



*Empowered lives.
Resilient nations.*

ACCESS TO JUSTICE ASSESSMENTS IN THE ASIA PACIFIC: A REVIEW OF EXPERIENCES AND TOOLS FROM THE REGION

United Nations Development Programme

Access to justice assessments in the Asia Pacific: A review of experiences and tools from the region

The views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

UNDP partners with people at all levels of society to help build nations that can withstand crisis, and drive and sustain the kind of growth that improves the quality of life for everyone. On the ground in 177 countries and territories, we offer global perspective and local insight to help empower lives and build resilient nations.

Published by the Asia-Pacific Regional Centre
United Nations Development Programme
Bangkok
Thailand

Editing and design: Inis Communication

© UNDP, February 2012





*Empowered lives.
Resilient nations.*

ACCESS TO JUSTICE ASSESSMENTS IN THE ASIA PACIFIC: A REVIEW OF EXPERIENCES AND TOOLS FROM THE REGION

Contents

Executive summary	2
Acknowledgements	5
Abbreviations	6
Chapter 1 Introduction	8
Chapter 2 Access to justice and access to justice assessments	11
Chapter 3 Using a human rights-based approach to access to justice assessments	14
Chapter 4 Considerations for conducting effective access to justice assessments	18
1. Conceptual approaches	19
a. Definition of access to justice	19
b. Legal empowerment and access to justice	20
c. Approaches to assessment	22
d. Rationales and assumptions	22
2. Methodologies and tools of assessments	23
a. Assessment design	24
b. Assessment tools	26
c. Partnering for research.	27
d. Teams and experts	32
e. Arriving at findings, conclusions and recommendations	35
3. Results of assessments	41
1. Mainstreaming sensitivity.	42
2. Conducting assessments in special situations	42
Chapter 5 Mapping access to justice assessments	48
Why conduct access to justice assessments?	48
Access to justice for indigenous people in Bangladesh	48
Mapping informal justice systems in Madhya Pradesh (India)	49
Baseline study on access to justice in the Maldives	50
Justice for all: An assessment of access to justice in five provinces of Indonesia	53
Access to justice for the women of Karachi	59
Establishing baselines on access to justice by poor and disadvantaged people in the Philippines.	59
Philippine democracy assessment of rule of law and access to justice	61
Assessment of the legal aid sector in Sri Lanka	62
A survey of citizen awareness and attitudes regarding law and justice in East Timor	65
Legal needs assessment in Viet Nam	67
Access to justice in Viet Nam – survey from a people’s perspective	69
Access to justice in Viet Nam	72
Access to justice for the urban poor: toward inclusive cities.	74
Access to justice, customary law and local justice in Timor-Leste.	77

How to conduct access to justice assessments?	80
Promoting improved access to justice: Community legal service delivery in Bangladesh	80
On using a specified human rights-based approach.	84
Pathways to justice: Access to justice with a focus on poor, women and indigenous people	84
Access to justice needs assessment in Mongolia.	89
Legal empowerment as an approach	91
Sri Lanka legal empowerment study	91
Law and policy reform at the Asian Development Bank: Legal empowerment–advancing good governance and poverty reduction	95
Legal empowerment of the poor: from concepts to assessments	100
Legal empowerment of the poor (LEP) = RH + RA + RE + RN	102
Defining access to justice to guide assessments	103
Conducting assessments in complex situations	107
People’s Perspectives on Access to Justice-Survey in LAO PDR	107
Access to justice during armed conflict in Nepal (2005)	110
Sri Lanka access to justice assessment	113
Chapter 6 Tools for access to justice assessments	119
References	131
Appendices	135
ANNEXES 1: Methodology Notes	141
ANNEXES 2: Survey Questionnaires	181
ANNEXES 3: Interview and Discussion Guides	371
ANNEXES 4: Formats for Capturing Data and Case Studies	395

Executive Summary

This report reviews a number of ‘access to justice assessments’ in the Asia-Pacific region, which examine whether and how marginalized and vulnerable populations access justice to meet their legal and other critical needs. It distils key lessons from the assessments and identifies critical areas of consideration when launching justice assessments. In particular, the report examines the value of approaching justice assessments in a holistic manner, going beyond formal justice structures and understanding access to justice from a broader perspective.

The report analyzes the approaches, strategies, methodologies and tools used in over 23 access to justice assessments conducted over the past decade (2000–2010) in 15 countries (Bangladesh, Cambodia, India, Indonesia, Lao People’s Democratic Republic, Maldives, Mongolia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, Timor-Leste, the Republic of Vanuatu and Viet Nam). These assessments collectively provide valuable insights into why and how justice assessments are done, and the results and impacts of such assessments. To enrich the analysis, the report also reviews conceptual and theoretical writings as well as several handbooks on the topic, and provides guidance for future assessments.

The study identifies two primary objectives of the access to justice assessments: to inform policy and to direct programmes and projects that strengthen access to justice. Assessments can be a process by which to strengthen national ownership and capture the perspectives of the people on the ground, particularly of those who are disadvantaged, in order to help shape policy and programmes. In some cases, the assessments can also become part of the efforts to bring about social change and build political momentum by encouraging awareness and participation in national reform processes, for instance in the development of specific laws and policies to increase people’s access to justice on particular issues.

The report also draws on a regional consultation on access to justice assessments held in October 2010, which brought together justice-sector practitioners and development workers to share their experiences on conducting access to justice assessments in the Asia-Pacific region.¹ Participants critically discussed the assessments—their approaches, strategies, methodologies, tools, conclusions and recommendations—as well as resulting follow-up actions. They also noted that it would not be possible to develop a universal toolkit or templates on access to justice assessments as it is important to tailor assessments to the specific contexts of each country, the diversity of needs and uniqueness of each individual case. A preliminary draft of this report was circulated for feedback at the consultation, and recommendations from the consultation were used in the report to provide general guidance on conducting assessments.

This publication has four main parts: Part One (Chapters 1, 2 and 3); Part Two (Chapter 4); Part Three (Chapters 5 and 6); and the Appendices.


¹ Regional Consultation on Access to Justice Assessments, held on 7–8 October 2010 in Bangkok (Thailand), hosted by the UNDP Asia-Pacific Regional Centre.

Part One provides an introduction by discussing the meanings of ‘access to justice’ and ‘access to justice assessments’, as well as the application of a ‘human rights-based approach’ to the assessments. Chapters 1 and 2 explore how assessments can be a means of understanding people’s justice needs arising out of legal, as well as social, economic and cultural issues that pose structural problems and create disputes among people. In order to solve these problems and fulfil their needs, people should have the means and ability to bring their justice needs to mechanisms of resolution, which can be structured or unstructured, and formal or informal. Assessing access to justice, in this context, involves the examination and understanding of means and mechanisms available for people to meet their justice needs, and the strength and ability of people in need to easily access these means and mechanisms. It is also an examination and understanding of the barriers to accessing justice. The barriers to accessing justice are many and include obstacles caused by social, political, legal, administrative, cultural and other factors.

Chapter 3 focuses on using a human rights-based approach (HRBA) to access to justice assessments. Access to justice is a fundamental right, and a human rights-based approach to access to justice provides a necessary framework for action on human development. The HRBA is useful in analysing immediate as well as underlying causes of justice problems by framing the issues in terms of ‘rights’ as guaranteed by law and international human rights standards and identifying the multiple factors impeding access to justice. The HRBA also identifies and gives due attention to the most vulnerable ‘claim-holders’ and the ‘duty-bearers’ who are accountable for preventing and stopping the rights violations, as well as for fulfilling the rights. Access to justice assessments also help to find durable solutions to problems by providing analyses of the capacity gaps of claim-holders to be able to assert their rights, and of duty-bearers to be able to meet their obligations.

In Part Two (Chapter 4), the report underscores that each assessment is unique and context-specific, and that a uniform approach and methodology for conducting a successful access to justice assessment is neither possible nor necessary. Nevertheless, it outlines several considerations to be made in order to conduct effective access to justice assessments, based on the recognition that a decade’s worth of access to justice assessments does provide some general considerations to ensure effectiveness, efficiency, credibility and acceptance.

Part Three (Chapters 5 and 6) includes a mapping and analysis of access to justice assessments as well as various tools that may be useful in conducting access to justice assessments. Chapter 5 first examines various assessments using a review framework that consists of three main areas and two sub-areas that are common to the majority of assessments reviewed in this report. The three main areas are: (1) conceptual approaches (definition of access to justice, approaches to assessment, rationales and assumptions); (2) methodologies and tools (assessment design, assessment tools, partnering for research, teams and experts, arriving at findings, conclusions and recommendations); and (3) assessment results. Two sub-areas address cross-cutting issues: mainstreaming sensitivities and conducting assessments in specific situations and sector-/subject-specific assessments. This chapter includes analysis of 23 access to justice assessments conducted over a period of ten years, from 2000 to 2010. Each analysis reviews conceptual approaches, objectives, methodology, tools and assessment results.



Chapter 6 sets out suggestions for assessments tools. Access to justice assessments can use a range of tools for data and information gathering and analysis. These include tools for gathering quantitative and qualitative data and information, and formats for analysis. This part reviews various tools used by assessments over the past decade and provides examples of such tools, for understanding and replication.

Lastly, the Appendices provide extensive examples of actual tools for access to justice assessments used in different countries to capture the reality of different situations and people.

Acknowledgements

Mapping and Review of Access to Justice Assessments was initiated by the United Nations Development Programme (UNDP) Asia-Pacific Regional Centre (APRC) in Bangkok, Thailand with support from the Global Accelerating Access to Justice Programme. It benefitted immensely from the support of Emilia Mugnai, Aparna Basnyat, and R. Sudarshan of the UNDP APRC; and Ahjung Lee was the principal editor of the report. Valuable contributions were made by Debra Ladner from the Asia Foundation as well as Ingvild Oia, Nicola Palmer, and Sujala Pant of UNDP who reviewed this document. The author is also grateful to those who took time to provide interesting case studies and articles on conducting access to justice assessments: Nicholas Booth, Chris Morris, Ahjung Lee, Diani Sadiawati, Sushma Joshi, Krishna Velupillai, Milena Stefanova, Gemma Archer and Dyah Ismoyowati. This publication would not have been possible without the input of the practitioners who attended the Regional Consultation on Access to Justice Assessments held on October 7–8 in Bangkok, Thailand. Grateful thanks go to all practitioners.

I also extend my sincere thanks to colleagues at the UNDP APRC for their painstaking commitment to making this publication a reality.

Ramani Jayasundere

February, 2012

ABBREVIATIONS

ADAB	Association of Development Agencies of Bangladesh
ADB	Asian Development Bank
ADR	alternative dispute resolution
BAPPENAS	<i>Badan Perencanaan Pembangunan Nasional</i> (National Planning and Development Agency, Republic of Indonesia)
CBO	community-based organization
CDO	Chief District Officer
CSOs	civil society organizations
CLEP	Commission on Legal Empowerment of the Poor
CLS	Community Legal Service
DFID	United Kingdom Department for International Development
HIIL	Hague Institute for the Internationalisation of Law
HRBA	human rights-based approach
ICCPR	International Covenant on Civil and Political Rights
JBE	<i>Jastis Blong Evriwan</i> (World Bank Justice for the Poor programme in Vanuatu)
JRS	Judicial Reform Strategy to 2020, Viet Nam
JUPI	Justice Performance Index
OHCHR	Office of the High Commissioner for Human Rights
PEP	Practical Evaluation Process
PSPK	Center for Rural and Regional Development Studies at Gadjah Mada University, Indonesia
LAC	Legal Aid Commission Sri Lanka
LEAD	Legal Empowerment and Assistance for the Disadvantaged
LEP	Legal Empowerment of the Poor
LSDS	Legal System Development Strategy, Viet Nam (2010-2020)
NGO	non-governmental organization
UML	Unified Marxist-Leninist
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
PAPI	Governance and Public Administration Performance Index
SAJI	Strengthening Access to Justice in Indonesia
UNOPS-ARU	United Nations Office for Project Services Applied Research Unit
USAID	United States Agency for International Development
VFF	Viet Nam Fatherland Front
TAF	The Asia Foundation



Chapter 1

Chapter 1

Introduction to the mapping and review of access to justice assessments

Access to justice is a fundamental right. Enabling people to satisfy justice needs is an essential component of development, and providing access to justice for marginalized and disadvantaged people is a key focus of poverty eradication and empowerment.² In order to ensure universal access to justice, access to justice assessments should provide valuable information to policymakers, decision makers, implementers and service providers.

Access to justice assessments have been conducted around the world, resulting in information and data that support effective policies, programmes and projects that help poor, marginalized and disadvantaged people meet their justice needs. Every access to justice assessment seeks to answer four essential questions:

- What is access to justice?
- Why access to justice?
- Access to justice for whom?
- How to access justice?

The answers to these questions provide invaluable information on critical issues such as people's expectations of access to justice; denial of access; constraints, gaps and challenges of access; and the need and space for reform and change to enable universal access to justice. For instance, denial of access to justice pushes access to justice assessments to seek answers to two additional questions: Who is denied access to justice, and why is justice denied? These are an integral part of access to justice assessments. They provide essential answers that shape the direction of initiatives to provide access to justice to those for whom it was previously denied.

Access to justice assessments use diverse methods and tools, both traditional and innovative. They concentrate more on participatory methodologies, thus enabling the creation of space to work with and engage people at a grass-roots level, civil society organizations and community-based organizations. This makes these assessments credible and important in the demand for services and space to meet justice needs as well as for mobilization and bottom-up advocacy.

Access to justice assessments are about gauging the ability of people to realize their rights. The basis for all access to justice assessments is to collect information on the situation that people face in accessing justice and to develop a better understanding

² UNDP (2005), *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice.*

of the denial of and need to promote rights. Assessments can help to determine people's justice needs and the level of access people have to justice remedies. The use of a human rights-based approach (HRBA) for assessments can help to ensure application of universal human rights standards and principles in designing and conducting the assessment as well as ensuring that the findings contribute to the realization of human rights.

The Asia-Pacific region has a wealth of experience in conducting effective access to justice assessments. The assessments use a variety of methodologies and tools and result in contributions to policies, programmes and projects to facilitate access to justice. Since they do not use a uniform format—in terms of conceptualization, approach, methodology and tools—the results provide valuable and interesting perspectives on different ways to implement assessments, and form the foundation for successful action.

In 2010, a regional consultation on access to justice³ brought together practitioners from the Asia-Pacific region to critically review access to justice assessments in the region.⁴ It concluded that, given the existing diversity of access to justice assessments, it is essential to capture the unique issues that are people- and location-specific.

The consultation provided a platform for regional practitioners to share their experiences and lessons learned. Discussions focused on the process of conducting assessments—particularly research methodologies, tools and data analysis—as well as arriving at conclusions and recommendations, and disseminating and using findings. The importance of building partnerships and ensuring national buy-in for optimal results and return on the assessment was emphasized.

The initial objective of the consultation was to discuss the need for a 'how-to' guide or a toolkit for conducting access to justice assessments. However, there was agreement that an access to justice toolkit containing universally applicable information would be neither feasible nor useful. Participants agreed that assessing access to justice and people's justice needs is complex and requires flexibility in both approach and strategy. Rather than a uniform template, which might constrain the assessment process, practitioners agreed that guiding principles would better help inform and facilitate access to justice assessments while respecting the uniqueness of each individual case.

Mapping and Review of Access to Justice Assessments responds to the conclusions of the above consultation and provides a mapping and review of access to justice assessments conducted over a decade (2000–2010) with pointers for considerations or some key principles for conducting access to justice assessments.

3 Regional Consultation on Access to Justice Assessments, 7–8 October 2010, Bangkok, Thailand, hosted by the UNDP Asia-Pacific Regional Centre.

4 This report focuses on the review of UNDP assessments.



Chapter 2

Chapter 2

Access to justice and access to justice assessments

Access to justice is defined by UNDP as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, in conformity with human rights standards.” This definition describes people’s ability to solve disputes and reach adequate remedies for grievances, using formal or non-formal justice systems. It further clarifies that the justice process has qualitative dimensions, and should be carried out in accordance with human rights principles and standards.⁵

Access to justice, as considered here, goes beyond access to formal structures of courts and the legal system. It incorporates a process that comprises more normative understanding of fairness and accountability, which result in strategic approaches that ensure equal and equitable access to rights and services. Access to justice provides an opportunity to address and resolve people’s justice needs. These needs could arise out of legal problems or other social, economic and cultural issues that pose problems and create disputes among people. The identification of justice needs is an important preliminary step that enables parties to resolve their problems and meet their needs through mechanisms of resolution. A range of resolution mechanisms exists—some are structured and formal, while others are unstructured and informal:

- Courts of law;
- State administrative bodies and institutions;
- Legal aid schemes and paralegal services;
- Informal dispute resolution processes; and,
- Various community-led processes such as informal village councils, alternative dispute resolution forums and organizations that help people meet justice needs.

Regardless of type, however, all mechanisms serve the purpose of meeting and fulfilling justice needs.

In order to understand people’s access to justice or access to means of meeting diverse justice needs, it is important to explore the existence of these means as well as the extent to which people have access to them. Access to justice varies depending on the existence of the means as well as people’s strength and ability to access these means. These abilities and strengths can face myriad obstacles, often explained as barriers to access to justice.

Barriers to accessing justice are many and include obstacles caused by social, political, legal, administrative, cultural and other issues.

5 UNDP (2005), *Programming for Justice: Access for All. A Practitioner’s Guide to a Human Rights-Based Approach to Access to Justice*, UNDP Asia-Pacific Regional Centre, Bangkok, Thailand. Available at: <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/tools/index1.html>.

Barriers to accessing justice can be due to inadequate normative protection resulting from legal, policy, political, institutional, and sociocultural barriers. They could also be due to issues that prevent the provision of justice remedies by formal institutions such as Ministries of Justice and courts systems (i.e. judges, prosecutors and lawyers). Further, barriers within informal justice systems include challenges such as lack of commitment; funding and acceptance; inability to enforce decisions and settlements; unclear processes; lack of clear and consistent gaps between traditional and indigenous justice systems, laws, and human rights; and discrimination against as well as exclusion of marginalized and disadvantaged groups.

Access to justice may also be denied when people who need remedies do not have the capacity to demand them. This lack of capacity can result from many factors including lack of legal awareness and lack of legal aid and paralegal services. Other general obstacles—such as economic barriers, failure to identify particular needs, and a mistrust of institutions—also affect the capacity to demand justice, as do other situation-specific reasons. Women, the poor, minorities, indigenous groups, internally displaced people, persons with disabilities, the sick and other groups that are more disadvantaged, marginalized and vulnerable in communities, all tend to face these barriers more than others.

Access to justice assessments, when accurately done, can provide a clear understanding of a range of issues, including:

- an understanding of people's justice needs;
- a view of people's perceptions of justice and fulfilment of their justice needs, or lack thereof;
- mechanisms available to meet people's justice needs (formal and informal);
- gaps in the availability of such mechanisms;
- gaps in existing mechanisms;
- barriers faced by people in accessing justice and meeting justice needs; and,
- specific obstacles and barriers faced by special groups of people.

Assessments also provide a valuable understanding of what needs to be done to improve people's access to justice in order to meet their urgent and important justice needs. Further, assessments are able to provide extensive information on justice needs; the workings of justice mechanisms; needs for justice mechanisms within living contexts of sociocultural dynamics; and political, policy and administrative systems. They also highlight unique views on perceptions, attitudes and commitments to the delivery of justice and the upholding of human rights standards.

In sum, access to justice assessments provide an invaluable and vital background (or baseline for policymaking, lawmaking and law reform, programming, project design, and justice funding for enabling marginalized, disadvantaged and vulnerable groups. Assessments also provide extensive and in-depth material for academic study, development of concepts and approaches and comparison of justice delivery systems in order to make 'enabling access to justice work' more effective.



Chapter 3

Chapter 3

Applying the human rights-based approach to access to justice assessments

The human rights-based approach (HRBA) to access to justice⁶ stems from the HRBA to development, which uses relevant human rights standards as a road map for policy change, pays particular attention to the voice of disadvantaged and marginalized people, establishes a clear framework for accountability in development, and incorporates the analysis of conflict risks and power inequalities in development efforts.

.....
Human rights define a minimum basis for legitimate demands and obligations in relation to people's well-being. This basis aims to empower the poor and other disadvantaged people, and to strengthen democratic governance.
.....

Human rights-based programming is a methodology to develop programmes and projects based on a human rights framework. It enshrines three simple principles: non-discrimination, participation and accountability. Human rights-based programming is intended to achieve two objectives:

- To promote empowering development processes; and
- To enhance the accountability and effectiveness of development initiatives.

Access to justice is a fundamental right, and the HRBA to access to justice provides a necessary framework for action on human development. HRBA is useful in identifying the immediate as well as underlying causes of the problem and the factors impeding access to justice. It also helps to highlight the accountability mechanism by identifying the 'claim-holders'—beneficiaries who hold fundamental rights as per the national and international legal instruments—and 'duty-bearers' who have the legal obligation to address the concerns and demands of the claim-holders. Duty-bearers also have a duty to address their capacity gaps to ensure the fulfilment of rights and obligations, and thus HRBA helps to formulate capacity development strategies.

Access to justice is much more than improving an individual's access to courts, or guaranteeing legal representation. It is about ensuring that legal and judicial outcomes are just and equitable. The HRBA is thus a framework for the process of human development that is normatively based on, and operationally directed to, the development of capacities for the realization of human rights.

6 This chapter is based on UNDP (2005), *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*. Available at: <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/tools/index1.html>.

A number of international instruments establish principles and minimum rules for the administration of justice and offer guidance on human rights and justice. They comprise the *Universal Declaration of Human Rights* and specific covenants, conventions, rules, guidelines and standards promulgated by the United Nations. When using a HRBA, these standards inform and influence support to the justice sector.

UN standards related to access to justice

- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Rights of the Child;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination against Women;
- Code of Conduct for Law Enforcement Officials;
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;
- Declaration on the Protection of All Persons from Enforced Disappearance;
- Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;
- Guidelines on the Role of Prosecutors;
- Declaration on the Elimination of Violence against Women;
- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules);
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice.

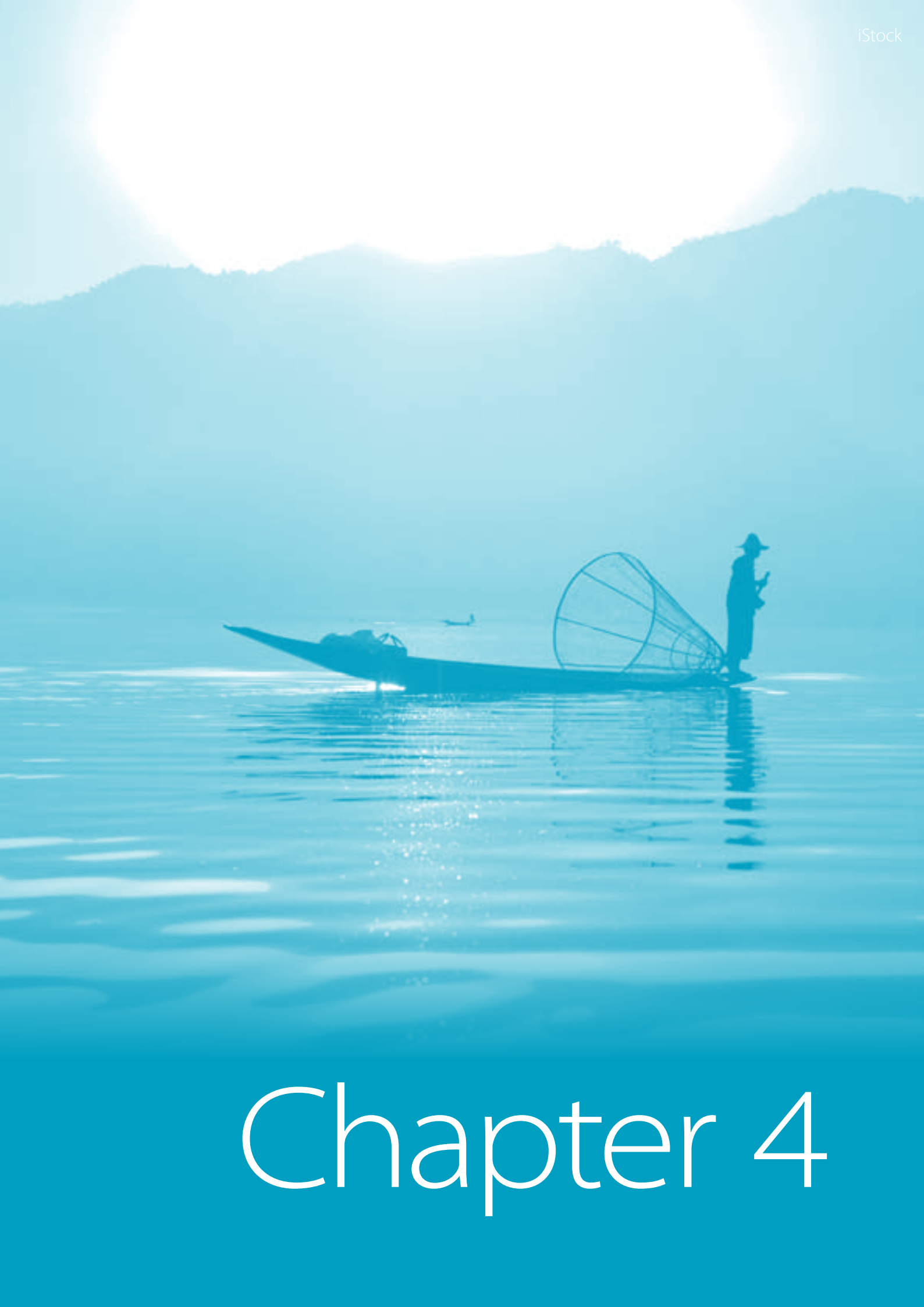
Source: UNDP (2005), *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*.

