbitration), case management in courts and tribunals, non-binding arbitration, facilitated policy dialogue or shared decision-making, ombudsman, non-violent direct action, peace building, reconciliation and restorative justice.

Mukerjee, Dr. D. 2003. "Police Reform Initiatives in India." Commonwealth Human Rights Initiative.

Available at <http://action.web.ca/home/sap/attach/mukerjee-police-humanrights.rtf>

Dr. Doel Mukerjee works in the Police, Prisons and Human Rights Programme at the CHRI. The paper mainly argues that any serious commitments on the part of the Commonwealth and its member states to ensure the realization of human rights and good governance must also address the issue of police accountability and reform. It discusses the issue of police accountability and reform in India, the judicial initiatives and the responses of different institutions like federal institutions, UNDP, National Human Rights Commission. The major recommendations from the disbanded National Police Commission are also presented.

Penal Reform International. 1999. "Recommendations for Penal Reform and Access to Justice." Penal Reform in South Asia.

Available at http://www.penalreform.org/english/models_kathreco.htm

The paper provides an overview of problems, concerns and experiences in the area of criminal justice and access to justice arising in their particular areas / countries shared by the representatives from four countries in the South Asian region who came together at the Conference on Penal Reform in South Asia at Kathmandu in November 1999. Shared problems and solutions emerged out of the discussions and several specific recommendations were made by the representatives which they promised to incorporate into policies for reform.

Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. 1989.

Available at <http://www.unhchr.ch/html/menu3/b/54.htm>

The Principles articulate the circumstances under which no extra-legal, arbitrary and summary execution shall be carried out. Aside from preventing cases of extra-legal, arbitrary and summary executions, governments should cooperate fully in international investigations on this subject and establish proper investigative procedures to safeguard the basic freedoms of the accused.

Procedures for the Effective Implementation of UN Basic Principles on the Independence of the Judiciary. 1989.

Available at <http://www.hfhrpol.waw.pl/EN-RTF/en-5-6.htm>

This 1989 document has described and established the principles for ensuring independence in the judiciary. It has also clarified the role of the United Nations in providing training programmes and assisting member states in their implementation of these basic principles to create effective judicial systems.

Office of the High Commissioner for Human Rights. "Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police." Professional Training Series No. 5/Add1. OHCHR.

Available at <http://www.unhchr.ch/html/menu6/2/training.htm>

This manual is one component of a three-part package of materials for human rights training for police (the Manual, the Trainer's Guide, the Pocket Book), and it provides information on international human rights standards relevant to the work of police and guides law enforcement agencies and individual officials to provide effective policing through compliance of human rights standards. This manual is designed for police trainers and training institutions, national police officials, whether civilian or military, civilian police (CIVPOL) components of United Nations peace-keeping operations.

Office of the High Commissioner for Human Rights. "Human Rights and Law Enforcement: A Trainer's Guide on Human Rights for the Police." Professional Training Series No. 5/Add2. OHCHR.

Available at <http://www.unhchr.ch/html/menu6/2/train5add2.pdf>

This trainer's guide (component two of the OHCHR package) provides session outlines on a full range of human rights topics, group exercises, instructions and tips for trainers, and a number of training tools, such as overhead transparencies, to be used in concert with the manual in conducting police training courses.

Office of the High Commissioner for Human Rights. "Human Rights Standards and Practice for the Police: Expanded Pocket Book on Human Rights for the Police." Professional Training Series No. 5/Add3. OHCHR.

Available at http://www.unhchr.ch/html/menu6/2/pts5add3_E.pdf

This pocket book (Component 3 of the OHCHR package) is designed to provide a readily accessible and portable reference for police committed to the lawful and humane performance of their vital functions in a democratic society. It contains hundreds of relevant standards, reduced to common language and point-form, and drawn from over 30 international sources. This manual is produced in a more "user friendly" format, with subjects arranged according to police duties, functions and topics.

O'Neill, William G. 2004. "Police Reform and Human Rights." HURIST.

Available at <http://www.undp.org/governance/docshurist/041103police%20reform%20and%20human%20rights.doc>

This paper reviews and analyzes selected initiatives, most implemented by the UN, to improve police performance concerning human rights.

Penal Reform International. 2001. "Making Standards Work: An International Handbook on Good Prison Practice." London, UK.

Available at <http://www.penalreform.org/english/MSW.pdf>

This publication presents an overview of the UN rules on prison conditions and treatment of prisoners and explains concretely their value and meaning for prison policies and daily practice. The Handbook is meant for use by all those working with prisoners or responsible for their care and treatment in any way.

Penal Reform International. 2002. "Access to Justice and Penal Reform: Review and Recommendations." Second South Asia Regional Conference on Access to Justice and Penal Reform, Special Focus: Under-Trials, Women and Juveniles. 12-14 December, 2002. Dhaka, Bangladesh.

Available at http://www.penalreform.org/download/SARO/dhaka_Conference.pdf

This paper includes recommendations that emerged from the second South Asia regional conference on access to justice and Penal Reform held in Dhaka, Bangladesh that brought together more than 80 participants from India, Bangladesh, Nepal, Sri Lanka and Iran. The special focus of the conference was on under-trial prisoners, women and juveniles in the prison system. The role and responsibilities of police, courts, prison and civil society were specifically addressed and the need for inter-agency collaboration and cooperation was recognized as essential for the delivery of justice.

Roy, R. D. 2004. "Challenges for Juridical Pluralism and Customary laws of Indigenous Peoples: The Case of the Chittagong Hill Tracts, Bangladesh." Vol. 21, No. 1, p 114-183. Arizona Journal of International & Comparative Law.

Available at <http://www.law.arizona.edu/Journals/AJICL/AJICL2004/Vol211/Royarticle.pdf>

This paper examines the customary law of the indigenous peoples in the Chittagong Hill Tracts (CHT) in Bangladesh. In particular it examines family law and the natural resource rights both of which are of particular concern to the indigenous peoples of the CHT. It also looks at the interaction of the formal legal system and customary law as well as the challenges and opportunities in applying international law. Finally, the paper outlines some of the major challenges facing the protection of customary law.

Standard Minimum Rules for the Treatment of Prisoners. 1955.

Available at http://www.unhcr.ch/html/menu3/b/h_comp34.htm

The Rules are formulated based on the general consensus of the international community on the treatment of prisoners. They establish basic standards on the management of penal institutions in providing accommodation, personal hygiene, medical services, instruments of restraint, food, education, etc. for different types of prisoners.

Statement of Principles of the Independence of the Judiciary (The Beijing Statement)

This 1995 statement calls for judges to uphold the independence and integrity of the judiciary. The judiciary must uphold the rule of law and promote the observance and attainment of human rights. Moreover, the statement includes the conditions, in terms of appointment, remuneration, and tenure, for choosing judges of proven competence, integrity, and independence (also see The Tokyo Principles and the Sri Lanka Principles).

Tanja, H. and N. Rod. 2003. "Reconciling Justice, 'Traditional' Law, and State Judiciary in East Timor." Final Report Prepared for the United States Institute of Peace.

Available at <http://www.ids.ac.uk/ids/law/pdfs/hohendixon.pdf>

The question of how the international community should administer justice in post-conflict scenarios has also become more urgent and apparent in the last decade, as justice has been revealed to be a crucial aspect of more complex interventions. The report combines these two diagnosed weaknesses of international operations in this research. The report focuses on the nature of the local legal systems, contrasting local concepts of justice from western-based ideas. It reviews the perspectives on local law that prevailed within UNTAET and examines the policy environment that prevailed throughout the mission and the guidance provided to staff in the field in relation to local law. A further section focuses on key areas of the UN's operation where local justice expectations and realities prevailed, and finally, the report examines Timorese perceptions on transitional justice and Timorese ways of dealing with the two different systems.

United Nations Development Programme. Primer on Parliaments and Human Rights.

Available at http://www.undp.org/governance/docshurist/030610PracticeNote_Poverty.doc

This primer was jointly commissioned under the GPPS and HURIST Programmes. It explores how UNDP can enhance the contribution that legislators, parliaments and parliamentary processes make towards the protection, promotion and realization of human rights. The primer suggests elements for assessing the human rights capacities of parliaments and examines how several ongoing approaches to parliamentary development can be used to enhance parliament's contribution to human rights. The primer concludes with some programming considerations pertinent to human rights-based parliamentary development programming.

United Nations High Commission for Human Rights. April 1993. "Fact Sheet No.19: National Institutions for the Promotion and Protection of Human Rights, including the Paris Principles." UNHCHR.