There are some key features of human rights-based programming for access to justice that differentiate it from conventional tools and methods:

- It situates access to justice in the context of a human rights/legal framework;
- It helps analyse 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;
- It divides relevant stakeholders into claim-holders and duty-bearers;
- It focuses on enhancing empowerment of people with legitimate claims and accountability of those who are mandated or able to respond;
- It assesses the capacity of both claim-holders and duty-bearers to address the problem and aims to ensure there are capacity development strategies for both sides; and

- It attempts to establish participatory processes where those who are impacted as a result of the problem are freely and meaningfully involved.

Administrative experience shows that there are some challenges associated with the use of this approach, which can, in some cases, obstruct the full realization of human rights. The approach, does, however, build capacities and willingness among all stakeholders that are essential for realizing human rights. For instance, the approach places extensive demands on administering practitioners to promote access to justice for marginalized and vulnerable groups. They must have a deep understanding of the impact of inequalities on development, human rights norms and principles of conflict management. They also need to have mediation and communication skills, particularly with most disadvantaged groups, and an understanding of and sensitivity to human rights when placed within various power relationships. Effectively implementing the approach may require training and calls for a high level of sensitivity from practitioners to conduct and carry out conflict-sensitive assessments and programmes and projects. The approach must ensure active, free, meaningful and informed participation of the most disadvantaged groups, which, along with the overall process of conducting a human rights-sensitive access to justice assessment, can require significant financial and time commitments. In some cases, this constrains the process, in particular when attempting to ensure development results.



Chapter 4

Chapter 4

Considerations for conducting effective access to justice assessments

Analyzing access to justice assessments carried out in different parts of the Asia-Pacific region by various institutions (mapped out in detail in Chapter 5) provides the practitioner with an understanding of how assessments are conducted. This analysis also provides a glimpse into why these assessments are done as well as related benefits, challenges and gaps. The analysis is done within a review framework that is intended to draw out key common issues in doing access to justice assessments, for consideration, reflection, and replication for practitioners.

In this chapter, the following framework for reviewing access to justice assessments provides analysis on following three main areas and two sub-areas:

1. Conceptual approaches
 - a. Definition of access to justice
 - b. Legal empowerment and access to justice
 - c. Approaches to assessment
 - d. Rationales and assumptions.
2. Methodologies and tools of assessment
 - a. Assessment design
 - b. Assessment tools
 - c. Partnering for research
 - d. Teams and experts
 - e. Arriving at findings, conclusions and recommendations.
3. Results of assessments
4. Two sub-areas on cross-cutting issues
 - a. Mainstreaming sensitivity
 - b. Special situations

1. Conceptual approaches

a. Definition of access to justice

In terms of defining access to justice, there are two approaches evident from the mapping exercise. While some assessments⁷ use a clear definition of access to justice as a point of departure for assessments, some leave the definition vague and/or open to probing,⁸ thus addressing the definition itself through research findings. Examples of different definitions include the following:

- The study by UNDP and the Ministry of Justice in Timor-Leste entitled *Access to Justice, Customary Law and Local Justice in Timor-Leste (2009)* follows a specific definition of access to justice at the beginning of the study. It defines access to justice as “a human right that consists of the capacity of human beings (individuals and groups) to obtain fair and effective responses in order to protect human rights, resolve conflicts, and control the abuse of power; through transparent and efficient processes, from affordable and accountable mechanisms that are responsive to social needs and sensitive to cultural, linguistic and gender issues.”
- The study done by the Asia Foundation (TAF) for the U.S. Agency for International Development (USAID) in Timor-Leste entitled *A Survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor (2004)* takes a narrower focus aiming “to assess citizens’ awareness and attitudes regarding law and justice in Timor-Leste” which leaves space for a definition at the conclusion of the study.
- The four-country⁹ study by the Asian Development Bank (ADB) and TAF entitled *Access to Justice for the Urban Poor: Toward Inclusive Cities (2009)* looks at a wide exploratory definition where “access to justice is perceived as social justice which includes access to education for children, equal opportunity in education, employment and health as well as the right to being heard, freedom from violence and simply, being treated well.”

Regardless of the particular definitions adopted, most access to justice assessments look at both formal and informal means of justice to ensure that poor, disadvantaged and marginalized populations gain understanding, knowledge, confidence, a voice, and the physical access to appropriate and effective means of meeting their justice needs and furthering their rights. Assessments also go beyond access to justice as a means of resolving conflicts by incorporating diverse requirements and detailed definitions, and by embodying current thinking (i.e. studies and research) on justice assessments.

Nevertheless, depending on the aims and approaches of different assessments, access to justice becomes defined in distinct ways. Some definitions cover overarching issues that go beyond rights protection and aim at rights enhancement in enabling environments—“access to justice is a persons’ ability to seek and obtain fair and

7 Ministry of Justice and UNDP Cambodia (2005), *Pathways to Justice – Access to Justice with a focus on Poor, Women and Indigenous People*, Phnom Penh, Cambodia, UNDP Cambodia; UNDP Indonesia (2007), *Justice for All – An Assessment of Access to Justice in Five Provinces of Indonesia, Jakarta, Indonesia*, UNDP Indonesia. http://www.undp.or.id/pubs/docs/Justice%20for%20All_.pdf; Ministry of Justice and Home Affairs, Open Society Forum, and UNDP Mongolia (2005), “Access to Justice, Needs Assessment Report”, Ulaanbaatar-14210, Mongolia, UNDP Mongolia; Buendia and Wong (2003), *Establishing Baselines on Access to Justice by Poor and Disadvantaged People in the Philippines*, The Asia-Pacific Rights and Justice Initiative, Bangkok, Thailand, Asia-Pacific Regional Centre, UNDP; and UNDP Timor-Leste (2009), *Workshop Consultation on Access to Justice, Customary Law and Local Justice*, Dili, Timor-Leste, UNDP Timor-Leste.

8 Mhatre, Andersson, and Ansari (2002), *Access to Justice for the Women of Karachi*, Project Report, Ontario, Canada, CIET Canada.

9 Bangladesh, Indonesia, the Philippines and Thailand.

effective responses for the resolution of conflicts, control of abuse of power, and protection of rights, through transparent processes, and affordable and accountable mechanisms.¹⁰ Other definitions describe access to justice as preventing negative situations that may arise due to the lack of access to justice, “access to justice is a process by which a range of different interrelated factors combine to enable citizens to obtain a satisfactory remedy for a grievance without being tempted to take the law into one’s own hands.”¹¹

Some definitions combine several components. This is clear where access to justice is defined as a combination of awareness, access and confidence. Awareness can be defined as “people’s access to state and non-governmental justice institutions” and confidence as “people’s level of confidence in justice institutions and in new future institutions.”¹²

Where approaches to assessing access to justice are clearly set within a HRBA, access to justice is defined as part of a broader human rights framework. Here access in conformity with universally accepted human rights standards becomes the key characteristic or priority of access to justice. In such assessments, definitions read as “the ability of persons from disadvantaged groups to seek and obtain a legal remedy in conformity with relevant international human rights standards” or as “the ability of people to obtain remedies and settlements in conformity with human rights principles and standards.”¹³

Broad definitions also exist, which define the concept in terms of access to social justice or access to resources. Looking at access to justice in this way is more explicit and distinct from what is broadly meant by access to rights enhancement. This approach is seen in definitions that read as the following: “access to justice is perceived as social justice which includes access to education for children, equal opportunity in education, employment and health as well as the right to being heard, freedom from violence and simply, being treated well,”¹⁴ or “access to justice is not as an abstract ideal, but rather in terms of delivering equitable access to urban assets and services.”¹⁵

b. Legal empowerment and access to justice

Legal empowerment brings in a new dimension to access to justice assessments. It looks at assessments through the recipient’s lens, taking into consideration their point of view and concerns. In access to justice assessments, legal empowerment highlights a connection between access to justice and concrete outcomes. For instance, the USAID study entitled *Legal empowerment of the poor: From concepts to assessments* (2007) states that “legal empowerment of the poor occurs when the poor, their supporters, or governments—employing legal and other means—create rights, capacities, and/or opportunities for the poor that give them new power to use law and legal tools to escape poverty and marginalization. Empowerment is a

10 Ministry of Justice and UNDP Cambodia (2005). *Pathways to Justice*.

11 UNDP Indonesia (2007), *Justice for All*.

12 Ministry of Justice and Home Affairs et al., Needs Assessment Report and UNDP Vietnam (2004), *Access to Justice in Vietnam – Survey from a People’s Perspective*, Ha Noi, Vietnam, UNDP Vietnam.

13 UNDP Nepal (2005), *Access to Justice During Armed Conflict in Nepal*.

14 Mhatre et al., *Women of Karachi*.

15 ADB (2010), *Access to Justice for the Urban Poor: Toward Inclusive Cities*, Metro Manila, Philippines, Asian Development Bank.

process, an end in itself, and a means of escaping poverty.”¹⁶ As such, the refined definition of legal empowerment as access to justice involves both a process and a goal from the perspectives of clients and service providers.

Legal empowerment is defined in a number of ways. In 2003, Stephen Golub¹⁷ explained legal empowerment as the use of legal services and related development activities to increase disadvantaged populations’ control over their lives. In an Asia Foundation document,¹⁸ Golub stated that legal empowerment as a strategy involved the following:

- An emphasis on strengthening the roles, capacities, and power of the disadvantaged and civil society;
- The selection of issues and strategies flowing from the evolving needs and preferences of the poor, rather than starting with a predetermined, top-down focus on judiciaries or other state institutions;
- Attention to all aspects of justice: administrative agencies, local government, informal justice systems, media, community organizing, group formation, or other processes and institutions that can be used to advance the poor’s rights and well-being, rather than a focus on a narrowly defined justice sector;
- Civil society partnerships with the state where there is genuine openness to reform on the part of government, agencies, or state personnel, and pressure on the state where that presents an effective alternative for the disadvantaged; and
- Great attention to domestic ideas and initiatives, or experience from other developing countries, rather than Western inputs.

According to Golub, legal empowerment contrasted with Rule of Law Orthodoxy¹⁹ for several reasons:

- Attorneys support the poor as partners, instead of dominating them as proprietors of expertise;
- The disadvantaged play a role in setting priorities, rather than government officials and donor personnel dictating the agenda;
- Addressing these priorities frequently involves non-judicial strategies that transcend narrow notions of legal systems, justice sectors, and institution building; and
- Even more broadly, the use of law is often just part of integrated strategies that include other development activities.

The 2000 study by Asia Development Bank²⁰ follows Golub’s line of thinking, and defines legal empowerment as “the use of law to increase the control that disadvantaged populations exercise over their lives.” The study sees legal empowerment as both a process and a goal. As a process, it involves the use of law to increase disadvantaged populations’ control over their lives through a

16 USAID (2007), *Legal Empowerment of the Poor: From Concepts to Assessments*, Washington, D.C., United States Agency for International Development.

17 S. Golub (2003), *Beyond Rule of Law Orthodoxy – The Legal Empowerment Alternative*.

18 R. Jayasundere and Z. Rudge (2007), ‘Legal Empowerment Survey Concept Paper: The Asia Foundation Law and Justice Program’, Asia Foundation, Sri Lanka.

19 Features of the rule of law orthodoxy approach include focus on state institutions (particularly judiciary). This focus is determined by the legal profession and creates a tendency to narrowly define the legal system’s problems, with legal institutions/actors playing the major roles. In this case, civil society engagement is limited to consultation on how legal reform should proceed. There is also reliance on external or non-local expertise, initiative, and models.

20 ADB (2001), *Law and Policy Reform at the Asian Development Bank: Legal Empowerment: Advancing Good Governance and Poverty Reduction*. Available at: <http://www.adb.org/documents/others/law_adb/lpr_2001.asp?p=lawdevt>.

combination of education and action. As a goal, it involves the actual achievement by the disadvantaged of increased control over their lives through the use of law. The study notes that the distinction is important, because the process of legal empowerment can proceed even if the goal has yet to be achieved.

Similarly, the Asia Foundation's 2008 research entitled *Sri Lanka Legal Empowerment Study*,²¹ also follows Golub's model closely and discusses several empowerment and legal empowerment concepts particular to Sri Lanka.

Most importantly, the final report of the Commission on Legal Empowerment of the Poor (CLEP) in 2008 defined legal empowerment as "a process that empowers the poor through the securing and advancement of rights," as well as "a process of systemic change through which the poor and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interests as citizens and economic actors."²²

In 2009, legal empowerment was further refined in the ADB and TAF study *Access to Justice for the Urban Poor: Toward Inclusive Cities* (2009) as "the ability (of women and disadvantaged groups) to use legal and administrative processes and structures to access resources, services, and opportunities."²³

c. Approaches to assessment

All approaches to access to justice assessments consider 'rights issues' as a point of departure. The basis of assessments is always the denial of rights and the need to protect and fulfil rights.

The definition of the conceptual approach that drives an assessment makes each process unique. The differences between approaches are seen in the details that underpin assessments. Some assessments state that they will follow the HRBA, while others merely imply it. Assessments that apply the HRBA in any given situation²⁴ build the assessment on a clearly defined and accepted foundation of universal, national and local human rights standards. This aspect is useful to practitioners as it provides a straightforward framework from which to base assessments. The purpose of the exercise, assessing access to justice cases, is clear, which prevents compromising or marginalizing rights for poor, marginalized, vulnerable or disadvantaged people. In applying the HRBA, it is important to take sufficient time to explain the inherent practical value of the approach, to explain the process in detail, to compare and contrast it against other approaches, to reiterate its value and to be flexible in applying the approach. This is important in building effective partnerships with partners who will be involved in carrying out the assessment.

d. Rationale and assumptions

Unequal access to justice is the common assumption and primary driver for all access to justice assessments. At the same time, other assumptions also underpin assessment work. The extent to which assessments clarify these other assumptions varies. Some assessments are explicit in explaining the need, aim and background for each assessment, e.g. in preparation for a particular programme and project

21 See Chapter 3 on applying HRBA to access to justice assessments.

22 Commission on Legal Empowerment of the Poor and UNDP NY (2008), *Making the Law Work for Everyone: Report of the Commission on Legal Empowerment of the Poor*.

23 Asia Development Bank (2010), *Access to Justice for the Urban Poor*.

24 All UNDP-led studies follow a human rights-based approach to assessing access to justice.

formulation,²⁵ while others are more general in their reasoning, e.g. to inform a country's policy on justice or to understand the nature of access to justice in a particular setting.²⁶

It is easier to evaluate findings and recommendations if the assessment rationale is clearly stated and set out at the commencement of the project. This allows practitioners to share experiences and results with ease, and puts in place an efficient way to classify and disseminate findings to targeted groups. The organization of assessments is invaluable for future action.

2. Methodologies and tools of assessments

The essential questions every access to justice assessment is seeking to answer are simple:

- What is access to justice?
- Why is access to justice important?
- Access to justice for whom?
- How to access justice?

The answers to these questions provide invaluable information on people's expectations of access to justice, constraints, gaps and challenges, as well as the need and space for reform and change to enable access to justice. These questions and answers make up the essential framework for a comprehensive assessment of access to justice.

The review of access to justice assessments in the past decade shows that assessments have used, developed and refined designs of assessments, methodologies and tools to enable effective assessments, according to the needs of policymakers, implementers, duty-bearers and rights-holders. The designs of assessments primarily aim at gauging the level and perception of access to justice within a particular situation (primarily within a country) in order to determine areas of intervention to improve people's access to justice.

There is little uniformity in the design and implementation of assessments done over the past decade. While the end result envisaged is often the same, and the findings and conclusions similar in broad areas, the methodologies used to carry out the assessments vary considerably. The majority of assessments follow time-tested research methodologies used to examine, probe and understand phenomena and perceptions. These include strategically identified research teams undertaking survey type and/or exploratory research through survey questionnaires, general interviews, in-depth interviews, case studies, focus group discussions, desk reviews and content analysis of laws, regulations, etc.

A few assessments, however, go beyond exploration and understanding carried out by expert teams, and uses methodologies (e.g. participatory action research) aimed at empowering the people who participate in the research process. A clear example

25 The Asia Foundation (2007), *Promoting Improved Access to Justice: Community Legal Service Delivery in Bangladesh*; UNDP Indonesia (2007), *Justice for All*; and TAF and USAID (2004), *A Survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor*.

26 Ministry of Justice and UNDP Cambodia (2005), *Pathways to Justice*; A.P. Graca (2009), *Sri Lanka Country Assessment*, The Asia-Pacific Rights and Justice Initiative, Asia-Pacific Regional Centre, Bangkok, UNDP; and L.T. Dung (2003), *Legal Needs Assessment – Building Ownership and Partnership for Legal Reform in Vietnam*.

of this is the UNDP assessment in Indonesia entitled *Justice for All – An Assessment of Access to Justice in Five Provinces of Indonesia* (UNDP 2007).

a. Assessment design

The review of previous access to justice assessments informs the preparation of new assessments, highlighting important lessons for future work.

Objectives

Every assessment starts with a set of explicit objectives, which influence the assessment design. Preparing detailed terms of reference to include these objectives provides clear guidelines to researchers and practitioners and focuses the assessment approach. In addition to the terms of reference set out, assessments have clearly defined aims and objectives.

Some assessment objectives are broad, looking at perceptions and realities of access to justice for poor, marginalized and vulnerable groups,²⁷ while some are more specific aiming at providing programming direction for envisaged access to justice projects.

For instance, the UNDP-led study in the Maldives entitled *Access to Justice Survey Maldives* (2007), has a broad objective: “to assess the access to justice issues, situation and needs of vulnerable groups.” Similarly, the TAF/USAID Timor-Leste study *A Survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor*, aimed broadly “to assess citizens’ awareness and attitudes regarding law and justice in Timor-Leste” while having a second objective of “using the findings to inform an on-going Access to Justice Programme.” The study done jointly by the Philippine Supreme Court, UNDP and the Office of the High Commissioner for Human Rights (OHCHR) in the Philippines²⁸ also aims very specifically at “suggesting an indicator framework for assessing access to justice.”

In contrast, some assessments set both broad and narrow objectives in the same study. For instance:

- The study done by TAF to assist the United Kingdom Department for International Development (DFID) in Bangladesh entitled *Promoting improved Access to Justice: Community Legal Service Delivery in Bangladesh* (TAF 2007), combines two objectives, namely: “to refine and expand support to local partner organizations that promote improved citizen access to justice in Bangladesh” and “to establish clearer links between access to justice, governance reform, and poverty reduction strategies.”
- Similarly, the Viet Nam Government’s *Legal Needs Assessment* (2002–2003), which was supported by UNDP and other donors, was conducted in response to a recommendation of the donor community and the government with a focused objective “to review past efforts to identify problems in the legal system” as well as a broader objective “to recommend prioritized directions and action plans for future reforms.”
- The joint-study by TAF, UNDP and the United Nations High Commissioner for Refugees (UNHCR) in Sri Lanka entitled *Assessment of Legal Aid Sector in Sri Lanka*:

²⁷ UNDP (2007) aimed to identify and assess key factors obstructing access to justice for disadvantaged groups to develop a longer-term programme to improve access to justice for poor, marginalized and conflict-affected communities.

²⁸ Buendia and Wong (2003). *Establishing Baselines on Access to Justice by Poor and Disadvantaged People in the Philippines*.

Searching for Sustainable Solution (2009), looked at a specific mapping of legal aid services while aiming “to help shape the development of a coordinated national solution for sustainable provision of legal aid in Sri Lanka.”

In some cases, objectives were broadened during the course of the assessment. For instance, the UNDP study in Cambodia *Pathways to Justice – Access to Justice with a focus on Poor, Women and Indigenous People* (2005) started as a research project on alternative dispute resolution, but later adopted a broader framework for a better understanding of the demand for justice and the avenues people use to access justice.

Target groups and sampling

Many access to justice assessments target marginalized and vulnerable groups. It is important for assessments to further identify target or sample groups or to pinpoint and explore in-depth issues that are group-specific.

Selecting target and sample groups is often based on existing information about groups that are facing or have faced difficulties accessing justice. Practitioners consult a range of sources when collecting background information on groups, such as desk reviews; focus group discussions with communities; and discussions with various actors including policymakers, technical experts, lawyers, judges, law enforcement officials, government officials handling administrative matters, legal aid providers and civil society organizations.

In most cases, target and sample groups are representative of the population. This ensures proper balance in geographical distribution, ethnicity, age, sex, professions, income levels, and education. Sample group sizes vary in assessments. The selection may appear purposeful at the beginning of the process and random at the time of individual interviewee selection. If criteria to measure the disadvantaged and marginalized people are established on the denial of a multitude of rights, selection criteria are based on qualitative data gathered through socio-economic mappings of sites.

For instance, in the UNDP-led study in Indonesia entitled *Justice for All – An Assessment of Access to Justice in Five Provinces of Indonesia*, poor and disadvantaged status was the focus for target groups selection, identified by several criteria through a qualitative assessment involving a general socio-economic mapping exercise in each village. The criteria used to measure the poor and disadvantaged groups was the non-fulfilment of basic rights to food, health care, education and other government services; discriminatory treatment by government or other community members; or the inability to participate in decision-making affecting their futures.

From a rights-based approach, this type of mapping provides a useful method of identifying and selecting the sample population for an access to justice assessment. Perusal of assessments shows that there is no uniform methodology for sample selection. However, looking at the different systems used by assessments it is possible to develop guidelines and guiding tools for sample selection that ensures consideration of views, perception and knowledge of the very groups that are targeted by such assessments.

Time-frames

Work plans are an important component for access to justice assessments. Similar to most research studies, assessments benefit from clearly defined time-frames and implementation plans.

The assessments reviewed for this report were conducted over different time periods ranging in duration from three weeks to two years. Some of the assessments reviewed included implementation plans that corresponded to the time periods available for the assessments. When project management elements are omitted and time-frames are not well synchronized, delays often occur because no contingency plan or method for coping with constraints and/or unforeseen problems is in place.²⁹

Assessments require various time-frames. There is also no evidence to suggest that the process is rapid; therefore, no methodology or guidance is available to facilitate systematic rapid assessments.

b. Assessment tools

The main methodological contribution resulting from the access to justice assessment mapping process is guidance on assessment tools. Reviews show that assessments use a mix of quantitative and qualitative information-gathering methods to collect data.

Assessments rely on primary and secondary data. Primary data is gathered as first-hand empirical evidence through surveys, focus group discussions and case studies. Secondary data are gathered from literature/desk reviews of government reports, statistical data, published and unpublished reports, books, magazines and other established sources.

In terms of research design, in addition to assessment objectives, most assessments outline a series of research questions that guide the assessment. These research questions are formulated in different ways and vary among assessments; some are direct questions or statements of issues to be examined, while others are probing questions, which look at the wide conceptual as well as direct practical issues.

The typical research tools used in assessments vary and are commonly mixed to meet the unique needs of each assessment, in order to arrive at findings and conclusions that promote access to justice for poor, marginalized, vulnerable and disadvantaged people. The selection of a tool(s) is less important than the effective use of the tool(s). Improper use of research tools could mislead information gathering and analysis and cloud results, which would present an inaccurate picture of access to justice conditions.