Available at <http://www.unhchr.ch/html/menu6/2/fs19.htm>

This Fact Sheet explains National Human Rights Institutions and their role in protecting and promoting human rights. It also includes the Paris Principles.

United States Agency for International Development (USAID). 1998. "Alternative Dispute Resolution Practitioners' Guide." USAID, Washington, DC.

Available at <http://www.usaid.gov/democracy/pdfs/pnacb895.pdf>

Drawing on the experiences of ADR programmes in both developing and developed countries and the lessons as to whether, when, and how to implement ADR projects, this guide provides an introduction to the broad range of systems that operate under the rubric of ADR. It is written to help project designers decide whether and when to implement ADR programmes in the context of rule of law assistance or other development initiatives. The guide explores and clarifies the potential uses and benefits of ADR and is also explicit about the limitations of ADR programmes, especially where they may be ineffective or even counterproductive in serving some development goals.

The Universal Charter of the Judge. 1999.

Available at <http://www.joasa.org.za/charter/charter.html>

This charter is drafted by judges from around the world as an instrument providing general minimal norms on the conduct of judges. It recognizes the importance of judicial independence in guaranteeing the impartiality of justice under the law. The Charter also affirms the right of every person to a fair trial and specifies the standards for appointing and disciplining judges.

United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules). 1990.

Available at http://www.unhchr.ch/html/menu3/b/h_comp46.htm

The Rules prescribe a set of minimum safeguards and non-custodial measures for persons subject to alternatives to imprisonment in accordance with the rule of law and human rights principles. Non-custodial measures, which can take place during the various stages of trial, help offenders to avoid institutionalization and to reintegrate into society.

Chapter 5 – Capacity to Seek Justice Remedies**Anderson, J. and G. Renouf. "Legal Services for the 'Public Good.'" National Pro Bono Resource Centre, Australia.**

Available at <http://www.nationalprobono.org.au/publications/forpublicgood.pdf>

This article considers how the commitment to providing and improving pro bono legal services can be channelled in the most effective way. It addresses questions such as 'what is the further potential for pro bono legal services to improve access to justice? What are the most effective types of relationships between pro bono legal services and publicly funded legal services? How can pro bono legal services be supported and promoted so that they most effectively improve access to justice?

Asian Development Bank. 2001. "Legal Empowerment: Advancing Good Governance and Poverty Reduction." Overview Report. ADB.

Available at www.adb.org/Documents/Others/Law_ADB/lpr_2001_Part_2.pdf

This report examines how legal empowerment - or the use of law to increase the control that disadvantaged populations exercise over their lives - contributes to good governance, poverty reduction, and other development goals, and how it can enhance projects funded by the ADB and other development agencies. The report examines the concept and purpose of legal empowerment, constraints on access to justice and participation in governance by the disadvantaged, examples of legal empowerment activities, lessons learned from successful legal empowerment strategies, and relevant recommendations for success and impact.

Golub, S. 2000. "Non-Lawyers as Legal Resources for Their Communities," in Many Roads to Justice: The Law Related Work of Ford Foundation Grantees around the World. The Ford Foundation.

Accessible at: http://www.fordfound.org/publications/recent_articles/docs/manyroads.doc

This article explores the increasingly widespread use of non-lawyers in efforts to promote government accountability, implementation of laws and access to justice. It examines actual experiences in China, Bangladesh, the Philippines and other countries, and provides suggestions to strengthen paralegal work.

Golub, S. 2003. "Access to Human Rights: Obstacles and Issues." International Council on Human Rights Policy.

Available at <http://www.international-council.org/ac/excerpts/133.doc>

This overview paper explores the limited access people have to human rights in practice, by describing the diverse obstacles and constraints impeding practical implementation of human rights. It then outlines selected issues that pertain to a human rights approach (as a means) for advancing human rights (as a goal). It divides constraints into two broad categories: 1) institutions' characteristics and circumstances, and 2) individual characteristics and circumstances.

Golub, S. 2003. "Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative."

Available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=1367>

This working paper questions the dominant paradigm of 'rule of law' used by many international agencies. It proposes a focus on legal empowerment - the use of legal services and related development activities to increase disadvantaged populations' control over their lives - as an alternative.

Institute for Law and Justice. December 2000. "Compendium of Standards for Indigent Defence Systems: A Resource Guide for Practitioners and Policy Makers." United States.

Available at <http://www.ojp.usdoj.gov/indigentdefense/compendium/pdf.htm>

The Compendium of Standards for Indigent Defence Systems presents national, state, and local standards relating to five functions of indigent defence in the United States. Useful for seeking international experiences on systems and mechanisms for public defence institutions.

The International Centre for Criminal Law Reform and Criminal Justice Policy. 1999. "The Responsibility of States to Provide Legal Aid." ICCLR.

Available at <http://www.icclr.law.ubc.ca/publications/reports/beijing.pdf>

This paper focuses on the legal obligations of states to provide legal aid arising from international human rights law. It provides a historical account of the concept of legal aid, and of the transition from the traditional view of 'formal equality' before the law to the broader concept of 'access to justice'. The paper explains the right to legal aid as contained in international human rights law, and discusses how other rights impact on the duty of states to provide legal aid and ensure equal access to justice.

Malik, Shahdeen. 2001. "Access to Justice: A Truncated View from Bangladesh," in Comprehensive Legal and Judicial Development: Towards an Agenda for a Just and Equitable Society in the 21st Century, R.V. Van Puymbroeck (ed.), World Bank.

Available at http://www4.worldbank.org/legal/legop_judicial/ljr_conf_papers/Malik.pdf

This article examines the increasing marginalization of formal legal and judicial systems as a root problem of accessibility, and the need to adopt interventions that strengthen checks and balances and fairness in the justice system. The article examines the experience of Bangladesh as an illustrative example of difficulties in accessing justice that can also be found in many other developing countries.

McClymont, M. and S. Golub (eds.). 2000. "Many Roads to Justice: The Law Related Work of Ford Foundation Grantees around the World." The Ford Foundation.

Available at http://www.fordfound.org/publications/recent_articles/manyroads.cfm

This volume comprises papers produced under the Ford Foundation's Global Law Programs Learning Initiative (GLPLI), an effort to derive and disseminate insights flowing from the law-related work of the Foundation and its grantees around the world. Different articles in the book seek to convey some of the challenges that grantees have faced around the world and provide a sense of how they have used particular legal strategies in very different settings, of Legal Aid Services in South Africa and advantages of a hybrid system.

Narrain A. et. al. 2001. "Conference Report: Alternative Lawyering in India." Law, Social Justice & Global Development Journal (LGD).

Available at <http://elj.warwick.ac.uk/global/issue/2001-2/alf.html>

Proceedings of a conference where alternative lawyers shared and evaluated learning and experiences gathered from alternative lawyering in India in different domains: environment, civil liberties, women's rights, homosexual rights, labour rights and community-based lawyering.

Wilson R. J. and J. Rasmussen. 2000. "Promoting Justice: A Practical Guide for Human Rights Lawyering." International Human Rights Law Group.

Available at http://www.hrlawgroup.org/resources/content/PJ_covcont.pdf

This guide seeks to explore the ways in which lawyers can promote and protect human rights through legal advocacy and highlights the lessons learned by practicing human rights lawyers. Part I defines the term 'human rights lawyering', the main subject of the guide. In Part II, the guide examines the various structures that legal service providers have adopted and how these structures affect and intersect with the goals and strategies that these organizations pursue. In Part III, the strategies that lawyers have employed, both in traditional realms of legal advice and assistance, and the newer, less conventional delivery methods for promoting legal rights are discussed. Finally, in Part IV, the guide presents the overall conclusions, including the key strategies for addressing the central themes.

Chapter 6 – Disadvantaged Groups

Artz, L. and Black Sash, Knysa. 1998. "Access to Justice for Rural Women: Special Focus on Violence Against Women."

Available at <http://web.uct.ac.za/depts/sjrp/publicat/access.htm>

This report aims to identify the hardships women in rural areas go through, in particular domestic violence and how this increases their dependency on male members of the family. The research explains that due to the current prevailing societal structure, tradition tends to repress women and condone violence against them. It also discusses how this suppression negatively affects their ability to access justice in the face of violence and the secondary victimization these women face by their community and justice departments.

Asian Human Rights Commission. 2000. "Impact of Corruption on the Criminal Justice System on Women." AHRC

Available at <http://www.ahrchk.net/hrsolid/mainfile.php/2000vol10no02/191/>

An analysis of how corruption in the justice system affects women in Nepal. It is a compilation of results from surveys done in districts in Nepal that point to problems in the justice system that prevent many women from receiving fair trials.