The assessments reviewed in this study typically used the following tools:

- Literature/desk reviews;
- Surveys;
- Focus group discussions;
- In-depth interviews;
- Case studies; and
- Information gathering/sharing workshops.

Innovative tools

Research tools are one means of informing access to justice assessments; innovative tools are another. During the course of assessment implementation, practitioners may develop special and innovative strategies, tools and indicators to assist the process. These types of tools were used in the assessments reviewed in conjunction with this report.

The Practical Evaluation Process (PEP)³⁰ is a strategic tool that contributes to discussions on the best methods to undertake access to justice assessments. It is used to arrive at the findings and conclusions on legal empowerment. It is a two-fold approach, offering a non-indicator approach and quantitative indicator approach to measure the results of legal empowerment. This approach has been shown to strike interest in the development community.

Another tool is the Legal Empowerment of the Poor Index (LEP Index),³¹ which comprises a general equation based on the assessment of rights enhancement, rights awareness, rights enablement, and rights enforcement.

A checklist³² tool is also available, which provides guidance on data collection, institutional assessment, and institutional design features that enable systematic collection of information.

Training researchers is another replicable strategy. This approach was applied in one of the assessments³³ reviewed. This tool provides a clear and strategic plan to train research personnel for different tasks in different stages of the assessment. Replicable training material is available as a result of these trainings.

Quality assurance tools are also important to ensure the integrity of research. Several studies used Quality Control Systems³⁴ to review data and information and provide cross-checking methods. In other cases, specialized people were appointed as Quality Assurance Officials³⁵ tasked with ensuring quality assurance.

There is also a process-monitoring framework³⁶ developed through an assessment to monitor the research process from a rights-based perspective.

Supplementary tools developed through different assessments also add value to the range of tools and methodologies. One such supplementary tool is a 'Do No Harm Note',³⁷ which sets guidelines for an ethical background for research.

c. Partnering for research

Research partnerships are an important aspect of access to justice assessments. They can exist between and among governments, UN agencies, donors,

30 ADB (2000), *Law and Policy Reform at the Asian Development Bank - Legal Empowerment: Advancing Good Governance and Poverty Reduction*, Metro Manila, Philippines, Asian Development Bank. Available at: http://www.adb.org/documents/others/law_adb/lpr_2000_1.pdf.

31 USAID (2007), *Legal Empowerment of the Poor*.

32 ADB (2010), *Toward Inclusive Cities*.

33 UNDP Indonesia (2007), *Justice for All*.

34 Ministry of Justice and UNDP Cambodia (2005), *Pathways to Justice* and UNDP Indonesia (2007), *Justice for All*.

35 UNDP Vietnam (2010), *Access to Justice in Viet Nam from People's Perspective*.

36 UNDP Nepal (2010), *Access to Justice during Armed Conflict*.

37 UNDP Indonesia (2007), *Justice for All*.

non-governmental institutions, research and academic institutions with diverse levels of decision-making placed on each partner. This research partnership was jointly conceptualized and implemented in many assessments. Partnerships add strategic value to assessments in terms of credibility and acceptance. They also help to ensure follow up and implementation of recommendations.

The value of contracting out is also seen in several assessments where professional institutions conducted assessments under the close and careful guidance of policymakers and project partners of the actual access to justice initiatives.

The UNDP-led study in Indonesia³⁸ found that partnerships were strongest when forged for more than the simple achievement of a designated outcome. Those who conducted the Indonesian assessment believe that a true partnership requires active participation by both partners—each has a real say and plays a constructive role—and the willingness from both to make compromises and concessions at different points of the study.

How does a partnership work? Insights and reflections from Indonesia

A partnership entails more than the simple achievement of a designated outcome. This could be achieved through going beyond a mere contractual relationship whereby one party gives instructions and the other carries them out.

A true partnership involves each partner having a real say and making joint decisions with regards to how a project is implemented.

Where one partner provides funding support to the other to conduct the assessment, some useful guidelines for funding agencies to create effective partnerships would be:

- Be relatively realistic and honest about the extent to which a particular arrangement is a true partnership.
- Be honest about power imbalances and previously identified interests of the funding partner.
- Involve the local partner from the earliest stage practical, in discussions about how to translate the pre-designed concept into an operational project.
- Make an effort to build a shared understanding of the project objectives and strategy before implementation begins.

(Source: *Unpublished field notes from UNDP Indonesia.*)

Ensuring effective, active involvement by all partners throughout the project cycle, including the pre-design phase, is one of the main lessons learned from the Indonesia study. Another important lesson relates to financial control over the project. Open dialogue between partners about financial control is critical to building a healthy partnership. In its absence, significant power imbalances can be created where one partner financially supports the study and the other carries it out.

The Indonesian study also found that flexibility in approach and framework are key to the success of the project. Involving partners during the conceptualization stage may avoid conflict during project implementation. Allowing for some flexibility in approach should also create a more effective working relationship. If one partner has markedly more familiarity with an approach, as was the case in Indonesia, the other partner may not understand or feel ownership over the assessment.

On the other hand, one lesson learned in the Sri Lanka access to justice assessment commenced by UNDP in 2008 was the intricacy of relationships with partners. The assessment brought together three key partners by way of formal links: the Ministry of Constitutional Affairs, which was the line Ministry in UNDP's access to justice work in Sri Lanka; the United Nations Office for Project Services (UNOPS) to design and administer the assessment, thus handling the quantitative segment of the assessment; and a local non-governmental organization (NGO) to carry out the qualitative component of the assessment.

The role of the Ministry was largely political and advisory. It provided legitimacy to the process in a difficult environment (due to conflict and strained relationships) as well as vetted assessment and administering.

This intricate composition of many partners meant that the assessment methodology had to accommodate several, often conflicting demands both in terms of substantive issues and methodological considerations. Accommodating these demands and ensuring consistency were seen as a challenge. More importantly this composition of partners had to work completely in unison for the assessment to be carried out properly.

However, with the escalation of the conflict in Sri Lanka, and heightened government suspicion of NGOs, the government stopped the assessment from moving forward. This was mainly due to the NGO involvement in the project. As a result, and due to the intricate connections among all partners essential for the assessment to be completed, the entire process was halted.

The main lesson learned was the need to select partners by placing the access to justice assessment in a country-specific context where partners would ensure acceptance and credibility, and facilitate the assessment. In other words, selecting partners for technical capacity alone would not be sufficient in particularly difficult situations; partners would also need to bring in qualities that would ensure acceptance, ease of implementation and credibility of the whole process.

An unpublished and ongoing study conducted by UNDP in Lao People's Democratic Republic (PDR)³⁹ highlights that partnership links can be either formal or informal. The study found that formal links include working agreements with governments, UN agencies, and other organizational entities. Informal links include processes such

Selecting partners: experiences from India

Selection of the agency: Where data has to be collected from a variety of sources across the country, an important decision that needs to be made is whether one agency should be selected for the task or if the process should involve a number of agencies. If more than one agency is engaged, care must be taken to ensure that the methodology adopted remains the same. For this, devising a methodology and arriving at a common understanding on the parameters for the data analysis should be discussed at the very beginning with all the agencies.

Capacity of the agency: In many jurisdictions, it is possible that the local agencies may not be skilled enough to conduct the needs assessment. In such cases, capacity development is essential prior to the needs assessment. Data collectors and analysts could be trained, or an expert could be seconded to the agency.

Accessing the points of view of the judiciary or government officials is difficult unless they are partners in the process. Where partnering with government agencies/judiciary, it is important to guard against these agencies driving the agenda. The best way is to get these agencies to agree to the terms of reference and not be involved in the preparation of tools or parameters of analysis. This is a difficult task to put into practice.

Author: Kanta Singh (UNDP India)

39 UNDP (2011), *People's Perspectives on Access to Justice- Survey in LAO PDR: An Assessment of Access to Justice in Four Provinces in Lao PDR*.

as workshops and consultations with communities, specific groups of people (e.g. professionals, service providers and policymakers), as well as trainings conducted for participants in the implementation process of the study. It also emphasizes that effective partnerships undoubtedly result in closer working relationships and better acceptance of study findings thus adding to credibility and ownership among those responsible for implementing study recommendations.

In conducting the assessment in the Lao PDR at a time when NGOs were a fledgling concept and legislation enabling work with NGOs was just enacted, UNDP was faced with hesitation from the government to work closely with NGOs. In addition, UNDP experienced resistance from some NGOs to the idea of partnering with the government. This made the main partnership, between the Ministry of Justice and the Lao Bar Association, particularly challenging. Looking back, UNDP realizes the value of this partnership; that while it may have been easier to implement the assessment only through the Ministry of Justice, the impartiality of the assessment would have been compromised and the objective to empower the fledgling Bar Association through the survey would also have been lost.

At the same time, there were some drawbacks to facilitating the partnership for the Lao PDR Assessment. Some aspects were time consuming and resulted in delays, both in decision-making and survey implementation. In particular, it was challenging to effectively coordinate all actors in the process and to ensure consensus amongst parties on the assessment. The experience, however, has also had some positive aspects. Capacity levels improved, in particular for the NGO partner, new relationships were forged through networking opportunities, and the partner's ability to work together and with donors improved. At the end of the assessment, the government had a greater appreciation for the work NGOs were undertaking on community justice and related issues. This resulted in less resistance on the part of the government to engage with NGOs—a significant accomplishment and critical change in a political environment that was not previously supportive of NGOs.

UNDP also benefited from the partnership. It gained a much deeper understanding of the national key actors, especially NGOs, working on justice and justice-related matters, and the relationship and linkages among these actors and existing UNDP efforts on justice, human rights and poverty reduction. UNDP gained a greater understanding of the role and capacity of government in access to justice.

This experience in the Lao PDR once again confirms that developing a strategy and engaging with partners at the outset is valuable for conducting an effective access to justice assessment. Learning from this experience, an engagement strategy could map: (1) all potential actors in the process; (2) the ways of engaging with the different partners in shaping methodology, implementation and arriving at policy- and programme-related recommendations and initiatives; and (3) the roles each partner could play in the monitoring and evaluation of access to justice interventions following the assessment.

Partnership issues were also at the forefront of two access to justice assessments conducted in Viet Nam. The first study by UNDP Viet Nam was the *Access to Justice in Viet Nam from People's Perspective* in 2010, which updated the 2004 Survey on Access

to Justice from the People's Perspective to reflect on the Government's five year review of its own Legal Systems Development Strategy 2005-2010.

A private law firm (following an open competitive tender) conducted the survey on behalf of UNDP. The law firm initially established contact with local government authorities to ensure support for the initiative. Following the initial analysis of data, findings were presented at a policy dialogue forum co-hosted by UNDP and the Ministry of Justice, with representatives of government, judicial agencies, National Assembly, mass organizations, civil society and donors. Following this, consultation workshops were held in the six provinces where the study was conducted. These workshops targeted ordinary citizens, officials from local governments, and local justice agencies. These stakeholder workshops, including a national workshop, were organized in partnership with the Viet Nam Lawyers' Association—a non-governmental socio-professional organization (quasi-NGO). Through information partnerships, the survey was able to engage a range of justice actors and communities at different stages of the process and for different purposes.

The second study, the Justice Performance Index (JUPI), is an ongoing study based on a new survey-based citizen questionnaire designed by the same team that carried out the *Access to Justice in Viet Nam from People's Perspective* study.

The study will be conducted by a Vietnamese NGO working in partnership with the Viet Nam Fatherland Front (an 'umbrella' organization including all mass organizations and with links to the Vietnamese Communist Party), which is also responsible for conducting the first nationwide (63 province) Public Administration Performance Index (PAPI) in Viet Nam. The main study tool, a questionnaire, was designed by an international/national consultant team. The study is currently in its pilot stage.

Tracing the experiences of both studies, UNDP finds that in Viet Nam, it is not possible to conduct a questionnaire-based survey without official government support. This does not mean that state officials have to be directly involved in the study, but official approval such as an introduction letter is necessary to conduct a survey.

Another lesson learned is that consultation with official stakeholders from the beginning helps ensure that the questions and methodology are seen as relevant and appropriate, and assessment findings are utilized in terms of policy recommendations and conclusions. Without this, survey findings might be under-appreciated or altogether ignored. Further, the study experience finds that official stakeholders must be engaged in discussion and dissemination of findings if the assessment findings are to be implemented. Failure to do this puts the assessment reports at risk of not being disseminated, which would mean that findings would neither be known nor able to shape government responses to access to justice needs (through or outside of UNDP programming).

One of the main challenges faced in doing access to justice assessments in Viet Nam was that access to justice is a sensitive issue. Therefore, trust needed to be built with all those engaged in the process in order for people to cooperate with the study.

In terms of using of findings, the initiatives that followed the assessment came from UNDP and not from the state. This reflects the difficulty in engaging the state to seriously adopt the recommendations and address findings. Indeed, from the beginning, gaining government ownership of justice assessments has been difficult given the political culture where such instruments have not been mainstreamed. UNDP thus took the initiative to conduct these surveys in order to demonstrate their usefulness to the government and to encourage the government to take the initiative in the future. UNDP Viet Nam will continue to focus on the important task of ensuring sustainability in the future, which will require getting government counterparts to commit to the initiative and to get them recognize the value of objective research and use the findings of such research as the basis for policy formulation.

d. Teams and experts

The assessments that were reviewed provide information on myriad arrangements that lead and administer access to justice assessments. These include research/assessment teams led by local and international experts from various thematic and methodological fields as well as periodic 'injection' of technical expertise, external reviews of findings and conclusions, and the involvement of wider audiences (experts, academics, policymakers, decision makers, service providers and beneficiaries themselves) at local and national forums. A key characteristic in many assessments is the team composition, where efforts are made to ensure the involvement of women and men, representation of ethnic and religious groups and the ability to speak local languages.

In addition to technical expertise and the involvement of wider audiences, an important issue to consider in team composition is ensuring diversity through equitable representation of women and men, of all ethnicities, religions, languages and castes.

Two gaps that are evident in the assessments reviewed were the lack of writing on the value of peer reviews, and the importance of comparative assessment of approaches and learning from prior assessments. This, however, could be a lapse in report writing as it is obvious that many assessments do borrow from previously successful assessments, replicate effective methodologies and approaches, and build on previous studies; nevertheless, analysis and writing on such comparative assessments are scarce, and peer reviews are usually not mentioned in the methodology of assessment reports.

Survey teams: A case study from Lao PDR

In the Lao PDR, the access to justice survey was conducted to fill a significant knowledge gap about people's access to justice in the country and to inform the development of concrete actions for the *Legal Sector Master Plan*, built upon ongoing initiatives and successes to enhance access to justice. Furthermore, it was intended to assist in the prioritization of issues, locations and target groups for legal awareness activities and legal aid assistance, to identify the best methods for conducting legal awareness activities, to develop strategies and entry points, and to propose recommendations responsive to people's actual needs in order to improve access to justice for all in Lao PDR.

Deployment of survey teams

The access to justice assessment provided comprehensive trainings for the survey teams. The team received training on key concepts concerning access to justice, assessment methodology, target areas and tools, and the justice systems in the country. Trainings also included discussions on human trafficking, land rights issues, as well as the challenges and justice issues faced by disadvantaged groups such as women, children, people living with disabilities and sex workers. Each session included a summary of the issue in the Lao PDR context and how the issue relates to access to justice. A wide range of experts provided the training services.

The survey team and timing of the field survey

Four research teams, one per province, were deployed to conduct the access to justice survey. The survey was conducted during those times that respected the agricultural calendar in order to avoid conflict with seasonal peak labour demand (such as clearing of the forest, planting or harvest). Thus the survey was conducted simultaneously across the four target areas after the harvest and before the clearing period, which was the time of the year during which the communities were most available. This timing of the field research helped ensure maximum participation of rural communities.

Each team comprised one representative from the Department of Justice, two ethnic researchers/facilitators (in charge of leading the team in each province), two students from the national university, and two interpreters. The researchers (one senior and one junior) had extensive experiences with participatory methodologies, community development, and facilitation. Their participation (one male and one female) allowed for the cultural and linguistic bridging of the tools and concepts and ensured the accurate capture of local perceptions.

In addition, two students, (one male and one female), were recruited by the Department of History and Anthropology in the Faculty of Social Sciences at the National University of Laos with responsibility for conducting and recording each individual interview. They were assisted by two local interpreters (one male and one female) recruited at the district level, which meant that they could implement the access to justice survey in local languages in the four target areas.

Limitations

For most members of both Khammouane and Sekong province research teams, this was their first exposure to qualitative research, and the training provided was inevitably, but unfortunately, brief. The fact that a one-month delay was imposed by the Ministry of Justice after the training before the field research also led to a loss of understanding of some aspects of the tools among the research team members. This delay also resulted in the loss of the Faculty of Law students as they were no longer able to participate in the survey due to study commitments. The law students were subsequently replaced by students from the Faculty of Social Sciences, but unfortunately these students were not able to participate in the training, which had already taken place.

An important factor in the research was the varying levels of experience and capacity. The Vientiane and Oudomxay province research teams proved to be much more experienced and efficient than the Khammouane and Sekong teams, and this had an impact on the quality of the outputs delivered, especially with regard to the qualitative material collected.

During implementation, coordination with the local government counterparts was at times problematic. For example, in many cases, the communities were not informed about the arrival of the research teams. Some local government representatives who accompanied the team also requested food, blankets, and mosquito nets from the communities, although they were receiving a sufficient daily allowance to cover their personal expenses. In Khammouane, the provincial coordinator left the team and therefore a new coordinator had to be recruited. The local government officials appeared to have a very low interest in the research activities and in people's justice issues in all the provinces, despite the fact that they were the same people who were in charge of the legal awareness activities in their respective provinces.

The Khammouane team faced the greatest challenges: three team members did not participate in the training (the two students and one interpreter) and several delays were encountered. The survey implementation was scheduled to commence on the third day of the third month of the traditional Lao calendar, but this coincided with the ritual of taking the rice out of the rice loft, which is a local holiday. There was also a death in Nakaikia village during the survey, which delayed the research progress. According to the local traditions, when a death occurs the village closes for three days during which it is forbidden to work. In response, the team had to go to the next target village and went back to Nakaika at a later date. The survey activities also coincided with a Terravada Buddhism festival 'Meuang Kao' in Thakek district, which forced the team to change their plans again. They decided to move to the Nakai district and conduct the survey in three other communities while the festival took place.

The team also faced many difficulties while working in Oudomsouk. In many cases, villagers had jobs (e.g. merchants, civil servants and fisherman) and were unavailable during regular business hours. At the time of the survey, the whole village administration was also in its infancy, and thus the local government had a low awareness of justice issues and of the communities. In addition, there were many newly rich villagers with houses and properties who were not interested in assessment.

In the four target areas, the teams faced more challenges while working in the urban setting than they did in rural communities. This is in part because the rural setting usually has fewer justice-related issues, and in urban settings, similar to Oudomsouk, an increasing portion of the population is unavailable, as they are busy trying to earn money. As one fisherman explained in Oudomsouk village (Nakai District, Khammouane Province): “When I fish for two days I get 1-2 million Kip (\$122 to \$243) from selling my fish to the merchant; why should I stay home and instead participate in the survey?” The teams also faced difficulties in securing the participation of respondents outside of working hours in the early morning and late evenings. It was easier in rural areas where most residents are farmers and follow the same calendar, and are busy or available during the same periods. The field survey took place after the harvest and before the new season started when most of the community were free.

In addition, assessing people’s perceptions on justice is a sensitive issue in the Lao PDR context, mainly for political reasons. For example, the team members were briefed by the central steering committee to avoid recording politically sensitive issues in Khammouane province (i.e. to record any dissident thoughts or critic against the Party policy or Party members) and in the Nam Theun issues such as unfair compensation for flooded land or corruption. The Vientiane team were also pressured by Hom district authorities to provide a copy of the whole set of data, which they did not do.

Lastly, although the four teams were equally comprised of men and women and had representation of researchers from ethnic minorities as well as interpreters, the teams nonetheless faced a language barrier especially in the Akha community. Also in Dakcheung district, the group had only one Talieng interpreter, and the team had to use a Talieng man (paired with an Alak woman) during the focus group discussion with women. This may have impacted on the quality of the data collected.

Author: Laurent Pouget (UNDP Lao PDR)

e. Arriving at findings, conclusions and recommendations

It is an understatement to claim that the importance of any access to justice assessment is in its findings and conclusions.

While assessment reports provide extensive and comprehensive findings and conclusions, it is difficult to arrive at a uniform system of data analysis and distilling of specific findings and conclusions from the vast amount of information gathered.

In the assessments reviewed, one⁴⁰ used a collection of analysis tools, some of which are explicitly mentioned, while some are implied in other descriptions. These tools include:

- Conflict analysis;
- Institutional analysis;
- Service analysis;
- Dispute resolution analysis;

40 ADB (2010), *Toward Inclusive Cities*.

- Perceptions analysis; and
- Needs analysis.

In analysis of data and information, what becomes of value is the linking of such analysis to the rationale and background of each assessment, thereby providing direct links to questions, issues, challenges and obstacles identified in the background of and rationale for each individual assessment. In some assessments, findings are general and do not add to conceptual issues. Thus, recommendations may be obvious, without offering much guidance to implementers, while in other assessments the findings make an impact on theoretical thinking and conceptual approaches, as well as adding great value to discourse on concepts and approaches with practical recommendations to further access to justice and rights enhancement of target groups.

It is evident that complex systems of data analysis do take place in each assessment. The question in analyzing tools and methodologies is how to capture the complexities of data analysis as a tool for future assessments. While mention is made of computer systems and indicators, it becomes difficult to capture the human worth each assessment brings in terms of knowledge, experience, insights and 'gut feelings' that are brought into the analysis by team members.

The assessments reviewed provide details on how to share findings before finalizing assessments. This activity, which can be woven into a uniform assessment implementation plan, adds value to the process. Assessments show the need for and effectiveness of sharing preliminary findings with a diverse group of stakeholders, finalizing the study based on stakeholder feedback, and of disseminating final results with stakeholders.

Disseminating findings to the community

This case study describes the approach undertaken by the World Bank's Justice for the Poor programme (known as Jastis Blong Evriwan (JBE) in Vanuatu in disseminating research on the justice and equity aspects of land leasing to local communities.

Jastis Blong Evriwan (JBE) research in Vanuatu identified a number of concerns around land. These included: the failure of the legal framework to take into account local particularities of customary group landholding, combined with the lack of relevant knowledge and professional advice; a lack of support or information available to custom landholders to inform decisions on whether to lease land and if so how to negotiate a lease; and the practice of writing the lease agreements in English not in the local language (*Bislama*). The current lease formation process supports negotiations between small numbers of men (acting as custom 'owners') and investors in making deals with regard to land, over which a larger custom landholding group (including women) have legitimate interests. The potential for individuals to receive substantial amounts of money from lease premium payments without sharing benefits with the broader group is fuelling disputes over land and increasing social discord. Lack of monitoring and enforcement of lease conditions has also led to unresolved grievances between custom landholders and investors over unrealized lease benefits (such as unfulfilled promises for tourism development or employment of local communities).



Why Community Dissemination?

Following its research on the islands of Epi and Tanna, JBE held meetings with participating communities where research was undertaken to discuss findings and stimulate community dialogues on how current problems with land leasing may be addressed at both the local and national level. Teaming up with a local theatre group, Natantong Theatre, JBE experimented with innovative methods to communicate sensitive findings related to land leasing disputes, power imbalances and lack of benefit-sharing to affected communities. The community drama presented an opportunity to gather villagers in an informal setting where they could air conflicting views and debate possible solutions.

The dissemination programme also provided an opportunity for the team to thank communities who had hosted researchers during the field work and encourage ownership of research findings. Development aid and academic programmes in Vanuatu are often criticized for 'exporting' information and local knowledge from communities without any real benefits in return. The innovative dissemination of research findings was combined with a legal awareness and legal aid programme, thus providing a way for JBE to give something back to the participating communities and solidify the networks and relationships developed during field work. It further helped communities to strategize about ways to challenge inequitable land leases and potentially negotiate more equitable deals in the future.

To forge partnerships between civil society, government and communities, the team invited representatives from the Ministry of Justice, Ministry of Lands, Island Council of Chiefs, and a private lawyer to take part in the dissemination. This allowed them to better understand the research and community views on these issues and put them in a stronger position to become advocates for change. Their presence also provided an opportunity for villagers to have access to specialist advice on leasing issues.