Gargarella, R. "Too Far Removed From the People - Access to Justice for the Poor: The Case of Latin America." Universidad Torcuato Di Tella, Buenos Aires.

Available at <http://www.undp.org/governance/docsaccount/latin-america.pdf>

This paper aims to show how the poor in Latin America cannot obtain full access to justice, as a result of faults within the legal system itself. The main reason why the underprivileged have difficulties accessing justice, the paper says, is because since its formation, the judiciary have been too removed from the people. The author explains that although in technicality the laws and constitution of the various Latin American countries provide full social and economic rights, in actuality, the poor do not have the means to access them. The problems they face include: lack of information, high costs, corruption, excessive formalism, fear and mistrust, inordinate delays and geographical distance.

Ghosh, B. 2003. "A Road Strewn with Stones: Migrants' Access to Human Rights." International Council on Human Rights Policy.

Available at <http://www.ichrp.org/ac/excerpts/117.doc>

This paper examines the violation of migrant's human rights and the international and national legal frameworks that fail to protect migrants from abuse and their lack of access to any remedies for the grievances that they may have.

Human Rights Watch. 2003. "Ravaging the Vulnerable: Abuses Against Persons at High Risk of HIV Infection in Bangladesh."

Available at <http://www.hrw.org/reports/2003/bangladesh0803/>

This article explains that the persons most at risk of HIV transmission in Bangladesh - sex workers, men who have sex with men and injection drug users - are essential partners in the fight against HIV/AIDS. They are the group of people with the greatest need of HIV/AIDS information services and are also in the best position to deliver information and services to their peers. Further, the article mentions that these marginalized groups as well as HIV/AIDS outreach workers often face abuse and exploitation by the police when they approach them for help, which is a direct blow to Bangladesh's anti-AIDS efforts. The article offers recommendation to the Bangladeshi Government to reform the law enforcement system.

Joint United Nations Programme on HIV/AIDS. 1999. "Handbook for Legislators on HIV/AIDS Law and Human Rights." UNAIDS.

Available at http://www.unaids.org/html/pub/publications/irc-pub01/jc259-ipu_en_pdf.htm

A handbook, compiled by UNAIDS and the Inter Parliamentary Union, which aims to assist parliamentarians and other elected officials in disseminating and ratifying effective legislation and undertaking appropriate law reform in the fight against AIDS. It provides examples of legislative and regulatory practices from around the world.

Office of the High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS. 1998. "International Guidelines on HIV/AIDS and Human Rights." OHCHR and UNAIDS.

Available at <http://www.ohchr.org/english/issues/hiv/guidelines.htm>

A tool for states to assist in developing and implementing national HIV/AIDS policies and strategies with a rights-based framework. Also see the Revised Guidelines 6, on access to prevention, treatment, care and support.

Riddell, R. 2002. "Minorities, Minority Rights and Development." Minority Rights Group International, Issues Paper, November 2002.

Available at http://www.minorityrights.org/admin/Download/pdf/IP_Development_Riddell.pdf

This document looks at the links between the human rights of minorities and the process of development. International and national laws addressing minorities and protecting their human rights, the way development affects and is perceived by minorities including their inclusion or exclusion from the process, and how their needs and concerns are prioritized by government, etc.

Rosenthal, E. and C. J. Sundram. 2002. "International Human Rights in Mental Health Legislation."

Available at <http://www.mdri.org/pdf/NYLawSchoolJournal2002.pdf>

This paper analyzes and examines the application of international human rights law for people with mental disabilities. It begins by looking at the international legal framework, provisions for the highest attainable standard of physical and mental health, securing non-discrimination as well as liberty and freedom, preventing cruel and inhuman treatment, and finally establishing safeguards.

Sidoti, C. 2003. "Rural People's Access to Human Rights." International Council on Human Rights Policy.

Available at <http://www.ichrp.org/ac/excerpts/121.doc>

This paper describes how the rural poor do not have proper access to human rights. It says that human rights activists and institutions are predominantly urban in their base and orientation with the rural poor being increasingly ignored and marginalized. Needed services are not provided to those living in rural areas, unlike people living in urban areas. The paper not only identifies the problems facing the rural poor, but also provides legal and institutional ways to address the obstacles towards access to human rights.

United Nations Development Fund for Women. 2003. "Not a Minute More: Ending Violence Against Women." UNIFEM

Available at http://www.unifem.org/index.php?f_page_pid=207

This report highlights many of the successes achieved in the field of violence against women and details what must be done to build on them. It provides examples of good practices as well as efforts that did not meet the goals set out for them – and explores why not. It looks at the challenges ahead, and asks what the most fruitful next steps might be.

United Nations Development Programme. Civil Society Organization and Participation Programme: Indigenous Peoples

Available at <http://www.undp.org/cso/ip.html>

This site explains UNDP's position on Indigenous Peoples and includes policies, procedures and activities it has been involved in to protect and promote the concerns of Indigenous Peoples.

United Nations Economic and Social Commission for Asia and the Pacific. "Emerging Social Issues Division – Population and Social Integration Section: Disability Programme." UN ESCAP.

Available at <http://www.unescap.org/esid/psis/disability>

The Disability Programme is part of the Population and Social Integration Section of the Emerging Social Issues Division. The site includes publications and research on disability being undertaken by ESCAP including the latest: "Focus on Ability, Celebrate Diversity: Highlights of the Asian and Pacific Decade of Disabled Persons, 1993 - 2002."

United Nations Educational, Cultural and Scientific Organization. "Social Transformations: International Migration and Multicultural Policies." UNESCO.

Available at http://portal.unesco.org/shs/en/ev.php@URL_ID=1211&URL_DO=DO_TOPIC&URL_SECTION=201.html

This site provides some background on migration issues and includes publications, reports and links to other documents and resources on international migration.

Vene Klasen, L. 1992. "Women's Legal Rights Organizing Political Participation in Africa, Legal Literacy: A Tool for Women's Empowerment."

Available at <http://www.justassociates.org/legalrtsafrica.pdf>

This paper discusses the challenge of discriminatory attitudes and deeply rooted cultural practices faced by women while seeking justice and states that legal programmes must combine information with consciousness-raising and community organization to encourage collective action at local level.

Chapter 7 – Justice in Post-Conflict Situations

International Crisis Group. 2003. "Afghanistan: Judicial Reform and Transitional Justice."

Available at http://www.icg.org/library/documents/report_archive/A400879_28012003.pdf

A report from ICG on the priority areas for reform to rebuild the justice system in Afghanistan. It focuses on the types of transitional justice mechanisms that need to be set up in order to ensure a transition that holds perpetrators accountable for past abuses while building up the justice system to deal with future issues.

UNDP and Chr. Michelsen Institute. 2004. "Governance in Post-Conflict Situations." Background Paper for Working Group Discussions. Bergen Seminar Series, Bergen, 5-7 May.

Available at <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN016465.pdf>

This paper analyzes post-conflict governance issues and programming entry points in seven major thematic areas, as follows: access to information, democratic dialogue, electoral systems and processes, parliamentary development, decentralized governance, public administration reform and justice, security and human rights. (Also see Lessons Learned Research paper at www.cmi.no/news/undpsem2004/Research%20Paper.pdf).

Farid, H. and R. Simarmatra. 2004. "The Struggle for Truth and Justice: A Survey of Transitional Justice Initiatives throughout Indonesia." Muddell, M.K (ed). Occasional Paper Series. International Center for Transitional Justice. New York, NY.

Available at <http://www.ictj.org/downloads/Indonesiafinal2MB.pdf>

This paper presents the key findings emerging from a mapping exercise of transitional justice activities taking place in Indonesia. It presents the different means through which people have sought to address violence they've faced and lists some recommendations.

Additional Resources

Asia Pacific Forum on Women, Law and Development (APWLD)

Available at <http://www.apwld.org/>

An NGO dedicated to using the law to promote social change for equality, justice and development. Its activities centre on promoting basic human rights for women through policy advocacy, education, and training.

Commonwealth Human Rights Initiative (CHRI)

Available at <http://www.humanrightsinitiative.org>

The website offers links to a variety of education materials on Commonwealth Human Rights Initiative's (CHRI) principles. Its access to information campaigns which includes links to its no restriction to information (RTI) site, on the necessity for constitutional principals, as well as links to election monitoring in the Commonwealth. Its access to justice campaign links to pages on police reforms, prison reforms, and CHRI's fact finding missions.

ELDIS Participation Resource Guide.