Planning the dissemination

Based on the land lease case studies, the JBE team together with Natantong Theatre developed a number of short plays designed to suit the local particularities of the island where dissemination was carried out. For example, the team used a parable

Song excerpt: Land is our Mother

Land is the foundation of our life...
 Land gives us food, water and shelter...
 Land gives us money every day...
 Land holds everything that we need
 in the past, present and future...

Land...is our mother...
 Mother Land...Protect it good..
 Respect it...look after it well...
 Should not think of loosing
 Our sweet mother land...

(often invoked in customary settings to talk about sensitive issues) to depict the breakdown of group landholding principles and *kastom*⁴¹ governance. The team took extra care not to bring up specific case studies that might stir up conflict or cause confusion among communities. To this end the team developed narratives that portrayed common complaints associated with land leasing practices in Vanuatu. The team also composed and performed songs about the importance of protecting the land and natural resources for future

generations. To complement the 'negative' sketches, the team included a 'positive' story to demonstrate to villagers what a good community consultation and benefit-sharing process looks like. The team hoped that such a positive example would inspire the community to take collective action on preventing problems arising in the future.

Before the dissemination, the team sought guidance on local protocols and customary practices related to community gatherings and endeavoured to follow them through the dissemination trip. Community meetings were opened and closed with a prayer; customary gifts (e.g. traditional woven mats; baskets; kava roots; and roosters⁴²) were presented to the local chief as a gesture of gratitude for allowing the team to use the local '*nakamals*'⁴³.

The programme of the dissemination day was designed to alternate between a number of short drama performances, presentations and facilitated dialogues to create a lively and engaging environment.

41 '*Kastom*' is the mixture of values, beliefs, institutions and practices perceived as traditional in Vanuatu.

42 2007 was declared by the Vanuatu Government as the Year of *Kastom* Economy.

43 Nakamal is the local meeting house where usually dispute resolution and decision-making is done. Depending on the island, it is often a house made of Natangura leaves or open-air space under a huge banyan tree.

The dissemination day



The dissemination event took the form of a full-day meeting in each targeted location. Prior to the first play, the group performed an ice-breaker aimed to create a fun and lightened atmosphere. After each play, community members were encouraged to share reflections on the stories and ask questions. Each play was followed by a presentation of the relevant research findings with time for questions and

discussion. The programme also featured a speech by the local chief discussing how land is held, transferred, and used under *kastom*.

In each setting, the Director General of the Ministry of Justice discussed the importance of *kastom* governance in contemporary Vanuatu and its relationship to the state system. The presentation by the Department of Lands representative focused on explaining the various steps in the land leasing process and the Department of Environment officer discussed the environmental, social and cultural impacts of leasing. The private lawyer talked about the legal provisions related to the rights and responsibilities of custom landholders entering into a leasing agreement and provided legal advice on particular cases. The focus of the awareness-building activities on addressing the information gap encountered during the research helped the audience members relate to the problems they are experiencing and ask for specific advice on actions they can take to resolve them.

At the end of the presentations, the team facilitated break-out group discussions with chiefs, women and youth to provide space for marginalized voices to be heard. Each group discussion was forward-looking and focused on soliciting ideas for how contemporary land lease problems can be addressed at the community level.

Community participation

Attendance and participation varied between locations. The dissemination gathered together local chiefs, community leaders, church representatives, school teachers, students, women and youth. They sat in a way prescribed by the local *kastom* rules with women often missing or sitting in the fringes of the meeting place.



The number of men attending the event was much higher than women. Many of the women joined the workshop in the afternoon sessions as they were involved in preparing lunch for the participants. Women did not speak despite being encouraged by the presenters. To address this challenge, the team included targeted discussions with women's groups at the end. This, however, still proved to be difficult as in the *kastom*

domain land issues are often considered men's business—making it hard for women to talk. This indicated the need for spending longer time with women's groups to allow them to gradually become more comfortable with discussing such sensitive issues.

Female members of the JBE team were also faced with the challenge of speaking at the *nakamal* which traditionally was not allowed. Given that the dissemination event was not a *kastom* meeting and that the researchers were not from the respective areas, speaking at the *nakamal* was not deemed inappropriate by the local authorities. Seeing other women speaking in public was seen as encouraging by local women who felt more comfortable in a meeting dominated by senior men.

.....
"It is very difficult for us to receive information on how to develop our own land, maybe because the people in the capital forgot about us and so that is why whenever an investor comes along to ask for land, we sign the papers right away, not knowing what will happen in the future because we want to get our hands on quick and easy money"

.....
Community member, Epi Island
.....

Similarly, youth voices were rarely heard in community meetings, but the break-out groups provided a good opportunity for them to express frustration with their lack of participation in local level decision-making related to land.

Assessing impact

A few months after the dissemination events, the Jastis Blong Eriwan team went back to the researched communities to conduct an assessment of the dissemination and legal aid days. This exercise was undertaken with the aim of: (i) determining responses to the JBE dissemination and awareness activities in researched communities; (ii) understanding successes and barriers in addressing land lease problems; and (iii) informing options for future JBE assistance. It was carried out through interviews with community members who attended the dissemination events.

The assessment indicated that drama and legal awareness were valuable tools for engaging communities in dialogue about sensitive land issues. The key dissemination messages remembered by people included: the importance of protecting the community land for future generations in the context of a growing population; the need for greater consultation and inclusive group decision-making regarding the leasing of land; the importance of transparency in custom landholder identification; the need to understand the social and environmental impact of land leasing and getting specialist advice in order to make informed decisions; the rights and responsibilities of both lessors and lessees; the changing role of chiefs influenced by 'new opportunities' for monetary benefits; the need to restore confidence and respect in *kastom* governance; and the need for more equitable and fair benefit-sharing within the community.

The information was well received and communities reported that they now have a better understanding of land leasing and are in a better position to prevent improper dealings. The majority of people interviewed expressed demand for continuing education on the rights and responsibilities of customary landholders in relation to land leasing, with inclusion of women and youth, who do not always have access to information. Many respondents suggested that targeted trainings be held for chiefs in particular so that they could more appropriately respond to problems related to land. In addition, some respondents noted the need for JBE's presence or other locally-based advisory services that could assist them in navigating land negotiations.



The community dialogues have also generated action at the local level. On Epi Island, the legal aid days triggered community meetings to discuss locally-based solutions to leasing problems. As a result, customary authorities have taken steps in controlling the creation of new leases requiring that an application for a lease should be first discussed with

the broader community and be authorized by the village, area and island council of chiefs. To improve coordination, the Epi Council of Chiefs has requested the Department of Lands to refrain from registering leases without council approval. In addition, a number of community members have sought legal assistance to proceed with challenging existing land lease agreements on the basis of unfulfilled development promises or fraud in the leasing processes. Unfortunately, some of these actions have stalled, apparently due to the inability of community members to meet legal costs though one of the leases, covering a significant area of the island, is reportedly being looked at by a local legal aid and advocacy organization. The Tanna Island Council of Chiefs is working to clarify principles of customary landholding and authority structures to prevent conflict arising from confusion. In at least one case, increased awareness is reported to have contributed to reduced tensions over land by clarifying acceptable claims. On both Epi and Tanna Islands, communities and chiefs report that they are putting more efforts into resolving disputes in local forums as much as possible to avoid lengthy and cumbersome court processes.

While the dissemination activities were positively received, community members also stressed the importance of providing people with ongoing opportunities to receive information and advice on specific issues.

Author: Milena Stefanova, Programme Coordinator of the World Bank Justice for the Poor programme in Vanuatu (locally known as Jastis Blong Evriwan).

3. Results of assessments

The actual results of access to justice assessments are many. Assessments are undertaken for a clearly defined purpose—e.g. policy recommendation, policy and institutional reform, programme development or improvement through refinement of approaches—and result in a range of recommendations that address each of these aspects. Recommendations vary in scope: some are specific, strategic and targeted with well-defined audiences, while others are general and require further analysis and streamlining.

The recommendations do not generally include guidance on how to assess the impact of the work on the lives of the people who they aim to serve. Very little information is available on how to monitor and evaluate projects and programmes. This is an area that requires discussion and enhancement.

1. Mainstreaming sensitivity

Sensitivity to diversity in an access to justice assessment means focusing on the differences in populations targeted for assessment (with the goal of improving access to justice). The differences within a selected population include sex and gender differences, ethnicity, class, caste and other sensitivities that create segments or groups within populations.

Assessments often report the inclusion of diverse groups but methodologies and tools are not specific regarding how diversity is captured and mainstreamed into assessments. However, it is evident from the findings and available methodological information (i.e. mention of disaggregated data and participation of different groups in information-gathering activities) that most assessments do strive to ensure the voice and participation of diverse groups, and in some cases incorporate this diversity into analysis, conclusions and recommendations. It would be useful if this integration and mainstreaming of diversity could be captured and documented to influence future studies.

2. Conducting assessments in special situations

Assessing access to justice in *special or specific* situations requires care. These situations can be conflict situations, civil unrest, post-conflict situations, natural or manmade disasters, , and even situations where access to justice for poor and marginalized populations is not a national priority.

Carrying out access to justice assessments in such situations necessitates special considerations and risk mitigation plans in order to conduct an effective assessment. These types of assessment should be recognized as different, with unique needs, compared to assessments done in what could be regarded as 'normal' circumstances. If ignored, it could lead to unprecedented problems such as: inability to ascertain the real situation pertaining to people's justice needs, inability to access credible sources of information, and prohibitions and interferences imposed on the assessment. It could also result in recommendations not being taken forward due to inability or lack of interest, resulting in the denial of access to justice provision for people.

One example of an access to justice assessment having to be abandoned prior to finalization was the *Sri Lanka Access to Justice Assessment* commenced by UNDP Sri Lanka in 2008. This study was halted by the Government due to "security concerns during the military conflict in Sri Lanka" and remains incomplete and unpublished.

Tied to the red pole: The state of justice in Nepal

Background to an access to justice assessment

On 23 March 2005, the *Kathmandu Post*, one of Nepal's leading daily English language newspapers, ran a news story entitled "*Red Pole*" reduces crime, misconduct. The by-line was filed by Shankar Kharel from Itahari, Sunsari, and the story appeared on the front page. According to the story, the Area Reformation Committee in Ward

2 of Itahari Municipality had devised a novel way to reduce misconduct and crimes. They tied up people who had committed a crime to a red pole in a public place, publicly humiliating them in front of the community and forcing them to renounce their behaviour.

This story could be filed amongst the dozens of other quirky, odd, or downright laughable stories found in the Nepali media. While echoes of public humiliations from medieval Europe, or more recently from neighboring China, might have rung a bell, the middle class in Kathmandu gave the news item a quick glance and moved on briskly to sports or entertainment news. But the story deserves more than a disbelieving laugh. What moves this story from the realm of the comic to the tragic is the way it reflects the erosion of the justice system in the current state of conflict in Nepal.

I spent the last six months travelling to three districts in southern Nepal with a team of four other researchers, interviewing formal and informal justice providers, including judges, public prosecutors, lawyers, legal aid professionals, policemen and users of the justice system. This research was done under the auspices of the UN, which gave us easy access. They all reported one overwhelming fact: the justice system of Nepal had come to a halt in the current conflict.

“Such punishment has really proved to be effective compared to the ones practiced by the police and other authorities,” the chairman of the municipal committee that set up the red pole solution said. Humiliation as a strategy was replacing international legal standards of justice. He may also have been referring to the fact that most police posts in rural areas have withdrawn to the city, leaving an almost complete void of state presence.

All civil servants paid by the state, from the Chief District Officer (CDO) to the judges, from the public prosecutors to the policemen, fear to go outside the district headquarter boundaries. If a murder is committed in a village and people brave it out to the city to report it, the police will ask the villagers to bring the body to the city themselves, along with any supporting evidence. The police, poorly armed and at risk of Maoist attacks, are afraid to be abducted or killed during the course of duty. The police will sometimes make joint patrols with the Unified Command (a joint team of army and armed police), but they rarely venture out these days to investigate civil crimes.

The media, preoccupied with reporting on the emergencies of the conflict, has also drastically reduced coverage of civil crimes. One journalist said he was doing less reporting around civil crimes for the simple reason that the conflict was taking up all his reporting time. “If there was a case of domestic violence before, I would have gone to report on it. But these days, I will hear about a case of a woman who is killed by her husband, but I have to admit that I will choose to cover a bombing over going a domestic violence crime.” The underreporting of civil cases does not mean civil crimes have subsided—indeed, there may be more incidents of domestic violence, but due to the lack of statistics it is difficult to keep track of changing patterns.

When the police ask the villagers to bring the evidence to the city headquarters, the evidence can, for obvious reasons, be tampered with. In one instance, a photograph of a supposed suicide was provided as evidence to the police. The woman in question had her shawl neatly arranged around her shoulders, her slippers in place,

with no sign of a violent death. A photograph of this nature could arouse suspicion it might have been murder, but there is no way for the police to verify the information. Public prosecutors, who have the authority to ask for more evidence from the police investigation team, are often afraid of the police, and are concerned for their own safety. The policemen will then act according to the existing evidence, often torturing suspects during interrogation without adequate background investigation.

Torture in police custody is commonplace, and innocent people will often get caught in draconian legal traps. For instance, the anti-trafficking law, which was intended to prosecute traffickers, puts innocent men and women in jail on a regular basis. An individual can be put in jail on the basis of a single accusation. Since the burden of proof is on the accused, it is often difficult for people to defend themselves due to a lack of evidence. In one case in the Nepalgunj jail, a young *dalit* woman married to an abusive husband had left him for a Tharu man. Her 16-year old daughter, possibly urged by the father, accused her of plotting to sell her to India. The local *ama samuha* came and beat her up on the basis of the husband's testimony. The woman claims her daughter was coerced by her estranged husband who had a history of drunken domestic violence and abuse. The judge, an elderly Brahmin man who proceeded to read his *missil* like the religious scriptures, had clearly taken her 'moral' character—i.e. the fact that she was living with another man—into account when giving his verdict.

Because there have been no elections, there are no elected officials in the village and district committees to sign birth and death certificates, or to sign other documents people need in order to make their citizenship certificates, for example. The void left by elected officials, who often adjudicated petty disputes, including those of irrigation canals, crops, fencing, etc., has been filled quickly by the Maoists, who have taken the opportunity to offer the services of their own People's Court (*Jana Adalat*.)

Disputes around property, marriage, inheritance, loans, domestic violence and other civil matters remain the most pressing disagreements in need of adjudication at the local level. Even when the case reaches the court, the court officials may not be able to follow up because the *tamildars* (court officials who deliver summons) have received death threats from Maoists and refuse to go outside the district headquarters.

Informal justice providers, including community heads, tribal leaders, and others, who would formerly preside over local disputes, also find themselves afraid to perform their traditional functions for fear of either the army or the Maoists. Active individuals who came from political party affiliations have mostly fled rural areas after repeated threats from Maoists. In one instance, we met a woman from Unified Marxist-Leninist who had been doing exemplary social work, who said she had finally left the village after Maoists left letters on her yard asking her either to join them, or to leave the village.

Even the disputes that already made it to court have been halted. In Nepalgunj, a court officer pulled out a thick stack of files and showed me handwritten letter after letter, requesting the court to halt the court case because the individual was afraid for his safety, or had been pressured by the Maoists to withdraw the case.

Justice-providers, including both police and court officials, feel the psychological impacts of working in a system that has ground to a halt. The police, whose job it is to serve the community, have lost the trust of the people to the extent that a bombing will not be reported for fear of being implicated in the crime. When the police do reach the scene of the crime, witnesses may not present themselves for fear of being detained. The lack of trust and coordination between the judiciary and the police has not helped either. Chief District Officers, who are almost completely controlled by the army, will often detain people without adequate evidence. The court will order a *habeas corpus* and release the detainee for lack of evidence. The police will then go and re-arrest the released man or woman in the Appellate Court premises, citing the difficulty of gathering evidence in the conflict situation. This merry-go-round of one state official undoing the work of another is deeply resented by all sides, who feel the other institution does not respect them, or take their function seriously in the current conflict.

Are the law courts letting off people who could be involved in terrorist activists? One judge reported on a case in which a Maoist had publicly admitted that he was part of the party and that he had been responsible for a number of bombings. This man had been imprisoned. This case, he felt, was very different from that of the many others being detained on suspicion, where there is no evidence to support their detention.

Nepal's current political stalemate is in some ways due to this resistance to working together on a common national vision. Institutions are deeply divided about how to proceed. That is why perhaps that local initiatives like the 'red pole' quickly command alarming popularity. The pole unites people in a way the police or the courts never could.

The 10 feet-long red wooden pole bears the words: "I am a criminal, and I am tied up here today because I committed an unlawful act." The pole, chillingly reminiscent of Chinese Red Army, has made its appearance not courtesy of the Maoists, who run their own elaborate *Jana Adalat*.

The miscreants are asked to announce they will not drink alcohol, beat their wives, and have to renounce other public offences in front of the other locals. "No one dares to be tied to the pole in front of hundreds of locals," said one anonymous man previously known to become fully intoxicated and commit havoc, and who had presumably given up committing public offenses for fear of the new punishment.

"The measure we have taken to maintain law and order in the society has been effective so far, as the accused feels humiliated when he is asked to admit his crime in front of the entire public, including children and elderly," the chairman added (*Kathmandu Post* quote). Nepal, being a shame-based culture, often falls back on shaming and humiliation to make people behave according to social norms.

Nepal was closed off to the outside world until the 1950s. Medieval forms of punishment and torture persisted until the 1980s in the jail system. Modern legal reforms had slowly filtered into the country. The Nepal Law Campus was started with one room borrowed from another college. The institution was established to allow students to study law in Nepal without having to go to India. Since then, hundreds of students have received their law degree from the campus.

A three-tiered court system—district, appellate and supreme—operated for decades before coming to a slow halt during the last few years of the conflict. Norway funded the Nepal Bar Association to give free legal aid, briefly leading to a surge of cases from women who came to file *pro bono* cases through the legal aid project's women's cells. But even this rise in cases dropped after Norway stopped its funding to the Bar Association. Advocates now argue that legal aid, instead of being dependent on funding, should be mainstreamed into the Constitution as part of a citizen's right to a free trial. Through this rights-based approach, the state would be responsible for providing a lawyer or legal aid to each and every individual faced with a trial.

A reversal back to traditional justice systems has taken place in some communities, not always with happy results. For instance, a community of *mangtas*, who spend six months of the year as professional mendicants, reported that a group of Maoists had come by and blown up the police post in their village. The Maoists, whose *Jana Adalat* is not stationary, had not returned to the spot. The women complained that unlike before, they could no longer get the police to arbitrate in cases of domestic violence or minor fights. The Maoists also had not returned, so arbitration of dispute had reverted back to the traditional council of ten men. The process consisted of a 10 rupee fine the culprit had to pay to the judges, who spent it on a good bottle of alcohol.

In the case of the *Sattars*, a tribal group that lives near the Indian border, vigilantism had become the answer to the lack of law and order. The *Sattars* were wary of the state system to begin with, often relying on their own traditional system to dispense justice. Since the conflict began, the tribals find themselves at odds not just with the state but also with the rebels. Our interviewees reported that there had been a big mass gathering of tribals from both Nepal and India, where they had gathered and vowed to fight the Maoists with their poisoned arrows. In one instance, two young Maoists who had moved in and started to collect donations had been executed by a group of men.

The impunity of Maoists and security forces terrorize ordinary villagers equally. The Maoists use children as soldiers, force people into labour, execute suspected spies and enemies, extort money and food, and practice torture. The security forces take away suspects (disappear), conduct investigations under torture, extort money and food from hapless rural folks, and rape and extrajudicially kill suspected Maoists. Unsurprisingly, the erosion of the justice system has affected the most marginalized communities whose access to the systems was tenuous at best, including women and *dalits*.

There is an understanding among Nepal's various communities that the Maoists and the army now run the justice system in a very unjust way. But justice is not something that can be arbitrated with a gun. Soldiers and rebels cannot spend all their time counselling, defending and prosecuting like legal professionals. Consequently, this has led to a void of law and order. The Government of Nepal is reluctant to acknowledge that a strong judiciary and independent legal system could reduce the impacts of the conflict. The fact that the modern justice system has been rendered functionally useless, to be replaced by a medieval system of public humiliation, speaks volumes about the state of justice in Nepal today.

Author: Sushma Joshi (journalist)



Chapter 5

Chapter 5

Mapping access to justice assessments

The mapping of access to justice assessments includes details of assessments conducted over a period of 10 years, from 2000 to 2010. The 23 assessments contained in this chapter are studied for conceptual approach, objectives, methodology, tools and results of assessments based on the level of information provided for public access in each assessment report.⁴⁴ Each assessment provides valuable information on why such assessments were conducted, how they were conceptualized and implemented, as well as the diverse methodologies and tools used and specific characteristics of some assessments.

Why conduct access to justice assessments?

Access to justice assessments are conducted for two main reasons: to support policy direction and formulation, and to shape programmes and projects. Within these main objectives, assessments seek to understand issues of access to justice for those who are broadly described as marginalized and vulnerable people. This target group is defined according to the scope of each assessment but often includes poor and economically deprived populations, women, indigenous people and those affected by conflict or disaster. Each assessment is set in specific social, political and historical contexts, as well as economic and cultural backgrounds, and uses a variety of approaches to assess access to justice for different types of populations.

Access to justice for indigenous people in Bangladesh⁴⁵

This study attempts to identify the main problems faced by indigenous peoples as they seek access to formal and traditional justice systems.

Access to Justice for Indigenous People (Roy, Hossain, and Guharthakurta 2007) conducted in Bangladesh by UNDP aimed to identify the main problems faced by indigenous peoples seeking access to formal and traditional justice systems. It also focuses on their right to access to land and forests, their right to life and liberty and personal security, their right to gender justice, and their right to participation and representation.

The design and implementation of the study was inclusive and participatory in approach, carried out by a team of an adviser and two national consultants. The methodology includes desk research, a consultation processes and action research.

⁴⁴ The main limitation in this part is the author's inability to access unpublished access to justice assessment reports.

⁴⁵ R.D. Roy, S. Hossain, and Dr. M. Guharthakurta (2007), *Access to Justice for Indigenous People in Bangladesh*, Dhaka-1000, Bangladesh, UNDP Bangladesh. Available at: <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/docs/CaseStudy-02-Bangladesh.pdf>.

The main aim of the work was to seek insights and in-depth information on key issues related to access to justice, including access to both the formal and the informal justice systems. In addition to gathering information, the study raised awareness among people regarding their rights and entitlements, the relevant governance frameworks and the legal and judicial mechanisms available for redress of grievances.

The study uses several tools for information gathering including in-depth focus group discussions with representatives of indigenous communities in different locations as well as a survey of indigenous communities.

The study report discusses the relevant political and historical context, economic and cultural background, and the struggle to establish indigenous peoples' rights. It outlines the legal framework, including both formal and informal justice systems, as applicable to indigenous peoples. It sets out the relevant institutional framework, and then analyses the key obstacles indigenous peoples face in obtaining access to both the formal and informal justice systems against the background of the overall situation regarding access to justice for the majority populations of Bangladesh. The report then sets out existing interventions by state and non-state actors to ensure access to justice for indigenous peoples. Finally, it proposes recommendations and strategies to facilitate and enhance such access.

Mapping informal justice systems in Madhya Pradesh (India)⁴⁶

This assessment examines how informal community justice systems function and the role they play in helping disadvantaged people meet their justice needs

This mapping of the informal justice system in Madhya Pradesh in India uses the human rights-based approach to assessing a particular sector in access to justice. It examines people's access to informal justice systems by attempting to understand issues of disadvantaged groups such as the poor, illiterate, rural people, women, *dalits*, tribals, minorities, the elderly, the differently abled and displaced people.

The main aims of the assessment are to understand how the informal community justice systems function, and the role they play in helping disadvantaged people meet their justice needs. Specifically the assessment looks at the following:

- The role played by traditional structures of informal justice systems in the lives of the people;
- The composition, functioning, jurisdiction and legitimacy of the informal justice systems;
- For what needs, when and how people access these informal justice systems; and
- The characteristics of the systems in the way they service different types of communities.

The assessment methodology concentrates on qualitative methods. The sample is 50 villages from 10 districts (5 villages from each district) in Madhya Pradesh. The villages were selected to provide diversity reflecting remoteness, accessibility, distance from urban areas, including villages with a single caste, villages with a single

46 UNDP India (2007), Notes from an incomplete study.

tribe, mixed caste villages, mixed tribe villages and villages where mixed tribes and castes live together.