Available at <http://www.eldis.org/participation>

A comprehensive listing of major participation resources online with descriptions of organizations, site content, contact details, practical manuals, major web sites, bibliographic sources, organizations and networks, and discussion lists. Themes include conflict, gender, capacity building, governance and monitoring and evaluation (M&E).

Governance Resource Center (GRC) Exchange. Safety, Security and Access to Justice.

Available at: http://www.grc-exchange.org/g_themes/ssaj_access.html

Links and resources on access to justice including overview of the topic and references to relevant articles and publications.

International Bar Association.

Available at <http://www.ibanet.org>

Promotes the exchange of information between lawyers and legal associations worldwide.

International Center for Transitional Justice (ICTJ)

Available at <http://www.ictj.org/>

An international NGO working to support transitional justice in post-conflict situations by building local capacity to prosecute perpetrators of human rights violations, documenting violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and advancing reconciliation.

International Council on Human Rights Policy (ICHRP).

Available at <http://www.ichrp.org/>

The ICHRP is a research institution that focuses on human rights issues. It works to issue tools and studies on human rights policy.

International Crisis Group.

Available at <http://www.icg.org>

The International Crisis Group is an multinational NGO that focuses on field research and analysis of conflict around the world. It produces briefing papers and reports which are available on the website.

Institute of Development Studies(IDS) Participation Resource Centre, UK.

Available at <http://www.ids.ac.uk/ids/particip/index.html>

Through the work of the Participation Group, the Institute of Development Studies serves as a global centre for research, innovation and learning in citizen participation and participatory approaches to development. The Research Pages provide overviews, articles and reports from their programme; including unpublished practical information as well as research reports, training manuals, workshop reports, critical reflections and newsletters.

Joint United Nations Programme on HIV/AIDS (UNAIDS)

Available at <http://www.unaids.org>

The site of the United Nations agency UNAIDS which is the main advocate for global action on the HIV/AIDS epidemic. Includes UNAIDS reports and publications.

National Human Rights Institution Forum

Available at <http://www.nhri.net/>

An international forum for researchers and practitioners in the field of national human rights institutions. The site includes key global and regional documents, documentation on the work of global and regional fora, information on and from National Human Rights Institutions, bibliography and research materials, capacity building and training resources.

Mental Disability Rights International

Available at <http://www.mdri.org>

MDRI documents conditions, publishes reports on human rights enforcement, and promotes international oversight of the rights of people with mental disabilities. MDRI trains and supports advocates seeking legal and service system reform and assists governments to develop laws and policies to promote community integration and human rights enforcement for people with mental disabilities.

Minority Rights Group (MRG)

Available at <http://www.minorityrights.org/>

MRG is an organization dedicated to protect the rights of religious, ethnic, and linguistic minorities and indigenous groups worldwide. It works to promote participation of minorities and indigenous peoples, advocate for their needs and include their concerns in development policies. It produces reports, briefing papers and training manual on various issues facing indigenous people and minority groups.

Penal Reform International

Available at <http://www.penalreform.org>

Penal Reform International (PRI) is an international non-governmental organization that works on reforming the prison system worldwide. The site includes information on their activities as well as publications and reports they have produced.

UN Enable (United Nations Internet Sites on Disabilities).

Available at <http://www.un.org/esa/socdev/enable/unpwdwebsites.htm>

Links to disability related sites including sites on: disability and development, disability and human rights, disability and health, disability and education, etc.

United Nations Development Fund for Women (UNIFEM)

Available at www.unifem.org

UNIFEM is the women's fund at the United Nations. The site includes information on UNIFEM activities as well as publications and relevant documents on women's issues and gender equality.

United Nations Development Programme, "Promoting Democracy Through Justice Sector Reform – Access to Justice"

Available at <http://www.undp.org/governance/justice.htm>

UNDP's site for its work on access to justice. It includes presentations, papers and reports on UNDP's work on access to justice.

United Nations High Commission for Refugees (UNHCR)

Available at <http://www.unhcr.ch/cgi-bin/texis/vtx/home>

UNHCR focuses on protecting refugees and guaranteeing them their rights and resolving refugee problems around the world. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another country, with the option to return home voluntarily, integrate locally or to resettle in a third country.

UNDP Oslo Governance Centre: Access to Justice Resources

Available at <http://www.undp.org/oslocentre/access.htm>

A list of resources, mainly UNDP, on the Democratic Governance sub-practice area of Access to Justice. The site includes links to more resources in other areas of Democratic Governance as well.