The assessment uses several tools for information gathering including focus group discussions with villagers, women villagers, caste-based groups across different tribes and religions. In-depth interviews with village leaders, members of local government and justice systems, as well as NGOs, prisoners and their families. The assessment also uses case studies of people to understand justice needs and access to justice.

Baseline study on access to justice in the Maldives⁴⁷

This study assesses access to justice issues through the situation and needs of vulnerable groups.

The UNDP-led baseline study on access to justice in the Maldives aims at examining four crucial aspects of access to justice in the Maldives:

1. Knowledge and opinions of law and justice to provide insight into the level of awareness among the people of the Maldives concerning their legal protection and to compare it with their perception of available means to obtain such legal protection and justice;⁴⁸
2. Perceptions of the judicial system examining the workings of the police, the Prosecutor General's office, the Attorney General's office, the courts and private lawyers;
3. Experiences of people (the public and professionals) of the judicial system to gain insight into judicial institutions' decision-making processes and how ordinary citizens—including those who are parties to legal cases or those who filed public complaints, as well as other users of the justice system—understood them; and
4. Perceptions and experiences of members of the judiciary and court staff.

The scope of the study was three-fold: examining access to justice issues, current situations and the needs of vulnerable groups. The process of identifying the most important issues and the most vulnerable groups involved a series of interviews with duty-bearers. In addition, literature is reviewed to ascertain the situation in the Maldives (such as the report of the UN Special Rapporteur on the independence of judges and lawyers).

The survey methodology comprises a mix of qualitative and quantitative methods allowing for an extensive and in-depth analysis of access to justice and related issues.

The main tool for data collection is a poll of the population of the Maldives administered to a randomly selected sample of approximately 1,997 adult Maldivian citizens from a random selection of households, with one member interviewed for each household. A special sampling technique was also used to ensure a gender balance among respondents.

⁴⁷ UNDP Maldives (2010), *Survey on Access to Justice*.

⁴⁸ This includes examination of the public including migrant workers on awareness, knowledge and opinions on law and justice.

Other sources of data include specially tailored questionnaires administered to specific target groups—migrant workers, prisoners, court users and professionals from the judicial system (judges, court staff, police, staff of the Attorney General’s office, staff of the Prosecutor General’s office and private lawyers)—as well as case studies of criminal, civil and family cases in the Maldivian judicial system.

The study compiles findings under four main categories: 1) awareness and knowledge; 2) perception; 3) experience; and 4) process.

Under awareness and knowledge, it was found that 93 percent of the men and 87 percent women were aware of law, justice and access to justice issues. Those with less awareness had attained lower levels of education, up to grade 7 standard, while those with more awareness, including some knowledge of the Constitution, were older, between the ages of 25 and 54.

In terms of perceptions, the study reveals that 52 percent of survey respondents do not agree that the judiciary system has punished those who commit crimes, and 54 percent believe that justice for victims was not provided. The results for perception questions—punishment and justice for victims—were different when professionals were asked. A high percentage of judges and magistrates believe that the courts punish those who commit crimes and provide justice for victims. In comparison, a high percentage of police agreed that punishment had been meted out but disagreed that justice for victims had been ensured.

Results on experience with the justice system show that the top three reasons stated for not seeking help from police, lawyer or a court are: corruption in the justice system, delays and disinterest and discrimination.

Regarding the justice process, responses received from prisoners and courts users indicate that there is no consistent application of Article 56 of the Constitution, informing parties of their right to appeal. Respondents reported that in their view, application of the law is not only the issuance of a judgment but the enforcement of the judgment as well. The study further shows that only up to one-third of both civil and criminal judgments are actually enforced.

The study makes the following conclusions:

- Access to justice in Maldives is intricate due to several factors such as the unique geographical location of Maldives; political, economical and social issues; lack of procedures, policies and law; corruption; lack of qualified human resources in the justice sector institutions; fundamental religious beliefs; and most importantly, the newly-founded democratic reform.
- Apart from the lack of legislative framework and procedures, one of the major reasons for the lack of access to justice is the undue political influence and corruption.
- Delay in serving justice is an area that needs special attention and development. One of the main reasons for the delay in justice is a backlog of court cases due to deficiencies in case flow management of courts.
- The Maldives does not have formal case reporting hence often the media, which is not equipped to report legal cases, often make incorrect remarks about cases. Similarly, due to no official case reporting, precedents are often not followed by the court, hence the courts lack consistency when deciding similar cases.

- In the Maldives, case reporting is in its infancy, with a very minimum number of cases available online, and those cases available online do not have any search options rendering it very difficult to access specific cases.
- Since the adoption of the new Constitution, in criminal matters, the public and the police perception is that offender is given too much protection. This is one of the major reasons why criminals are set free without a conviction.
- In the Maldives, many cases brought before the courts could be settled out of the court if an alternative dispute resolution (ADR) mechanism was introduced. ADR methods such as mediation or reconciliation could be introduced in family matters and commercial disputes.
- Victims of sexual abuse and domestic violence cases often get unreported as the victims lack the confidence in the justice sector institutions. The major issues that victims confront relate to lack of confidentiality, in particular by the institutions, and the stigmatization of victims. Also the perpetrator is often the family's breadwinner, which may lead the victim, due to financial hardship, to retract statements in court.
- The traditional gender biases and cultural values hinder the ability of women to sustain legal claims, resulting in a loss of confidence in the justice sector institutions.
- Often the court judgment is based on the person's criminal history, in particular if the offence falls under *Shari'ah* law, therefore the offender almost always will confess to whatever is being charged under the so-called *Shari'ah* crimes. In these cases, no evidence is provided, and charges will be based purely on the offender's confession.
- One of the weakest areas in the criminal and civil procedure in Maldives is the right to appeal. Reasons include lack of awareness, cost, lack of legally qualified lawyers in the atolls and the lack of legal aid system.

In recommending measures to improve access to justice, the study makes a series of comprehensive recommendations. These include recommendations to improve the formal justice system as well as to enable access to justice for marginalized people and the change in the culture of justice, and justice dispensation, in the Maldives.

The following are specific recommendations:

- Increase public understanding of fundamental rights, law, and the legal system;
- Apply proven strategies and techniques to educate citizens about rights and the legal system;
- Get justice sector institutions, government agencies and civil societies to make every effort to increase public understanding of the rights and the legal system;
- Train judges and magistrates, and establish a system that facilitates discussion on the procedures and practices for the benefit of establishing consistency in courts;
- Train all justice sector institutions;
- Educate the public on the role of each justice sector institution;
- Raise awareness and inform the public on the reform efforts of justice sector institutions to take steps to restore reputations tarnished by corruption, failure to resolve cases and low professional standards;
- Establish an ADR mechanism;
- Establish a temporary shelter home for victims of sexual abuse and domestic violence;
- Establish a legal aid system in the Maldives to cater for the vulnerable and the disadvantaged;

- Respect and ensure freedom of information with regards to accountability and transparency in public decision-making and enable justice sector institutions to facilitate access to information;
- Introduce a gender sensitivity component in all trainings for justice sector institutions;
- Increase access to the High Court to outer islands;
- Establish a judicial database that all levels of court and the public can refer to for case precedents and legislation;
- Strengthen the Faculty of Law and *Shari'ah* so that it can help address the shortage of qualified legal practitioners in the Maldives;
- Establish a judgment debt database to monitor and enforce civil judgments; and
- Establish a modern enforcement mechanism for civil matters.

Justice for all: An assessment of access to justice in five provinces of Indonesia⁴⁹

Aims to identify and assess key factors obstructing access to justice for disadvantaged groups and seeks answers two fundamental questions: "what is access to justice?" and "access to justice for whom?"

The access to justice assessment entitled *Justice for All in Indonesia* was carried out in 2005–2007. The study aimed to identify and assess key factors obstructing access to justice for disadvantaged groups in five predominantly conflict-affected provinces of Indonesia. The assessment was to provide a basis for the development of a longer-term programme to improve access to justice for poor, marginalized and conflict-affected communities.

The study primarily sought to answer two fundamental questions: "what is access to justice?" and "access to justice for whom?" The conceptual framework of the study that attempted to answer these two questions looked at access to justice as a "process by which a range of different interrelated factors combine to enable citizens to obtain a satisfactory remedy for a grievance without, being tempted to take the law into one's own hands."

The study sites, five provinces of Indonesia, were selected on the basis that they are among the 10 priority provinces for UNDP in Indonesia, having low human development indices, high poverty rates and are prone to crises (whether in the form of conflict or natural disasters). The majority of the assessment was carried out within a 9-month period in 2005 by five inter-disciplinary teams of local researchers in each province and based in the Faculty of Law at the state university of that province. The research teams reflected religious, ethnic and gender diversity, and included academics and workers of civil society organizations.

The study used a human rights-based approach to assess access to justice and set out in elaborate detail the normative framework for the research looking at formal and informal and commitments in principle as well as institutional commitments. By incorporating a human rights-based approach in each of the implementing steps, the study sought to arrive at outcomes that protect and promote the human rights of the communities in the five target locations.

⁴⁹ By UNDP Indonesia (2007), the Directorate of Law and Human Rights of Indonesia's National Development Planning Agency (BAPPENAS), the Center for Village and Regional Studies at Gadjah Mada University (PSPK), in cooperation with the Law Faculties of Pattimura, Tadulako, Khairun, Haluoelo, and Tanjungpura Universities. Available at: <http://www.undp.or.id/pubs/docs/Justice%20for%20All.pdf>.

By using the human rights-based approach the study sought to understand the roles, responsibilities, capacities and obstacles faced by both duty-bearers and claim-holders, which helped to clarify how access to justice can be improved in the most challenging settings. While gathering and analysing information, the study sought to bolster people's awareness of justice services, and to build the capacity of justice-providers to improve dispute resolution. The methodology comprised qualitative and quantitative approaches and used a number of well defined tools and instruments.

One of the key factors in this study was the focus on training researchers and personnel involved in administering the study. A clear and strategic plan was made to train personnel at different stages and for different tasks; and the study produced valuable and replicable training material as a result of these trainings. The trainings included the following subject areas:

- Access to justice assessment framework;
- Access to justice concepts and the principles of a human rights-based approach;
- Interview and case study guidelines for disadvantaged groups, formal justice actors and informal justice actors;
- Surveys for disadvantaged groups, formal justice actors, informal justice actors, and prisoners; and
- Data collection guides, reporting guidelines and a field working guide.

The study also developed a 'Do No Harm' note, which set the guiding ethical principles and standards for the research.

Identifying target groups for study was comprehensively focused on where the poor and the disadvantaged were guided by several criteria through a qualitative assessment involving general socio-economic mapping exercises in each village. The criteria used to measure the poor and disadvantaged groups was the non-fulfilment of basic rights to food, health care, education and other government services; discriminatory treatment by government or other community members; or the inability to participate in decision-making processes that affect their futures.

The target groups were categorized by geography, type or mode of employment, gender or ethnicity; and one disadvantaged group was selected in each village to be the primary respondent in the qualitative phase of the assessment. The group selection process was based on the level of disadvantage compared to other groups in the village. In some cases, the group was selected because it constituted a type of group that had not been chosen in other villages.

Focus group discussions were conducted with these groups to find out their opinions about the most pressing justice-related issues they face on an everyday basis, and their experiences of resolving grievances through both formal and informal justice systems.

The focus group discussions were supplemented by approximately 700 in-depth interviews, primarily with ordinary villagers, but also with village-level community and religious leaders, sub-district officials, police, prosecutors, lawyers, judges and other duty-bearers. Secondary data sources were used to supplement the primary data, including administrative data held by provincial, district, sub-district and village-level governments and justice institutions.

Following the completion of the study, an unbiased team met with villagers in two villages to verify the integrity of the data. Further verification was carried out through a seminar in each province, where the research findings were discussed with a selected audience.

The study included a quantitative survey to complement the qualitative research. This survey attempted to quantify community attitudes towards formal and informal justice systems, and priority access to justice issues. The survey was administered to 4,500 respondents across the target locations. A stratified random sampling method was also employed to select 30 men and 30 women from each disadvantaged group in each village, and a random 30 men and 30 women who were not classified as members of the chosen disadvantaged group for that location. The demographic characteristics of the sample, along with the quality control measures taken, worked to ensure the integrity of the data.

The quality control measures followed in the study were set out clearly and added value to the study. Quality control was primarily through training and monitoring. Training was provided to all those involved in the study on various aspects including conceptual clarity, adopting a human rights-based approach and, carrying out of field work.

In conducting the survey at village level (by a local NGO from each province), two survey coordinators—consisting of one representative from each NGO—were trained to train their teams in data collection.

Following data collection, respondents were given a short series of basic questions to confirm that they were surveyed by an enumerator, in order to verify the integrity of the data. The monitoring answers were compared to the survey results to check for consistency. In one case, a village was removed from the sample when significant inconsistencies between the survey data and the monitoring data raised the prospect that some survey responses may have been fabricated in that village.

There were several key lessons learned from the administration of the study:

- Roles and responsibilities of partners should be clearly outlined. Clearly setting out participants' entitlements and responsibilities at the beginning of a training programme enables them to focus on the substantive issues and limits the grounds for complaint at the end of the training that their participation was based on false expectations.
- The human rights-based approach was relatively new for the research partners and was essentially imposed on partners, leaving little room to move around in terms of the basic research methodology and direction. This led to confusion as to the nature of their role in the project.
- In the training exercises, it was necessary to have a consistent message given to those involved in the research. It was also necessary to exercise sufficient control over the presentations of invited speakers in order to ensure the researchers' first impression and understanding of the project was correct; changing incorrect initial impressions is much more difficult than forming the impressions in the first place.
- Too much of the training was spent in the classroom with minimal practical hands-on training in how to approach the task of interviewing and working with disadvantaged groups.

The study arrived at a series of constructive findings that contributed to develop a long-term programme to strengthen access to justice for marginalized communities. The theme that runs through the findings is that communities perceive justice through a lens that emphasizes the economic dimension of justice. The study identifies these as “a clear reflection of priorities in communities where daily life often revolves around the myriad challenges of maintaining an adequate livelihood.”

Within these broad findings, the study further discovered the following:

- Community awareness of specific rights protected or established by Indonesian law is low.
- Although there are many instances in which poor and disadvantaged citizens have taken action that demonstrates a general awareness of their rights in a wide range of areas (including property ownership, healthcare, education, access to government subsidies and freedom from domestic violence), and even though citizens have often taken the initiative to complain to a relevant government agency, citizens frequently appear at a loss for what to do if no improvement occurs as a result of their complaint.
- State-sponsored legal aid schemes are limited in scope, chronically underfunded, and are not well known among prospective beneficiaries.
- In the formal justice systems, it was found that police most frequently accessed formal justice institutions, prosecutors had low community profile, and courts were seen as expensive and unfair.
- In the informal justice systems, despite significant regional variation, most informal justice mechanisms fell within two main categories and employed similar processes. The two systems characterized by their processes showed that one system addressed cases heard by traditional leaders according to *adat* or customary law, and the other system was where disputes were resolved through mediation or soft arbitration by village authorities, in most cases, the village head. However, the study finds that in practice, the division is not always so clear-cut.
- The jurisdiction of an informal justice mechanism is generally limited to the village in which it is based, because parties from outside the particular village will not necessarily acknowledge the moral authority of the relevant informal justice actor. This restricts the resolution of cases by informal means to predominantly small-scale matters involving primarily village residents.

The study concluded that the majority of issues that villagers cite as ongoing sources of injustice are not amenable to resolution via the informal justice system. While people access informal systems for small disputes, disputes involving parties outside the localities in which they live go beyond the jurisdictions of these informal systems. Thus, the study finds that the crux of the problem for many communities therefore lies in the fundamental mismatch between citizens’ preference for the informal justice system and the fact that the most commonly cited cases of serious injustice are largely unsuitable for resolution via this forum.

The study makes five primary recommendations to government, donors and civil society:

- Intensify efforts to build community legal awareness;
- Reaffirm the state’s role in the provision of legal aid;
- Support the provision of community legal services by civil society;
- Focus on advocacy and empowerment to reduce discriminatory and arbitrary decision-making practices in the informal justice system; and
- Consolidate efforts to reform the formal justice system.

Going beyond the assessment – Indonesia's experience in using an access to justice assessment to inform, design and implement projects

Between 2004 and 2005, UNDP Indonesia and BAPPENAS (Badan Perencanaan Pembangunan Nasional) undertook an extensive and participatory needs assessment on access to justice in the five post-conflict Indonesian provinces of North Maluku, Maluku, Central Sulawesi, Southeast Sulawesi and West Kalimantan. This assessment was born out of the increasing recognition that access to justice was a necessary condition for peace and development, especially in poor and post-conflict settings, and was specifically aimed to inform the design of future projects on access to justice to be implemented by UNDP-BAPPENAS.

The findings of the assessment led to the launching of the Legal Empowerment and Assistance for the Disadvantaged (LEAD) Project. Launched in 2007, the project aimed to increase access to justice, especially for the most vulnerable and marginalized groups, through the combination of a civil society grant-making system and policy advocacy.

Findings of the assessment informed the objectives, priorities, strategies and architecture of the LEAD Project, and also shaped its four thematic sectors: land and natural resources, justice and gender, local governance (e.g. minimum service standards for health and education), and legal aid services. Due to limited availability of funding, the project was implemented in three of the five assessment provinces, namely North Maluku, Central Sulawesi and Southeast Sulawesi. Having the extensive assessment underlying the LEAD project design assisted in the promotion of and resource mobilization for the LEAD project from the donors, UNDP, as well as the government and civil society.

Based on the assessment finding that community legal awareness remained low in target areas, the LEAD Project at the grass-roots level was designed to raise legal/human rights awareness and empower people/communities to demand their rights realization from responsible authorities. Furthermore, in line with the recommendation of the assessment to provide community-based legal aid and other legal services through civil society, the project funded and strengthened civil society organizations (CSOs) and community paralegals so that the vulnerable and marginalized would be able to obtain legal assistance when they needed it. The LEAD Project also supported the provision of pro-bono legal services. At the macro level, the LEAD Project supported national and subnational justice sector reform efforts dedicated to improving access to justice, in line with the assessment's recommendation.

With this design, the LEAD Project has successfully increased access to justice in Indonesia over the past four years. At the local level, LEAD's interventions, particularly through grant-making to CSOs, have made it possible to mobilize community-based paralegals to assist the poor; increase the legal awareness and legal capacity of marginalized and disadvantaged communities; improve local government services through the development of minimum service standards; enhance the system of Integrated Services for Women and Children; and establish joint complaint handling mechanisms for land and natural resource disputes and grievances.

At the national level, the LEAD Project provided policy advice and technical support to the Government of Indonesia in the participatory development of the National Strategy on Access to Justice, which involved consultations with over 600 stakeholders from all 33 provinces. The strategy was launched in 2009, and has been integrated into the National Mid-Term Development Plan for 2010-2014 as well as Presidential Instruction No. 3/2010 on Equitable Development. During the development of the national strategy, the findings of the initial access to justice assessment were also used to inform the analyses and recommendations. The implementation of the national strategy is expected to strengthen access to justice in a comprehensive way, thereby contributing to bottom-up economic development, strengthened rule of law, and empowerment of poor, disadvantaged, vulnerable, and marginalized people in Indonesia.

An access to justice assessment requires considerable resources in terms of time, money, and human resources. However, in our experience in Indonesia, these assessments are worth the costs and can make lasting contributions when supported by the host government and directly linked to the programme/project development. Looking back, it has been almost seven years since the initial assessment, and impressive, country-wide progress with regards to access to justice has since been made. We now have the National Strategy on Access to Justice and many other similar programmes sponsored not only by UNDP but other development agencies. Based on the experiences, best practices, and lessons learned from the LEAD Project and the Aceh Justice Project, UNDP and BAPPENAS are currently preparing to launch a new umbrella project on access to justice under the name of Strengthening Access to Justice in Indonesia (SAJI). During the development of this new project, we revisit the final reports of the two initial access to justice assessments, and new staff in our offices continue to refer to these initial studies for contextual knowledge and education. Indeed, the life of these assessments continues in our knowledge sharing and project development.

Authors: Dr. Diani Sadiawati (Director of Law and Human Rights of the National Planning and Development Agency of the Republic of Indonesia) and Ahjung Lee (Programme Analyst, Democratic Governance Unit, UNDP Indonesia)

Access to justice for the women of Karachi⁵⁰

Aims at establishing a scientifically defensible baseline of the coverage, use, experience and perceptions of users, nonusers and service workers related to access to justice for women.

This is an early study on access to justice looks at justice needs of women in Karachi, Pakistan. The purpose of the study is to establish a scientifically defensible baseline of the coverage, usage, experience and perceptions of justice service users, non-users and service workers related to access to justice for women in Karachi.

The study was built on access to justice priorities already identified by the Government of Pakistan and civil society. The study took a social audit approach to evaluate public services with the public supposed to be served by them. The justice system and concept of justice were reviewed with women, men and key service workers. A review of laws was not the focus of the study.

A cross design of methods was used in a way that facilitates action and builds capacity. Thirty-two individuals from government, NGOs and Karachi University were trained to conduct field work. The assessment was designed with key government and civil society organizations, and field workers conducted household interviews with a representative sample of women. Women completed household questionnaires, both primary and secondary, but the analysis was discussed in focus groups comprising both males and females.

The findings of the study were that access to justice is perceived as social justice, which includes access to education for children, equal opportunity in education, employment and health as well as the right to being heard, freedom from violence and simply, being treated well.

Establishing baselines on access to justice by poor and disadvantaged people in the Philippines⁵¹

Aims at establishing baselines on access to justice efforts to suggest an indicator framework for assessing access to justice.

This study aimed at establishing baselines on access to justice and was undertaken in the Philippines in 2003. The aim of the study was to suggest an indicator framework for assessing access to justice. The study was based on the agreement that given the potential of human rights as a useful tool for assessment and indicator setting, and in line with a right-based approach to development, a framework for access to justice would be based on nationally and internationally recognized human rights standards, and go beyond the judiciary itself. Together with specific indicators, the framework aimed at including the type of information to be collected and the corresponding surveys and institutional diagnosis studies needed.

The study team's task was to establish baselines on access to justice by poor and disadvantaged people for the formulation, monitoring and evaluation of justice

50 Mhatre et al., *Women of Karachi*. Available at: http://www.ciet.org/en/documents/projects_library_docs/2006224174127.pdf.

51 Buendia and Wong, *Disadvantaged People in the Philippines*; OHCHR (2006), *Rule of Law Tools for Post-Conflict States: Mapping of the Justice Sector*; and Roy et al., *Access to Justice Bangladesh*. Available at: <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/docs/Philippines-Baselines.pdf>.

reform programmes. In terms of approach and methodology, the study defined access to justice as the “ability of persons from disadvantaged groups to seek and obtain a legal remedy in conformity with relevant international human rights standards.”

To formulate the basis of the study, the literature reviewed included the Philippines Supreme Court’s work on access to justice, knowledge and perceptions of the justice system; a national survey of inmates and institutional assessment of the Bureau of Jail Management and Penology; a national survey of legal practitioners done by the Integrated Bar of the Philippines and Alternative Law Groups; a survey and institutional assessment of the Public Attorney’s Office; a diagnostic study of the Department of Justice, including the Prosecutions Service, the Public Attorney’s Office, the Bureau of Immigration, the Bureau of Corrections, National Bureau of Investigation and the Parole and Probation Administration; and the expanded caseload survey of in courts to assess the nature of cases, and average time for resolution of cases.

One important aspect of this study was that the suggested indicators were designed for the Philippines situation and were not for inter-country comparative purposes.

The conclusions and findings arrived at by the study are as follows:

- Establishing baselines is critical for adequate design, monitoring and evaluation of access to justice strategies;
- Baselines should be comprehensive, not limited to the judiciary;
- A need exists to bring results of all baseline studies together, in order to obtain a holistic picture and establish a coordinated reform agenda;
- Surveys should include clients themselves in order to get a sense of feelings about the services they receive. In other words, surveys are not substitutes for participation;
- In designing the scope of the baselines and conducting institutional assessments, linkages to access to justice by the poor and disadvantaged should be explicit, and a human rights-based approach ensures focus will be maintained;
- Specific mechanisms of data gathering to further sustainability in monitoring and evaluation must be identified;
- Building constituencies among other actors can be facilitated by extensive consultations on designing the indicator and assessment framework, and in the conducting of surveys and studies themselves;
- Alternative assessment techniques such as focus group discussions can be useful if available data are insufficient; and
- Strong political leadership at the highest level also facilitates ownership of the process.

The study also places some recommendations of value, which are specific to the Philippines but are also general in nature:

- Avoid inter-country comparative aspirations by focusing indicator setting on specific access to justice obstacles in the country;
- Facilitate UN technical expertise for rights-based indicator setting at low cost and high quality;
- Subject baseline results to a stakeholder validation before finalization in order to ensure ownership;
- Use multidisciplinary teams both in designing and undertaking the surveys and in analysing results;

- Ensure there is one focal person to guarantee technical consistency and coordination throughout the process; and
- Ensure adequate representation from disadvantaged groups (e.g. women, minors and ethnic minorities) in the samples.

Philippine democracy assessment: rule of law and access to justice⁵²

Examining the connections between access to justice and the rule of law

The Philippine democracy assessment examines the relationship between the rule of law and access to justice. The assessment was developed by the Action for Economic Reform as part of a project entitled *Philippine Democracy Assessment: Rule of Law and Access to Justice*. The assessment is important because it comes during the installation of a new administration that promises to restore the people's trust in institutions and to move democracy in the Philippines forward.

The assessment attempts to address the perception (by citizens, political observers and others) that there is a general weakening of public institutions in the Philippines. It also raises deeper questions on the state of the country's rule of law, justice and human rights. The assessment examines the rule of law as exemplified in institutions and the various pillars of justice. It also unravels the political and cultural texture of the rule of law, and brings up the complexity of upholding it and attaining justice and human rights, all of which intertwine in the equation of democracy.

As part of the assessment, the specific issues of terrorism, human trafficking and drug trafficking are looked at as these issues present the complex structure of the rule of law, justice and human rights.

The assessment goes beyond examining laws and legal structures and institutions in enabling access to justice and examines what the assessment calls "the sociology of the law". By doing so, the assessment connects the form of the rule of law to its substance. The assessment attempts to answer questions beyond the existence of the institutions of the rule of law, and goes on to examine whether these institutions do function to achieve citizens' access to justice and to promote their rights.

In terms of methodology, the assessment uses a set of questions to examine the form and substance of the rule of law and access to justice, which allows a discourse on the quality of the rule of law from the citizens' perspective.

This assessment is based on the theoretical framework, an inventory of the rule of law by academia and practitioners produced by the Hague Institute for the Internationalisation of Law (HiIL).⁵³ This provides an interesting approach to the rule of law and offers an attractive framework for an assessment of democracy in the Philippines. As the Assessment explains: "The Inventory makes it clear that the rule of law is not only anchored on the orthodox notion of the rule of law as identified with a particular set of institutions, such as the judiciary, but also involves the values and ends that this institutional set serves. The rule of law is a complex concept—more

52 *Philippine Democracy Assessment: Rule of Law and Access to Justice*. By the Action for Economic Reforms, Authors: E.E.A. Co, N. Malaluan, A. Neame, M. Manuel, M.R.V. Musngi (2010). Available at: http://www.idea.int/publications/philippine_democracy_assessment/index.cfm.

53 HiIL (2007), *Rule of Law Inventory Report*, Discussion Paper for the High Level Expert Meeting on the Rule of Law, 20 April.

complicated than the notion of constitutional state in which the relations defined are between the state and the citizens.”

In its approach, the assessment assumes that the baseline conception of the rule of law, which is the ‘thin’ conception, essentially refers to predictability, formal equality and the prevention of the use of arbitrary power. This has value in itself, especially where the society and government do not meet all the requirements of democracy and human rights. But the rule of law is not confined to the thin conception, and the assessment examines the wider values of rights, such as the right to participate (democracy), and human rights as enshrined in international instruments and to which the Philippines formally subscribes. Shuttling between the thin and the thick conceptions of the rule of law, allows this assessment to establish the performance of democracy—both its gains and its deficits. Thus, the assessment aims to promote adherence to human rights and democracy and to strengthen the rule of law. Overall, it emphasizes the need to adopt an ends-based approach and not just an institution-based approach to the examination of the rule of law.

Assessment of the legal aid sector in Sri Lanka⁵⁴

An example of a sectoral study in access to justice—the delivery of legal aid services as a part of enabling access to justice for the marginalized and disadvantaged.

This is an example of a sectoral study in access to justice. The study looks at the delivery of legal aid services as a part of enabling access to justice for the marginalized and disadvantaged.

The Legal Aid Sector in Sri Lanka: Searching for Sustainable Solutions - A Mapping of Legal Aid Services in Sri Lanka is a study done by UNDP Sri Lanka and UNHCR as part of an overall analysis of the legal aid sector in the country. The study was carried out by TAF as part of its contribution to legal aid in Sri Lanka during a period spanning over a decade. The study looks at the formal legal aid service provision sector in Sri Lanka and attempts to identify gaps and challenges aimed at recommending changes for a more comprehensive legal aid system that is accessible to all.

The goal of the study is to help shape the development of a coordinated national solution for sustainable provision of legal aid in Sri Lanka. The objectives are three-fold:

1. To produce a comprehensive mapping of the legal aid sector that looks at existing services (structured and ad hoc), with a focus on service providers and beneficiaries, and is aimed at identifying gaps and shortfalls;
2. To understand the different options available for sustainable provision of legal aid in Sri Lanka, drawing on examples from other countries; and
3. To propose recommendations (including a plan of action for implementation) for sustainable provision of legal aid in Sri Lanka.

The study is in three main parts: the legislative and institutional framework; a comparative analysis of legal aid systems around the world; and empirical evidence of the status, gaps and challenges within the legal aid system in Sri Lanka.

⁵⁴ TAF, UNDP, and UNHCR (2009). Available at: <http://asiafoundation.org/resources/pdfs/SriLankaLegalAid.pdf>.

The foundation for the study is the principles ascribed to by Sri Lanka for promoting access to justice through the provision of legal aid. The study examines the legislative and institutional framework for legal aid provision in Sri Lanka with the primary focus on the International Covenant on Civil and Political Rights (ICCPR) which is the key international legal instrument obligating states to provide legal aid to the public. This binds Sri Lanka through the ratification in 1980 and national legislation—ICCPR Act No. 56 of 2007 affirms this binding. The study also considers the Legal Aid Act (No.27 of 1978) by which legal aid was institutionalized in Sri Lanka.

The study includes an interesting comparison between legal aid systems from a number of developed and developing countries. Through this comparison, it identifies investment of public funds in the legal aid system as one measure of a successful legal aid system. However, the study concludes that success is best measured in two ways: (1) against the goal for which the legal aid system is developed; and (2) against start-up conditions. It also seeks to answer the following questions: What is the goal and idea behind developing this particular system of legal aid? What problems is society facing at that moment? How does the current legal system operate? What is the prevailing legal culture?

On comparing different legal aid systems, the study promotes as a contemporary solution for legal aid service delivery, the adoption of the “Mixed Models of Legal Aid Service Delivery.” In this model, in cases where public funding is limited and the government does not have sufficient resources to finance all legal aid service delivery, the government takes on a regulatory role to ensure the quality and high ethical calibre of legal services provision. It does so by partnering with other non-governmental entities, such as NGOs, foundations, paralegals, to provide legal aid services. This model assumes that the international community is willing to contribute to the funding of these extra-governmental services, at least until the government is in a better position to expand its services or allocate government funding to the outside service providers.

The study was carried out as a joint effort among UNDP, UNHCR and TAF under the overall supervision of a steering committee, which included representatives from the three sponsoring organizations as well as from the Ministry of Justice and Law Reforms and the Ministry of Constitutional Affairs and National Integration. The mapping exercise was carried out over a five-month period from April to August 2008. The study team comprised a legal researcher from TAF and two research assistants from UNDP and TAF, who took the lead on the legal aid mapping; an independent researcher and research assistant who took the lead on the legal framework; and the UNDP Legal Aid Adviser, who took the lead on the comparative assessment of legal aid systems. TAF’s legal researcher compiled the final report.

The mapping was produced through several research methods, including a desk review of the literature on legal aid in Sri Lanka and international legal aid systems. The review was done to facilitate a comparative assessment and identify lessons learned from more developed legal aid systems.

The mapping also involved surveys, focus group discussions, as well as interviews:

- Legal aid service provider survey: Twenty-seven service providers (including the Legal Aid Commission (LAC), an independent government body, and 26 non-governmental organizations) were contacted with the survey questionnaire. The Legal Aid Commission and 12 non-governmental organizations actively engaged in legal aid service provision have been included in the analysis. Follow-up

interviews were conducted with staff from the service providers' head offices, and several regional offices of these service providers were contacted to provide additional information and insights on access and services.

- Beneficiary survey: Four hundred legal aid beneficiaries were identified with assistance from legal aid service providers and other civil society organizations, and 266 beneficiary questionnaires were completed for analysis. Beneficiaries were drawn from the priority target groups of internally displaced persons and returnees, plantation workers, women heads of households, urban poor, and women victims of violence. Beneficiaries represented the districts of Kalutara, Hambantota, Galle, Matara, Kandy, Gampaha, Colombo, Puttalam, Ratnapura, Ampara, Moneragala, Nuwara Eliya, Badulla, Batticaloa, Mannar, and Jaffna. All individuals surveyed had accessed a legal aid service provider and received some type of legal aid. Seventy percent of the beneficiaries surveyed fell within the selected target groups, while 30 percent fell outside the target groups.
- Focus group discussions: Ten discussions were held with stakeholders who were not beneficiaries of legal aid services, including members of CSOs, District and Divisional Secretaries, Grama Niladharis, police, land officers, local authority officials, religious leaders, educational officers, mediation board members, and other community representatives. The purpose was to gather general information and perspectives on the availability, knowledge, and access to legal aid. Focus group discussions were held in 10 districts of Sri Lanka.
- Interviews with policymakers: The team conducted six interviews with officials from the Ministry of Justice and Law Reforms, Bar Association, and Legal Aid Commission, as well as with senior members of the judiciary.

The study team developed the survey questionnaires and focus group guide questions, in consultation with the Steering Committee. The data collection, data analysis, and report writing was conducted in a participatory manner, with contributions from all members of the Steering Committee.

Limitations identified by the study team were as follows: For the survey of legal aid service providers, organizations were identified through the *Legal Aid Service Provider Directory* published by the Consortium of Legal Aid Organizations in 2000. Newer service providers were identified and included as the data collection progressed. Of the 27 service providers contacted, 19 organizations returned the questionnaire. From this pool, it was necessary to exclude seven service providers from the analysis. One organization was conducting very limited operations due to lack of funding and did not have sufficient data for analysis; four organizations were not providing direct legal aid services, only referrals; and two did not respond to the team's follow-up request for an interview. Thus the mapping exercise does not comprise a full and complete list of legal aid service providers in Sri Lanka. However, the 12 service providers included in the study represent the main legal aid providers in the country, in terms of scale and years of operation.

The study attempted to provide strategic conclusions and recommendations to all stakeholders in the legal aid service provision process in Sri Lanka. The recommendations are aimed at government and non-government service providers, supporters of legal aid services as well as policymakers in Sri Lanka.

The study provides a number of overall conclusions based on the assessment:

- There is a strong legislative basis for legal aid in Sri Lanka. Legal aid is implicitly recognized as a fundamental right in the Constitution, especially when read with the International Covenant on Civil and Political Rights Act No. 56 of 2007. The

Legal Aid Act of 1978 that set up LAC and gave it the mandate “to provide for the grant of legal assistance to deserving persons” provides an administrative and regulatory background to legal aid service provisions. Although this law provides a solid framework for the provision of legal aid in Sri Lanka, it is useful to conduct a broader and deeper review of relevant legislation to evaluate the extent to which it is both reflective of the current situation and needs in the country and in line with international standards, with a view toward revising it as necessary.

- The Sri Lanka Government is committed to the delivery of legal aid, as evidenced by the expansion of LAC’s services over the past several years, as well as the recent increase in the government’s budgetary allocation for the LAC. As a group, the NGO legal aid service providers appear to be strongly motivated by a sense of social responsibility, service, and social empowerment.
- Sri Lankan legal aid service providers operate independently of government. The Legal Aid Commission, while supported by the state, works independently of other justice sector institutions, which at least in principal ensures its impartiality and equal access to justice system for all citizens.
- The policy framework for legal aid in Sri Lanka can be improved through clear articulation of the state policy and commitment, and the role of non-governmental service providers as part of broader access to justice and human rights framework. A vision and resultant national strategy for legal aid in Sri Lanka could be developed through collaboration among the government, Professional Bar Association, and NGO legal aid service providers through a consultative process that involves all relevant stakeholders.
- Based within a clearly articulated legal aid policy framework, backed by a more comprehensive legislative framework, the study recommends specific areas for improving service delivery. These include more geographic coverage; more professionalism and expertise among service providers; more awareness-raising; evaluation of services currently being provided by LAC; more and systematic funding; and better systems of monitoring, evaluation and quality control. The study also points to links between legal aid and alternative dispute resolution mechanisms—an area that has not been studied in Sri Lanka.

A survey of citizen awareness and attitudes regarding law and justice in East Timor⁵⁵

Aims to assess citizens’ awareness and attitudes regarding law and justice in post-conflict situations.

This is a study published in 2004 by TAF for USAID during a time TAF was implementing an access to justice programme in East Timor (now Timor-Leste) with funding provided by USAID. This is the third national survey conducted by TAF in Timor-Leste, and this survey stems from a similar study conducted in 2002.

The specific aim of survey was to assess citizens’ awareness and attitudes regarding law and justice in Timor-Leste. The survey findings provide a detailed diagnosis of how dispute resolution currently functions in Timor-Leste, perceptions of law and justice, and the needs and demands of citizens throughout the country. This survey established a baseline of information against which change could be measured, and the results of the survey were expected to guide the direction of programme activities aimed at building justice sector institutions and empowering citizens to exercise their legal rights.

55 TAF and USAID (2004), *Law and Justice in East Timor*, Audian, Dili, Timor-Leste. Available at: http://asiafoundation.org/pdf/easttimor_lawsurvey.pdf.

The rationale behind the survey was TAF's acceptance that access to justice programmes should be informed not only by the views of legal insiders such as judges, lawyers and repeat litigants, but also by the perceptions and experiences of ordinary citizens. The survey findings provide a detailed diagnosis of how dispute resolution currently functions in Timor-Leste and where needs and demands remain unmet, allowing TAF staff to design legal reform programmes that are targeted and responsive to citizens' needs.

Following the survey, TAF organized a series of five panel discussions among five prominent national legal experts with extensive experience in the justice sector. Based on their deep knowledge of dispute resolution processes and legal development issues in the Timor-Leste country context, the discussants reviewed the survey results, deepened the analysis, and shed light on unexpected findings.

The 2002 survey was based on a random, representative countrywide sample of 1,114 in-person interviews. Oversamples totalling 408 additional interviews were conducted in two districts while, for the purposes of reporting national results, the oversamples were weighted to their correct proportions of the national population. This survey was conducted in three phases.

Phase 1 looked at in-depth interviews and focus group discussions among participants in the capital. Phase 2 included the quantitative aspects involving a national survey. The survey reached 1,558 in-person interviews comprising citizens in every district in the country. In Phase 3, a panel of five respected Timorese legal experts discussed the survey, its findings and implications for the country while the fieldwork was conducted by TAF with assistance and supervision from a leading research company in the country.

The sample aimed to be truly national and random, and thus the survey results represented all parts of the population in representative proportions. Demographically, the poll results were close to the real population. As a result, the survey findings reasonably reflected the public in terms of gender, religion, urban-rural balance, education, and age. The findings regarding public opinion were representative as well, within the survey's margin of error.

The survey examined knowledge and perceptions on several key issues, which were examined through strategic questions. The issues examined were to get an understanding of diverse aspects of access to justice and provided in-depth information on:

- The national mood;
- Perspectives on justice and rights;
- Perceptions and knowledge of legal system;
- Familiarity and comfort with legal institutions;
- Experience with law and justice;
- Women and the law; and
- Legal information sources, media use and language of legal information sources.

The 2004 survey found that despite unrest and economic woes, at an overall level, the national mood remained very positive. The main national concerns were the economy and security. At the local level, people worried about survival issues such as jobs, food, and basic infrastructure. Concern about crime and security continued to increase but did not outpace worries about the economy. Most Timorese were

worried about the possibility of corruption in the government, particularly in relation to the lack of transparency in government spending.

The Timorese concept of the justice system encompasses both the traditional process and the formal legal system. For more minor offenses, people were most likely to seek justice from the traditional *adat* system, while for more serious issues, the formal system seemed more appropriate. While people generally approved of the formal system, citizens, particularly in the districts, were not familiar with the process of bringing a problem to the district court. There was very low awareness on how to engage selected elements of the formal legal system, including public defenders, legal aid organizations, and lawyers. While the courts and the police were well-regarded overall, compared with traditional dispute resolution processes, the formal legal system was perceived to be less fair, less accessible, more complex, and a greater financial risk. Further, there was no access to legal services for many. In conclusion, people felt that all aspects of the legal system—both traditional and formal—are in need of some reform in order to cope with the dynamics of their society.

Legal needs assessment in Viet Nam⁵⁶

A legal needs assessment to review past efforts to identify problems in the legal system and to recommend prioritized directions and action plans for future reforms.

A legal needs assessment was conducted in Viet Nam in 2002 (published in 2003) by UNDP in response to a recommendation of the donor community and the Government to review past efforts to identify problems in the legal system and to recommend prioritized directions and action plans for future reforms. The assessment was spearheaded by UNDP on a request by the Ministry of Justice to provide technical assistance and to coordinate donors. The assessment was done within one year.

Five national teams were established to facilitate and conduct the exercise. Members of the teams were experts from relevant agencies/institutions and were the policy/reform advisers and drafters in their respective agencies. The first four teams were assigned to prepare reports on four priority areas:

1. The legal framework of substantive and procedural laws, including international treaties;
2. Institutional arrangements for law making, law implementation, dispute resolution and legal aid for the poor and disadvantaged;
3. Legal education and training; and
4. Legal information and dissemination.

Based on these reports, a fifth team prepared an overall report summarizing the most important conclusions. The national teams were assisted by a number of international experts/consultants who were experts in the field and familiar with the political and legal system in Viet Nam provided by interested donors. These experts provided international best practices for the national teams and commented on the draft reports.

⁵⁶ UNDP and Ministry of Justice in Viet Nam (2003).

Although the report does not set out detailed information on methodology, some lessons learned from the exercise created a basis for formulating a long-term strategy and action plan to develop the legal system of Viet Nam.

The following are some of the critical lessons learned from the assessment:

- Identifying a clear and detailed scope for the legal needs assessment early on was an important factor in realizing outcomes;
- National ownership of the legal needs assessment was key to ensuring that the ultimate outcomes continue to be employed by Government;
- The legal needs assessment process provided strategic development results because it involved the participation of high-level policy advisers and was an inter-ministerial effort;
- Ensuring donor involvement from the beginning ensured further commitment and momentum supporting the reforms. However, the involvement of donors also raised expectations;
- Political commitment at a high level and strong, involved leadership in the lead government agency were prerequisites for coordination of various agencies;
- Clear identification of UNDP as the Government's key counterpart was essential to facilitate donor coordination, and proactive backstopping by UNDP was crucial in maintaining an open, interactive coordination mechanism between Government and donors;
- Commitment to longer-term UNDP support in the high profile and sensitive area of access to justice maintained the needed momentum; and
- Creative modalities in supporting a legal needs assessment were factors for success.

Furthermore, the Vietnam legal assessment presents the following recommendations for consideration:

- Sound coordination mechanisms among relevant government agencies, among donors, and between Government and the donor community must be maintained during the entire process;
- High political commitment and strong leadership of the key government agency must be in place to ensure all agencies' commitments;
- National ownership should be maintained to ensure that the Government will use the ultimate outcomes, while a transparent mechanism for donor participation and constant feedback is needed to ensure donor support;
- Involvement of policy/reform advisers/experts in such important reform exercises must be ensured to make the process in itself be a development result;
- UNDP should focus on high-profile areas of intervention based on its comparative advantages in order to involve other donors;
- UNDP must support Government in being proactive and showing leadership in the coordination of donors and mobilization of funds; and
- Donors should be careful in raising Government expectations if not ready for funding commitments.

Access to justice in Viet Nam: survey from a people's perspective⁵⁷

To provide information on the role of existing legal institutions and mechanisms for access to justice; how they are perceived and assessed from a people's perspective.

An access to justice survey from a people's perspective was conducted by UNDP in Viet Nam in 2004 to provide new information regarding the role of existing legal institutions and mechanisms for access to justice in Viet Nam; and how they are perceived and assessed from a people's perspective.

The assessment was based on a two-part study. Part 1 was a desk review of the legal and institutional framework for access to justice. Part 2 was a survey exploring the opinions of 1000 ordinary Vietnamese living in different parts of the country on various aspects of the legal and institutional framework, and how it affects access to justice in their daily lives.

The first part of the study explored the Constitution of Viet Nam and key legal normative documents and a range of judicial, administrative and supporting institutions and mechanisms in place for people's access to justice.

The second part of the study was structured around three key elements forming part of access to justice as conceptualized in the study: awareness, access and confidence. The survey report defines these three elements as the following:

- The first step for people to access the justice system is **awareness** of their legal rights and knowledge of where they can claim them;
- In addition to awareness, people must be able to **access** legal information and institutions to protect their rights as citizens; and
- In addition to awareness and access, people need to feel **confident** that the legal institutions in place are effective in protecting their rights to make use them.

The report arrives at a series of conclusions and recommendations that would be useful for the Government of Viet Nam and the international donor community to address in efforts to improve access to justice in Viet Nam. The recommendations are based on the findings that while further development of the existing legal and judicial institutions is important, strengthening people's access to justice is crucial. This includes increasing the level of legal awareness, as well as the level of access to and confidence in legal institutions in place. The survey suggests a need for increased outreach of legal institutions at the grass-roots level for a higher level of utilization, especially by the poor and people living in remote areas.

The methodology followed in the assessment is primarily a survey, which was done in a three-week period in 2003, administered among 1,000 interviewees living in six cities/provinces, in urban, rural and mountainous areas. This sample, representing a cross-section of society in terms of profession, gender, ethnic background, income, age, and education, was randomly selected. The survey respondents were asked their opinion on various aspects of the legal and institutional framework and how it affects their access to justice. The respondents were asked approximately one hundred questions regarding: access to and assessment of the laws; access to and assessment of legal and supporting institutions; educational, cultural and socio-psychological aspects influencing access to justice; and awareness of and

⁵⁷ UNDP Vietnam (2004), *Access to Justice*. Available at: http://www.undp.org.vn/digitalAssets/4/4667_A2J__Engl_.pdf.

assessment of ongoing legal and judicial reforms. In addition, those respondents who had accessed the legal system were asked to make an assessment based on their actual experience, while those who had not accessed the legal system were asked to make an assessment based on their perceptions.

The questionnaires were completed by survey teams, which conducted face-to-face interviews and completed the questionnaires based on the information gathered from their conversations with the respondents. Further, quality assurance officials ensured that the interviews were properly carried out, that the questionnaires were appropriately completed, and that the respondents were representing a cross-section of society as set forth in the criteria for the survey.

In tabulation and analysis, the information gathered was tabulated using a computerized processing yielding system with over 1,000 data tables. While the data provided for extensive information, the survey report provides information to suit the scope of the assessment. Thus, only key findings providing an overview of the peoples' perceptions about selected legal institutions and mechanisms for access to justice are presented.

The main focus of the report is on key legal institutions with which people are in direct contact, including judicial institutions such as the courts and the police; administrative institutions such as the people's committee and the head of the 'hamlet'; and supporting institutions such as legal aid centres, grass-root mediation groups and lawyers. The analysis is based on the three main approaches—awareness, access, and confidence in relation to access to justice.

The main finding points to the theoretical understanding of access to justice that equal access to justice for all requires not only the existence of a legal and judicial system, but also the proper and effective functioning of the system and the ability of people to make use of and benefit from it. Having explored the legal institutional framework in place and people's awareness of, access to and confidence in the justice system, the study finally arrives at several findings:

- Fundamental human rights are provided for by the Constitution and necessary institutions are in place for people to exercise their rights and access justice;
- The level of awareness of existing legal institutions for access to justice is relatively low. The level of awareness is especially low with regard to the formal judicial institutions such as the courts, and supporting institutions such as the legal aid centres and the grass-roots mediation groups;
- The level of awareness regarding the local administrative institutions, such as the people's committees as well as the police, is relatively high;
- There are different levels of awareness between different segments of the population. In particular, the level of awareness decreases with decreasing income levels, and is lower among those living in rural and mountainous areas as compared with those living in urban areas;
- The level of access to legal information and legal institutions is low and uneven. People tend to obtain legal information through easily available sources of information such as friends, neighbours or relatives, and mass media;
- The level of access to legal institutions is consistent with the level of awareness. Access to the court and the supporting institutions, such as the legal aid centres, grass-roots mediation groups and lawyers, is lower than access to the people's committees and the police;
- The level of confidence in the legal institutions is relatively low. It also shows that the level of confidence among those who have accessed legal institutions

and those who have not is quite similar, suggesting that people's perceptions correspond with the real situation; and

- People who have accessed grass-roots mediation groups and legal aid centres appear to have a significantly higher level of confidence in these institutions than those who have not, suggesting that these institutions suffer from an unwarranted weak image among those who have not accessed their services.

The survey also makes the following broad conclusions and recommendations:

- In Viet Nam, a number of judicial, administrative and supporting institutions are in place ensuring access to justice. Legal reform measures undertaken to improve the legal and institutional framework are positively assessed by people, but additional efforts could be made to increase the ability of people to make use of and benefit from the same to improve their access to justice.
- People do not attach much importance to the practical role of law in their daily lives. This could be due to a low level of awareness and access to legal information and judicial institutions in place. People appear to rely mainly on informal sources of legal information. Thus, improving information dissemination and increasing awareness, taking into consideration people's needs and their ability to make use of the information, should be a key element of all efforts to improve access to justice in Viet Nam.
- Low levels of awareness and low levels of access to legal information and institutions may create scope for inaccurate perceptions and uncertainty about existing mechanisms and their performance. This could explain the reluctance expressed by people to seek assistance from judicial and supporting institutions in place, and the tendency to turn to institutions with which familiarity is higher, such as the police and the people's committees. However, a low level of access to formal judicial institutions does not necessarily mean a low level of access to justice, since people may simply turn to less formal and less costly mechanisms in their local community for mediation, reconciliation and resolution of disputes.
- There are great disparities between different groups in society when it comes to awareness and access to justice. The poor and those living in remote areas demonstrate a very low level of awareness and access to legal information and the judicial institutions, indicating a need to strengthen the linkages between poverty reduction efforts and legal and judicial reforms.
- While other less formal mechanisms for access to justice require support and attention, continued efforts have to be made to reform the court system. An impartial, independent and competent court system, upon which people can rely, at least as a last resort, when seeking justice, is crucial for a society promoting the rule of law, democracy and human rights.
- Further in-depth, qualitative research can contribute to a more comprehensive understanding of access to justice in Viet Nam and provide a basis for recommendations for future reform efforts in this area.

Access to justice in Viet Nam⁵⁸

To provide a basis for policymakers to assess the impact of measures taken to increase access to justice, in terms of improved levels of confidence, access and awareness among the public at large.

This access to justice study was recently completed in Viet Nam (the report has not yet been published). However, it has been included in this mapping exercise to provide further discussion on access to justice assessments.

The ongoing *Access to Justice in Viet Nam from a People's Perspective* is an updated survey that serves to renew the findings of a similar study conducted seven years ago. In 2003, UNDP conducted an independent survey on the perceptions of Vietnamese people about access to justice in their daily lives, which was published in May 2004 under the title *Access to Justice in Viet Nam – Survey from a People's Perspective*.

The 2003 Survey measured access to justice in Viet Nam along three dimensions—awareness, access and confidence. The Survey found that each dimension was relatively low among those questioned, particularly for the poor and those living in remote areas, and highlighted the need for greater outreach of legal institutions at the grass-roots level.

The main purpose of the updated survey being done at present is to provide a basis for policymakers to assess the impact of measures taken to increase access to justice, in terms of improved levels of confidence, access and awareness among the public at large.

It is also hoped that the survey will inform the needs assessment for further development of legal and judicial systems providing grass-roots feedback on the areas where further reforms are most needed. The updated *Survey Report on Access to Justice from a People's Perspective* has two objectives. The first is to identify major changes in the country since 2003, which are considered relevant in terms of access to justice. The second is to identify any changes in people's perception about access to justice since 2003 in order to provide useful evidence-based measurement of justice outcomes. This type of measurement can assist policymakers in assessing the effectiveness of government programmes, thereby demonstrating to policymakers the usefulness of conducting such studies on a rigorous and regular basis.

As an update of the 2003 Survey, the 2010 Survey was largely based on the same methodologies in terms of questionnaire, samples, locations, data processing and methods of analysis. As a desk review was conducted in the earlier survey, the main methodological approaches employed were a stakeholder survey and consultations on initial research findings.

The stakeholder survey was a questionnaire-based survey with a sampling population of 1,000 representative in terms of age, gender, income and profession, including a reasonable proportion of members of vulnerable groups (e.g. women, poor, ethnic minorities, handicapped). The sampling structure and the survey sites were the same as those selected in the 2003 survey. In addition to the survey, semi-structured interviews with high-ranking representatives of legal institutions, social and professional associations, universities and research institutions were conducted.

Consultations on initial findings analyzed the findings of the stakeholder surveys on the basis of a first draft report at workshops with national and local stakeholders, to discuss these findings and possible recommendations.

The 2010 survey and interviews were carried out during a period of four months. The field survey was carried out in six cities/provinces representing three different geographical areas of Viet Nam. They included urban, rural and mountainous areas and developed and underdeveloped areas. The numbers of questionnaire samples were proportionally divided in accordance with population of the said provinces/cities.

The field survey was carried out by 20 interviewers who were legal professionals experienced in the subject matter. In terms of quality assurance, strategies were put in place to ensure that interviews were duly performed, the questionnaires were comprehensively and duly completed, and the allocation of interviewee numbers was proportional to the size of the different social groups. The quality of every signed survey was ensured in the first instance by the leader of each interviewer team through a daily review of the work done by the team members. In addition, there was supervision by the leader of the research group (also the Quality Assurance Official).

Some main conclusions from the 2010 survey were as follows:

- Generally, people's awareness about legal institutions improved and people's assessment of access to justice has become more positive since 2003. People have recognized the improvement of judicial institutions; however, such improvements do not appear to have moved as fast as administrative reforms.
- Vulnerable groups still have to encounter unfavourable conditions in lawsuits at law protection agencies. No significant improvement could be detected since 2003.
- The impact of lawyers and legal aid activities does not appear in meeting the needs of people. Access to justice, particularly for the poor, has not improved over the period, despite a continuing growth in the number of lawyers and the increase in provision of legal aid services. The percentage of poor people who have accessed legal aid services, or the services of lawyers, remains very small and has not increased. It would appear that the expansion of lawyers has been mainly concentrated in big cities, while legal aid services need to achieve better outreach to target groups.
- People seem to be prepared to fight for justice and build a just and fair society. However, more comprehensive measures are needed from the State side to support and protect them in the event that they denounce crimes or become witness at the hearings.
- Press, mass media, and civil society organisations have been playing an increasing role in protecting people's rights and interests, with more than 90 percent of respondents considering that media play an important role in protecting people's rights.
- Compared to 2003, the percentage of people putting their confidence in laws as well as current legal reforms increased significantly, even though information about legal reforms does not appear to have been more effectively disseminated.

Access to justice for the urban poor: toward inclusive cities⁵⁹

To strengthen the understanding of the nature and dimension of disputes that the urban poor face over urban assets and the how these disputes are resolved; and to generate guidelines on issues to consider for strengthening existing or establishing new dispute resolution mechanisms when investing in urban development.

This assessment was carried out jointly by ADB and TAF covering four countries: Bangladesh, Indonesia, the Philippines and Thailand. The preamble to the study states that the study responds to ADB's expressed concern that insufficient attention is paid to establishing efficient and effective grievance procedures when service delivery fails.

The overarching goal of the study was to understand the role that dispute resolution processes have or may have in mitigating disputes over urban assets and improving access to assets for the urban poor. While examining the mechanisms that impede or improve an equitable provision of urban assets, the study provides an additional perspective, examining not only access to urban services by the urban poor, but also access to justice by the urban poor in the event of service failures.

The study provides an unconventional lens to understand people's access to services—that of dispute resolution. The study attempts to bring forth an understanding of how the urban poor resolve disputes over urban assets and attempts to provide new insights into essential policies and recommendations on the types of institutions to develop and strengthen to improve longer-term enjoyment of urban assets by the urban poor.

The study has two main objectives: (1) to strengthen the understanding of the nature and dimension of disputes that the urban poor face over urban assets and the how these disputes are resolved; and (2) to generate guidelines on issues to consider for strengthening existing or establishing new dispute resolution mechanisms when investing in urban development.

On conceptualizing access to justice the study starts from the foundation of understanding that the urban poor are generally concerned about access to justice not as an abstract ideal, but rather in terms of delivering equitable access to urban assets and services. It revisits a previous definition of legal empowerment (developed by TAF and ADB⁶⁰), which states that legal empowerment is the "ability (of women and disadvantaged groups) to use legal and administrative processes and structures to access resources, services, and opportunities"⁶¹ which highlights the nexus between law and access to concrete outcomes.

This particular study finds the previous legal empowerment discourse limited to legal and administrative processes and moves beyond the legal empowerment framework and examines the strategies of the urban poor and the extent to which the formal and informal institutions they approach are able to provide effective remedies.

59 TAF and AsDB (2009), *A multi-country study of Bangladesh, Indonesia, Philippines, and Thailand*. Available at: <http://www.adb.org/documents/reports/access-to-justice/access-to-justice.pdf>.

60 ADB (2001), *Law and Policy Reform at the Asia Development Bank, Part 2, 'Legal Empowerment: Advancing Good Governance for Poverty Reduction'*.

61 ADB (2009), *Legal Empowerment for Women and Disadvantaged Groups*, Technical Assistance Consultants' Report (6248-REG).

The study comprises an intensive interviewing methodology, involving open-ended questions to derive narrative descriptions of the experiences and perceptions of the interviewees regarding dispute resolution. It is stated that this methodology yields far greater insights into the types and causes of disputes that the poor face and the operation of available resolution mechanisms. The researchers have used five guiding questions to understand these issues:

1. What types of disputes and complaints over urban assets are arising among the poor in rapidly urbanizing areas?
2. What institutions do the urban poor approach to resolve disputes over urban assets and why?
3. What are the institutions' prescribed procedures or customary practices for resolving disputes?
4. How do the urban poor actually resolve disputes over urban assets?
5. How satisfied are the urban poor with the dispute resolution forums they access?

The study is thus based on interviews with a wide range of actors involved in disputes and dispute resolution, which provided substantial narrative accounts and case studies.

The following broad conclusions are drawn from the findings of the study:

- Rather than a single optimal mechanism, there may be multiple pathways to access urban assets for poor populations;
- Access to urban assets frequently occurs through processes that involve largely informal social, communal, administrative and political channels rather than formal legal mechanisms;
- Government policies and programmes at the national and local levels play a key role in establishing opportunities and options for dispute settlement and grievance redress;
- Institutions and mechanisms that facilitate dispute resolution can have positive effects in areas beyond their original mandate;
- Intermediaries play a wide variety of critical roles in providing access to urban assets that can be either conducive or detrimental to long-term provision;
- Successful dispute settlement often entails a range of actors mobilizing to secure access;
- Informal dispute settlement may occur in the shadow of the law and promote the legal empowerment of the poor;
- Actual or potential competition among formal and informal service providers may be leveraged to expand access to urban assets, improve urban governance and dispute settlement; and
- Participation is important, but it is no panacea, and not all groups want higher levels of participation.

In providing a framework to analyse the findings drawn from the case studies, the study assesses the institutions that the urban poor approach to resolve disputes over urban assets in terms of their relative levels of accessibility, efficacy, and accountability. The analysis does not suggest a standard model for a successful grievance mechanism, but puts forward broad principles to help identify appropriate institutional features to promote dispute resolution and access to urban assets for the urban poor. This framework provides the basis for the conclusions and recommendations in the study, including checklists of institutional design considerations.

The study also identifies some limitations to the assessment process itself (many of which can be found in other cases):

- The geographic scope of the research design which involved in-depth study in three sites in four selected countries provides only a narrow set of institutions, circumstances and grievances to observe. The grievances and modes of resolution found in the research sites do not reflect a complete picture of the institutions described and may not be representative of their counterparts in other localities and states.
- The research occurred over a relatively short period, and thus offers a time-bound snapshot of institutional functioning. The individuals interviewed have generally spoken from personal knowledge of events that took place during their presence in the community. Furthermore, even long-time residents may not be personally aware of all the grievances that arose during their tenure. As a consequence, the sample size of grievances and of institutional functioning is not large relative to the many potential disputes arising in a particular community over time.
- The nature of ethnographic research necessarily entails subjective perspectives and incomplete knowledge. Accounts of disputes and their resolutions must be viewed in light of these limitations, and the analysis following from them must be appropriately qualified as a result.
- The analysis does not seek to draw wide-ranging conclusions about the institutions themselves or to judge their fitness for their role. Instead, it looks at them only as a means to identify features that might usefully apply when designing or enhancing dispute settlement procedures accompanying urban asset projects.

In order to draw on the analysis and conclusions to inform the consideration and development of new or enhanced dispute resolution mechanisms, the study report provides three checklists that offer guidance regarding data collection, institutional assessment and institutional design features:

1. The first checklist is designed to collect relevant social, legal and institutional data to develop an understanding of the environment in which the project will be undertaken and how dispute settlement mechanisms can promote the success of such projects.
2. The second checklist provides lines of questions intended to evaluate existing institutions and determine whether and how improving or creating such mechanisms might be desirable. Drawing on the analysis from the research, it prompts project managers to consider the qualities of accessibility, effectiveness, and accountability in assessing the existing institutional landscape.
3. The third checklist offers a number of possible institutional design features meant to enhance or introduce these qualities. These characteristics, as the research shows, are important for designing successful grievance mechanisms.

The study concludes that in each checklist not every consideration listed will be relevant to any given project, asset or dispute type. Nor can any such checklists be comprehensive. Accordingly, while the checklists provide issues for consideration, they are not exhaustive, and relevant personnel should supplement or disregard as appropriate based on project and context-specific circumstances.

Finally, as a methodological matter, the information and analysis prompted by each checklist will likely require a desk review of relevant documentation, surveys, qualitative research and participatory data collection that solicits the opinions, interests, capacities and concerns of a wide cross-section of community members.

Access to justice, customary law and local justice in Timor-Leste⁶²

This assessment seeks to understand the connections between the formal justice system and customary law/local justice system in enabling access to justice

This study, done in Timor-Leste by UNDP Timor-Leste and the Ministry of Justice, looks at the interfaces between formal justice system and customary law/local justice. The conceptual framework for the study is based on principles related to access to justice in a democratic society, that the “State shall respect the dignity of the human person and assure access to justice for all individuals and groups, as an essential component of the rule of law and as a condition for a peaceful coexistence with social justice, equity and development.” The principles are derived from the rights enshrined in the Constitution.

For the purposes of the study, access to justice is defined as “a human right that consists of the capacity of human beings (individuals and groups) to obtain fair and effective responses in order to protect human rights, resolve conflicts, and control the abuse of power; through transparent and efficient processes, from affordable and accountable mechanisms.” These mechanisms must be responsive to social needs and sensitive to cultural, linguistic and gender issues.

The study recognizes that the right to access to justice implies the satisfaction of the social demand for justice. The social demand for justice comprises the aspiration of individuals and groups to satisfy their social needs related to the existence of unresolved problems and conflicts, the lack of enjoyment of human rights (civil, political, social, economic and cultural rights), and situations of abuse of power.

The social demand for justice includes the actual demand and the potential demand for justice:

- The *actual* demand for justice comprises the cases already filed by people before an authority; and
- The *potential* demand for justice consists of the problems, conflicts and human rights violations that people suffer from, but that they have not filed before any authority because they do not know they have the right to do so or because there are not available means to channel those complains, among other reasons.

On the supply, the study builds on the fact that the state is obliged to guarantee access to justice, the protection of rights and the control of the abuse of power, but the provision of justice services for daily life conflicts could be done by different means or mechanisms. People may resolve their conflicts through diverse mechanisms, using state regulations, customary law, or equity. Among these mechanisms are: the courts, alternative dispute resolution mechanisms, customary conflict resolution mechanisms (traditional or local), indigenous customary mechanisms, non-jurisdictional mechanisms (ombudsman), and other means.

In recognition of customary law, the study accepts that the Constitution recognizes and values customary law as far as it does not contradict the Constitution. Customary law comprises norms and customs that regulate social life, authorities (kingship, community or local authorities) that apply customary norms, and conflict resolution mechanisms used to resolve daily life conflicts. The study also works on the basis that legal reform processes should try to be responsive to the social

62 UNDP and the Ministry of Justice in Timor-Leste (2009), *Access to Justice, Customary Law and Local Justice*.

needs and cultural values of the population, considering gender, age, geographic, social, ethnic, cultural and linguistic characteristics and, in particular, the needs of vulnerable groups, the poor, women and indigenous peoples; and implement the international framework of human rights. It also looks at the participation of people in legal and other reforms.

On methodology, the study pays particular attention to important aspects regarding the process and mechanisms of research, and uses a principled approach to ensure broad consultations with and meaningful participation of all the relevant people.

First, it framed the reform process as a national issue and established mechanisms to ensure national ownership of the study from the very beginning (with the UN or international cooperation only supporting such a process). The study project created a 'council' (called the Inter-institutional Council) comprising the Ministry of Justice, Judiciary, Prosecutor Office, Public Defenders, Ombudsman, Parliament (commission of justice), related ministries (decentralization, women's rights, social development,) and the Directorate of Land and Property. The heads of these institutions held decision-making power while a technical working group designated by these institutions dealt with day-to-day issues. The process also established units for district and local level of coordination in the field research.

The study established a social network of stakeholders consisting of different social organizations, in particular the ones related to justice issues, women's rights, human rights, traditional leaders, linguistic minorities, and indigenous peoples. The role of the network was to impulse, feed, support and control the whole reform process.

The study took on a consultative process in which action research was a key component. This included the definition of the problem to be solved by the actors, information collection from people, information provided to people and suggestions discussed by people.

The means of collecting information included the following:

- Desk study of the existing information;
- Interviews with selected informants as a useful tool to gather informed opinions of stakeholders, academics, or social actors;
- Focus groups and workshops where people have the opportunity to discuss issues;
- Surveys as a useful tool to obtain a general view of peoples' perceptions of a several range of issues; and
- Field study, case study and direct observation as useful tools to understand processes and dynamics in depth.

Consultation was a key approach in the study, and the consultation process had the following three objectives:

1. To inform people about the justice reform process and to discuss with them their values and rights related to the access to justice, women's rights, children's rights, etc.;
2. To have an assessment (diagnosis) of access to justice, including the social demand for justice (social needs, cultural values), the supply of justice services (existing mechanisms), and the pending challenges; and

3. To promote discussion of findings and negotiation of common principles and options/ proposals to improve the access to justice and the justice services, with a focus on customary or traditional mechanisms and how to make linkages with the formal justice system and other mechanisms.

Those consulted in the process included stakeholders, members of national institutions, judicial operators, judges, prosecutors, and policemen, traditional authorities, people from the countryside, members of social organizations, women, linguistic minorities and indigenous peoples and academia. These diverse groups were consulted on the social demand for justice, which meant identifying the main problems, conflicts and human rights violations. Their views were also sought on the supply or the means people have to channel their problems and conflicts. Proposals were examined to better protect the human rights of the people, resolve conflicts and control the abuse of power at local level as well as proposals related to the recognition of customary law/traditional justice.

The means of consultation included:

- Local workshops at different places (all the districts and in all the national languages), to have a regional approach on the social demand for justice, the supply and proposals;
- Sector workshops on formal justice system, local justice systems, alternative dispute resolution (land's mechanism), customary or ethnic justice systems, arbitration, etc., and the interfaces among these different mechanisms;
- Focus groups or sector workshops considering ethnic, gender, rural/urban, occupation, and other social relevant differences, e.g. women workshop, justice operators, human rights NGOs;
- A national workshop; and
- An international workshop to exchange best practices and comparative experiences.

The consultation process took place in three phases which included the following activities in sequence:

- First phase: Local workshops, regional and sector workshops;
- Second phase: National workshop; and
- Third phase: Systematization of all findings and proposals related to draft legislation and policy development; International workshop to discuss comparative experiences; draft legislation and process of discussion and review with stakeholders; and national debate of draft legislation.

Furthermore, the study considered technical support as an important part of the methodological framework and set up an interdisciplinary team with legal, socio-anthropological and ethno-linguistic backgrounds to give technical advice along the process. This team comprised national legal advisers who were familiar with the legal culture and the legal institutions of the country, social scientists with socio-anthropological and historical background familiar with tools for doing ethnographic research and an understanding of cultural issues behind customary law, and linguistics or ethno-linguistics with an understanding of the legal culture expressed in the different languages used in the country. Furthermore, the study improved the quality of the process by employing translators, documenting the whole assessment process, and providing training workshops on the methodological framework for all participants in the study.

How to conduct access to justice assessments?

Assessments are conducted using diverse academic and conceptual approaches. Similarly, the tools and methodologies used are also different. Each assessment uses a number of tools that are both qualitative as well as quantitative, but each tool is methodologically rigorous.

Most assessments use participatory methods and a mix of several tools including surveys, focus group discussions, in-depth interviews and community consultations to assess access to justice.⁶³

Several studies used specific analysis categories to come to uniform conclusions. One assessment⁶⁴ compiled findings under four main categories: awareness and knowledge, perception, experience, and process by which access to justice is measured. Similarly, another assessment⁶⁵ looked at measuring access to justice along three dimensions—awareness, access and confidence.

Promoting improved access to justice: Community legal services delivery in Bangladesh⁶⁶

This assessment uses a variety of approaches to assess the impact of community legal services (CLS) on the poor, women, and other marginalized populations, and has developed a unique set of assessment criteria developed based on the need to arrive at recommendations for an effective, sustainable, scalable and efficiently harmonized investment strategy for CLS delivery.

This study was conducted by the Asia Foundation to assist the UK Department for International Development (DFID) and other international development agencies to refine and expand support to local partner organizations that promote improved citizen access to justice in Bangladesh. A second aim of the study was to establish clearer links between access to justice, governance reform, and poverty reduction strategies.

The study focuses primarily on the experience of NGOs that have played a leadership role in facilitating access to justice through community legal services (CLS)⁶⁷ activities in Bangladesh. The study draws linkages between the formal and informal justice sectors. The needs for this study were to extend the geographic coverage of CLS activities; to expand networks of local partner organizations; and/or to refine coordination efforts among CLS providers and between providers and their donor partners, coordination among existing programme strategies and assessment tools, and establishing linkages to broader national development goals.

63 Roy et al., *Access to Justice Bangladesh*.

64 UNDP Maldives (2010), *Survey on Access to Justice*.

65 UNDP Viet Nam (2010), ongoing and unpublished.

66 By the Asia Foundation to assist the United Kingdom Department for International Development (2007).

67 CLS activities include some combination of informal legal education and awareness raising, paralegal counselling, legal aid, alternative dispute resolution through traditional or other models of community-based dispute resolution, and legal advocacy and other specialty areas of focus.

The study comprised four approaches:

1. Mapping of the present geographic outreach or footprint of CLS activities in Bangladesh;
2. Documenting the various models of alternative dispute resolution (ADR) that are presently being followed by legal service providers, and assess the comparative performance;
3. Determining key institutional and human resource, political-economic, financial, and other constraints to the potential expansion or refinement of CLS delivery; and
4. Assessing the quality and integrity of monitoring and evaluation tools and methodologies that are presently being used by CLS providers and development partners.

The mapping aimed at enhancing the understanding of the scope and scale of current CLS activities; determining the range of services offered by local CLS providers and delineating any substantive gaps; and identifying parts of the country and/or vulnerable communities that are inadequately served by present service delivery mechanisms, or not reached at all.

Documenting ADR models and others followed by legal service providers; assessing the comparative efficiencies, inefficiencies and possible inequities of the various models; and suggesting strategies for replication of those that have proved particularly effective.

Determining key institutional and human resources as well as, political-economic, financial, and other constraints to the present delivery and potential expansion or refinement of CLS delivery were cross-cutting themes. The study looked at steps taken by successful local organizations to resolve disputes and aimed at providing recommendations on future programme strategies to reduce barriers and enhance the impact of new and existing services.

The study also assessed the quality and integrity of monitoring and evaluation tools and methodologies used by CLS providers and development partners; identifying good practices; and providing recommendations on strategies and empirical research tools. It was expected to provide input into refining present services and link CLS activities with related governance reform and poverty reduction initiatives.

The study used different methodologies in order to gather data and information for conclusions and recommendations. The mapping methodology included identification of the organizations that provide CLS by location, as the basis for informed strategies to scale-up services in a comprehensive and sustainable manner. Information was gathered from mailed survey responses, field research interviews with local NGOs, and office interviews with large NGOs with CLS programmes. One of the drawbacks identified was that not all CLS activities were represented, nor was 100 percent accuracy achieved in representing the exact geographic location of each large NGO's community legal services.

The mapping exercise attempted to delimit the geographic scope of CLS in Bangladesh, the national and local organizations that support or conduct CLS, and the major types of services provided. Since no prior mapping of such services was available, the study team collected data from both primary and secondary sources, which included the following:

- Mailed survey responses: A two-page survey form that was sent by post to approximately 140 NGOs identified as providing legal services in a list provided by the Association of Development Agencies of Bangladesh (ADAB). The survey form invited respondent organizations to share information on the types of services that they provide, the geographic location of those services, and organizations with which they partner or collaborate in delivering them. While a number of the organizations on the ADAB list had either discontinued operations or relocated to an unknown address, the study team made a determined effort to establish contact with every target respondent through follow-up telephone and other contacts. A total of 69 survey responses were submitted, which is a significant response rate for a mailed survey of this kind.
- Field research Interviews: Twenty-four NGOs engaged in CLS were selected for site visits by two-person research teams. Most of these organizations were smaller, local organizations that have past or current affiliations with larger national or regional NGOs that have a demonstrated expertise in CLS. An extensive survey questionnaire and series of focus group discussions and individual interviews were conducted at each NGO site on visits of four to five days duration.
- Interviews with large NGOs: The study team drew on TAF's long history of support for CLS and the prior research experience of the senior national consultants involved in the study in developing a target list of large national or regional NGOs that conduct CLS programmes. While most of the target organizations focused exclusively on legal service work, a few were engaged primarily in social service delivery, with legal service activities undertaken as part of an integrated strategy. From each of these larger NGOs, the study team gathered information on the types and geographic locations of legal services administered by their own programme staff or through partner NGOs that worked under their supervision or with their technical support.

Collating and analysis of data was done through a database that linked specific development organizations and categories of legal service with specific geographic locations. In synthesizing the data, the study team relied heavily on an in-depth understanding of the operational processes through which different NGOs implement their legal service programmes. Achieved through the course of extensive field research and interviews, this understanding equipped the study team to identify the nature of legal services delivered and the various working relationships among the different categories of NGOs that support CLS work. While an exhaustive data cleaning phase flagged certain inconsistencies, efforts to enhance the accuracy of the mapping of individual organizations and service types to geographic locations were complicated by the diverse nature of working relationships among different categories of CLS organizations.

In order to identify the current state of access to justice and the key constraints in enabling access to justice, the study drew on statistical data maintained by CLS NGOs and a combination of opinion surveys, focus group discussions, and individual interviews with beneficiaries, which the study team developed. This included a profile of the typical types of cases undertaken through legal aid or ADR; an assessment of the impact of CLS on the poor, as perceived by beneficiaries; and a supply-and-demand ranking of the primary constraints or obstacles to justice. The collective experience of NGOs involved in CLS and their individual client and broader community beneficiaries served as a primary source of many of the study team's findings on the current quality of justice for the poor and other marginalized populations, including ease of access and equitable enforcement of rights and obligations.

Looking at the impact of CLS on the poor, women, and other marginalized populations, the study team applied a variety of approaches to assess the impact of CLS on the poor, women and other marginalized populations. The approaches ranged from focus group discussions and individual interviews, review of records on compliance with mediation settlements (both of which are limited to CLS beneficiaries), to sample survey methodologies that were intended to measure changes in awareness, attitude, and broad behavioural trends in communities in which CLS is offered—positing a measurable auxiliary impact on all community members. With limited time and resources, the study team confined its focus to a narrower assessment of direct impact on CLS beneficiaries.

One of the key points here was that, for the purposes of the study, constraints or obstacles to access to justice referred to aspects of formal justice institutions or their functioning that prevent those who face legal disputes or encroachments on their legal rights from pursuing available recourse or from securing a just and equitable settlement.

In documenting models, the study aimed to evaluate various ADR approaches, and the team designed a set of assessment criteria based on the need to develop recommendations for an effective, sustainable, scalable, and efficiently harmonized investment strategy for community legal services delivery. These were as follows:

- Beneficiary access: Distance or more precisely, proximity is important not only because of the time and expense involved in reaching the ADR venue, but also because, for some beneficiaries, the closer the venue is to their home community the less intimidating it is;
- Process justice: The quality and integrity of justice rendered by ADR can be compromised by influences such as: (i) a dynamic of arbitration rather than mediation, forcing the terms of settlement on either or both parties; (ii) prevalence of traditional or conservative values taking precedence over the law or common sense solutions; (iii) political biases or interests; and (iv) gender biases that compromise the interests of female parties);
- Settlement enforcement: The ability to apply social pressure and legal sanction to ensure compliance with the mediation settlement over the long term; and
- Social change impact: Certain ADR approaches are better positioned to effect social change at the local level, and these same changes in values will make it more likely that community members will continue to conduct ADR on their own, accept ADR settlements, and/or enforce compliance with these settlements after donor-funded NGO assistance ends.

For the assessment, the study used three criteria to describe models; poor, fair and good. The poor, fair and good rankings were assigned based on qualitative interview data and an understanding of the workings of each ADR process. Each ranking was assigned a numerical equivalent, with 1 being good and 3 being poor. The values for each broad criterion were determined by averaging the scores for each model.

The study arrived at seven recommendations:

1. Expand community legal service delivery through a coordinated national strategy to incrementally establish CLS facilities and community-based organization (CBO) mediation panels in every union of the country;
2. Strengthen CLS through innovations in programme quality, institutional capacity, and service outreach;

3. Enhance interaction between the formal and informal justice systems through legal aid support and referral mechanisms, pilot village court programmes, and community-oriented policing;
4. Promote CLS sustainability;
5. Strengthen CLS monitoring and evaluation capacity;
6. Facilitate enhanced communication, coordination, and collaboration among CLS organizations and donors; and
7. Support legal empowerment strategies that link CLS with broader sectoral development initiatives.

Specified human rights-based approaches

All access to justice assessments stem from a rights-based approach (HRBA). While some assessments do not make overt mention of HRBA, selected assessments⁶⁸ stress the use of a HRBA, which clearly sets out guidelines of the assessment.

Pathways to justice: Access to justice with a focus on the poor, women and indigenous people⁶⁹

This assessment adopts a HRBA to access to justice as its primary conceptual focus. The study not only provides an assessment of conflicts, disputes, processes and institutions of justice, but also examines other wider areas of rights violation and power abuse which deny people access to justice.

This study was conducted by the Ministry of Justice and UNDP Cambodia in 2005, with international experts commissioned by UNDP as part of UNDP's commitment to legal and judicial reform of Cambodia. It is set in the background of Cambodia's Council of Ministers adopting, in 2003, a legal and judicial reform strategy with the ultimate goal of providing "justice for all Cambodians."

The study initially started as a research project on alternative dispute resolution but UNDP adopted a broader framework for a better understanding of the demand for justice and the avenues people use to access justice.

Keeping in line with the majority of UNDP-supported access to justice assessments, *Pathways to Justice* adopts HRBA to access to justice as its primary conceptual focus. Thus the study is not limited to an assessment of conflicts and disputes and processes and institutions of justice, but includes other wider areas where rights may be violated and where power may be abused thus denying people access to justice.

The research is designed both as action and research to help empower people to participate in the process of access to justice. The core research methods have been participation and consultation.

The study defines the right to access to justice as "a person's ability to seek and obtain fair and effective responses for the resolution of conflicts, control of abuse of

⁶⁸ UNDP India (2007), *Mapping Informal Justice Systems in Madhya Pradesh*, National Law Institute University, Bhopal and UNDP Indonesia (2007), *Justice for All*. Available at: http://www.undp.or.id/pubs/docs/Justice%20for%20All_.pdf.

⁶⁹ Ministry of Justice and UNDP Cambodia (2005). Available at: <http://www.un.org.kh/undp/knowledge/publications/category/pub-pathways-to-justice>.

power, and protection of rights, through transparent processes, and affordable and accountable mechanisms.”

In examining access to justice, the study analyses the social demand for justice as well as the supply of justice services. The social demand for justice is recognized as arising from three social needs: conflict resolution, control of the abuse of power, and protection of individual and social rights. It finds that from these needs, justiciable events arise that can be brought before a third party for resolution according to law, customary law, equity or by the negotiation of interests. Justice services are thus supplied by individuals or institutions to meet the demands arising from the social demand for justice. The study theorizes that respect for the right to access to justice requires democratic institutions, good governance and social accountability of justice institutions, and this forms the basis that the study uses to evaluate whether the supply of justice for the social demand for justice happens with respect to human rights standards. The study recommendations on measures for improving access to justice are made by assessing areas that failed to satisfy the social demand for justice.

This research study aimed at achieving four main objectives: (1) to identify the nature and extent of the social demand for justice; (2) to evaluate the supply of justice services; (3) to empower target groups by providing information and building capacities for participation; and (4) to recommend better policy development on access to justice, especially local justice.

Methodology for the assessment was based on its core conceptual approach to methodology—consultation and participation. Based on this, consultations and field studies were undertaken in eight of Cambodia’s twenty-four provinces making up 33 percent of the complete study area.

The main tools used comprised the following:

- Desk study of all relevant information;
- A survey of approximately 2,000 people in four provinces;
- Field studies in eight provinces;
- In-depth interviews of more than 150 people in the same eight provinces;
- Case-study and case-observation in seven provinces;
- Three local consultation workshops; and
- One national forum involving about 400 people.

The conceptual and methodological approach of the study was human rights-based and the definition of human rights used took into account three aspects: (a) legal recognition (positivist approach); (b) moral justification (jusnaturalist approach); and (c) social needs (historic approach). For this study, human rights were accepted as those rights recognized by national and international law and that are, therefore, enforceable. They consist of justified moral claims that seek the satisfaction of social needs, considering the potential for human development in each social context and historic moment. Thus, the study incorporated into its access to justice assessment an elaborate definition of human rights from the inception of the study.

In applying a HRBA to assessing access to justice, the study identified the need to clarify the very concept of access to justice. Taking into account that an assessment of access to justice is often reduced to conflict resolution, the study examined the several dichotomies such as legal monism/legal pluralism, formal/informal justice, ADR/formal justice, and customary law/indigenous law. First a theoretical

framework was applied followed by a methodological framework, therefore, taking into consideration a wider approach than one that focuses exclusively on dispute resolution.

In this study, access to justice was defined as a right, including the idea of duties and guarantees. It was conceived as a response to a widespread set of social needs, larger than just the resolution of conflicts between individuals, comprehending also the protection of human rights and the control of abuse of power in potential claims as well as actual conflicts between citizens and the State. It further paid attention to the actual demand for justice (cases already filed to any authority) and the potential demand for justice reflecting the lack of right awareness as well as the lack of available channels to process that demand. The study also ensured that the human rights approach paid attention to the various agencies and mechanisms that provide justice services, as well as to the processes and outcomes of the justice services, in order that they respond to social needs and meet human rights standards. Last, the study sought to make the relationship between the right to access to justice and the required democratic institutions and practices to enforce it and a process that serves as a critical reference for analysing social reality, and in turn offers theoretical and methodological tools for research and policy development.

In the design of the study, authors saw the necessity to adopt a broader research framework than just the study of ADR mechanisms, in order to have a better and fuller understanding of the challenges posed with respect to access to justice in Cambodia. Thus, the research study was designed to have a wider range of objectives than originally anticipated, but with a focus on more defined target groups.

Taking into account the necessarily participatory nature of democratic reform, the project was designed to incorporate a research-action methodology, to empower people to participate in the improvement of the access to justice. This was due to the conceptual principle of taking participation and consultation as the essential and indispensable components of the research.

The research thus aimed at ensuring that target groups were better informed and empowered to participate in the ongoing reform process to improve access to justice; that an overview was provided of the main social problems and conflicts that comprise the social demand for justice, especially by the most disadvantaged, women and indigenous peoples; and the different mechanisms used by the population to channel their demand for justice and a general evaluation was done of the supply of justice services, including formal, institutional and community based systems in Cambodia.

The final expected result was that the research would inform policy development in the field of access to justice, in particular relating to ADR and local justice addressed primarily at policy makers and donors.

Research methodology and experiences with various research tools were as follows:

- **Exploring views:** In implementing the research-action approach to fulfil its objective of attempting to empower the target groups in order to promote their participation in the reform process, the study concentrated on exploring the views of people. At the start of the research it explored general views of people to arrive at a broad understanding of what was being researched. This involved the gathering of general views on what main problems and conflicts people face in general and provided a broad understanding of the social demand for justice.

Following this was an exploration of views on how people deal with these problems and conflicts, who/where do they go for solutions and what type of responses do they receive provided a broad understanding of the supply of justice services which included an analysis of the legal framework, institutional implementation, legal culture and practices, and the delivery of justice services. This confirmed the need to analyse people's social needs in order to assess justice delivery.

What the researchers learned from these exercises was that local workshops should be organized first for similar groups, such as women, indigenous peoples, minorities, etc., in their own languages. Later, the local level workshops could include a mix of people and should include local authorities. Then these workshops should be taken to the regional and/or national level.

- **Desk study and document analysis:** Analysis of the most relevant literature available relating to the study's subject matter including legislation, studies, reports, official statistics, surveys, workshops proceedings and projects as well as books, magazines, grey literature, and digital information.
- **Survey:** The research then took on a survey addressing five target groups; formal justice officials, such as judges, lawyers and policemen; local authorities, such as village chief and commune council members; ADR officials and clients; women, and indigenous people. This survey was conducted in four provinces and implemented through a research organization. The results of this survey were considered useful for illustrative purposes, to support or contrast information gathered through other sources and methods, and also to identify lessons learned that will be useful for future surveys of the same nature.

The survey relied on the formal/informal concepts to organize questions and answers. Formal included judges, prosecutors and police and informal included ADR, local authorities and indigenous authorities (elders). However, in implementation these broad concepts were found to be confusing and misleading, and in hindsight the survey team recommends not using such categories for a survey or research in the future.

The survey also faced difficulties due to mixing indigenous peoples and minorities as one group. This is also not recommended as each group has its own authorities and procedures for conflict resolution within their communities. In terms of institutions, the survey recommends not mixing institutions of ADR established by law with local authorities as the sources of their legitimacy, their behaviour, kinds of matters they manage, and the results they obtain can be very different. Some of the positive lessons from the survey also show that including broad questions related to the main problems people suffer is better than focusing exclusively on conflicts or disputes as having a narrow vision of access to justice through the study of conflicts lead to missing out on important aspects of social demands for justice such as corruption or violations of individual and social rights. The broad questions posed permitted a wider comprehension of social needs.

- **Selected interviews:** Semi-structured and open interviews were carried out in order to obtain qualitative information from different sources; community authorities, leaders of grass-roots organizations, women, legal and law enforcement officials, ADR officials and arbitrators as well as parties involved in

cases before the judiciary, local authorities, and indigenous conflict resolution systems. The interviews also included NGOs, researchers, stakeholders, donors, and other relevant parties.

- **Field study and case study:** Field research in selected locations was conducted for periods ranging from one week to one month. This included data collection, case observation and interviews, and was done through visits to communes and villages; interviews with all relevant judicial, governmental, and ADR officials; local authorities and elders; parties in conflict, lawyers, and NGOs; case observation of conciliations or trials; and collection of various documents, such as judicial reports, conciliation processes, and agreements. This segment of the study confirmed the importance of an ethnographic approach.
- **Consultation workshops:** Three consultation workshops were held at the local level, and one at national level. These played a central role in the methodology enabling the team to consolidate the information gathered at local workshops and to have a national view of the problems the study unearthed. The workshops were also useful for taking information from the participants, giving them information and empowering those who attended the workshops to participate in judicial reform, and for debating and developing proposals and recommendations.
- **Validation and revision:** At different steps of the study specific mechanisms of validation were used including evaluation and adjustment of the research study conducted in close consultation with partner institutions and stakeholders. Following each process of validation, the findings were revised and the process proved to be crucial to the final product.

The research identified a series of conflicts that disadvantaged populations were faced with. While everyday disputes were common, they were manageable locally. The real disputes related to land and land-related issues, especially between parties that have unbalanced bargaining power, criminal matters, unemployment and substance abuse. Although disputes like domestic violence and other family disputes were managed locally, duty-bearers such as the police were more concerned with mere dispute resolution and not promotion of rights.

The research also found that different forms of abuse of power result in the violation of individual rights. These abuses included abuse of power by the police in the context of the repression of social protests, violation of the due process of law by the police, justice officers and prison officers and abuses in the entire justice system. There were also severe corruption issues in the delivery of justice service aggravated by the lack of transparency and corruption in the management of public resources.

In terms of dispute resolution, the research found that village chiefs and elders manage most of the everyday conflicts while Commune Councils hear different kinds of disputes, such as local conflicts, land disputes, gender-based violence, and criminal matters. Criticism of Commune Councils included prejudice, bias, fees, lack of legal knowledge and lack of accountability.

The research concludes that problems and conflicts faced by the poor, women and indigenous people can be categorized into four groups.

1. Problems and conflicts arising out of social conflict: local conflicts, gender-based violence, grievances on land and natural resources, and criminal acts;

2. Problems and conflicts arising out of poverty and lack of enforcement of social, economic and cultural rights;
3. Problems and conflicts arising out of the violation of individual rights and abuse of power; and
4. Problems and conflicts arising out of problems faced by indigenous people due to their specificity.

The research found that causes of these problems and conflicts had to be addressed and not just the conflicts alone. Further, long-term solutions in the social, political and economic area were recommended for the future, as judicial systems did not address social problems behind conflicts.

The study arrived at a series of recommendations that impinged on access to justice overall including the following: more accessible justice for the poor, women and indigenous peoples; improved alternative disputes resolution options; a judiciary more responsive to social needs; and strengthened judicial and legal services and empowered people to promote the access to justice. Based on the findings, the study provided a detailed outline for an access to justice programme for the poor, women and indigenous peoples of Cambodia.

Access to justice needs assessment report Mongolia⁷⁰

The *Mongolia Access to Justice Assessment* was carried out in 2005. The goal of the research was to assess people's awareness of legal information dissemination and aid institutions; their confidence in such institutions; real needs and justifications for legal aid; access to protection services provided by the state and by NGOs; conditions for applying to legal monitoring and dispute-solving institutions and other organizations; educational, cultural, social and psychological factors influencing access to justice and to determine methods of improving access to effective legal information and aid to people as well as ways of providing legal assistance to low income population.

In its conceptual approach, the research aimed to cover three main elements of what it conceptualized as access to justice, namely awareness, access and confidence:

- **Awareness** was defined as: "People's level of awareness of state and non-governmental justice institutions."
- **Access** was defined as: "People's access to state and non-governmental justice institutions." This was based on the rationale that according to international standards, access to justice means that people should be able to protect their rights as citizens through judicial, state and non-state institutions. The main factor that enables access to justice is that the legal environment enabling the protection of people's rights should be in place. In order to strengthen access to justice, people must be aware of their rights and know ways in which they can protect their interests if rights are violated. People must also be able to access institutions and mechanisms providing aid and assistance to protect their rights. In addition, people's confidence in such institutions and the working of such institutions must be high in order to ensure access to justice.
- **Confidence** was defined as: "People's level of confidence in justice institutions and in new future institutions."

⁷⁰ Ministry of Justice and Home Affairs, Open Society Forum, and UNDP Mongolia (2005), *Access to Justice Needs Assessment Report*.

The assessment was conducted in 2004 during a six-week period. The main tool used for this assessment was a survey. The survey questionnaire included 27 questions that looked at measuring the three main components of the conceptual approach, namely awareness, access and confidence.

To measure *awareness* participants were asked a number of questions on their familiarity with the existing legal institutions and their practices. Questions covered judicial, administrative and other related supporting institutions as well as people's familiarity with justice institutions.

To explore the issue of *access*, participants were asked a number of questions relating to where they obtain legal information from and on their use of legal institutions. This section also included questions to explore people's perceptions about their access to justice.

In order to gauge *confidence*, respondents were asked to indicate the importance of some selected factors influencing their decision whether or not to access formal legal institutions, and of factors influencing the positive outcome of a legal intervention. In this component, the survey sought to arrive at an assessment of local administrative institutions for which respondents were asked to answer one single question regarding a dispute faced: "Have you ever approached Governor and Governor's office to solve the dispute?" Further, in this section questions were included about factors influencing the fair decisions in the particular legal dispute.

The survey was administered among 1,200 residents in three provincial locations (*aimags*) and seven districts of the capital Ulaanbaatar, representing geographical and population variety. This sample was distributed as representing a cross section of society according to age, gender, education, employment, and income from selected *aimags* and city districts.

Main findings of the survey were as follows:

- Citizens have limited knowledge of state-financed services for the low-income population provided by institutions protecting citizens' rights, particularly judicial and lawyer's organizations and legal bureaus; people perceive that the information provided to facilitate access to justice by local administrative institutions as being low in quality; in general, the level of awareness is low among participants with low income, poor education and living in rural areas and sums.
- The level of access to legal bureaus, lawyer's organizations and other legal aid institutions is relatively low, particularly it is very low among low-income populations living in the provinces and people perceive legal costs as being high.
- People have a high expectation from formal legal institutions and officials (judges) to be fair and just and for legislative provisions and regulations to be clearly administered.
- People are not very confident about formal justice institutions.

The study recommended the establishment of a comprehensive legal aid system that is accessible to all people in need of legal aid, for the dissemination of legal information using multiple forms of dissemination, and proactive action by state institutions to provide effective services to people for their dispute resolution needs.

Legal empowerment as an approach

The study of legal empowerment of and in communities as a more comprehensive approach to assessing access to justice is the focus of selected assessments.

Sri Lanka legal empowerment study⁷¹

Tests the theory and practice of legal empowerment as a means of promoting access to justice

The Asia Foundation's (TAF) legal empowerment study, *Conceptions and Experiences of Legal Empowerment from Three Selected Sites in Sri Lanka* was carried out during 2007/2008 to examine legal empowerment work supported by TAF over a five-year period. The study was located in three TAF project sites, and the rationale for the study was the need for further study on the theory and practice of legal empowerment in Sri Lanka as carried out by TAF and its partner organizations. The study aimed at analysing and defining legal empowerment both as a process and as a goal from the perspectives of clients and service providers and to provide of an account of how it works.

There were several specific research questions of interest that the study examined.

- What are the common understandings of and justifications for legal empowerment by communities and organizations?
- What is the place of the rule of law in the way that legal empowerment and access to justice issues pan out in the community?
- How are the different issues experienced by the community framed and brought within the purview of legal empowerment activities?
- How are issues of conflict, poverty and power present and negotiated within legal empowerment activities?
- How do legal empowerment activities bring about changes in action and thinking among community members and organizations?
- How do legal empowerment activities promote control over people's own lives?
- What is the role of other development activities and services within the legal empowerment process?
- To what factors and processes is legal empowerment attributed by communities and organizations?
- How are appropriate community actions and interventions designed and decided by communities and organizations?

The study examined legal empowerment as conceptualized by TAF's legal empowerment approach and examined it as both a process and a goal. The foundation defined programming on legal empowerment as... "Broadly, the Foundation views legal empowerment as a long-term and sustainable means of empowering communities to recognize and address their own disputes and conflicts, thereby enabling community members to contribute to peace and human security in the environments within which they live and work. This supports their efforts to manage both community-based conflicts as well as the impacts of macro level conflict(s). The legal empowerment approach that the Foundation follows goes beyond simply educating citizens or public officials about the law and rights, or providing direct access to the formal legal system. The Foundation's varied initiatives

71 TAF (2008), *Twentieth National Public Perception Study Report*.

provide vulnerable populations with opportunities to gain knowledge and skills to exercise their legal rights and to improve their well-being. In addition, these initiatives seek to create networks and support systems that enable community action and facilitate access to law enforcement and public offices, dispute resolution systems and community support networks, to identify and strengthen rights at community level.”

With regard to the process and nature of legal empowerment, the study looked at community organizing, capacity building (importance of context specific technical inputs), networking and community action. The study also attempted to explore the issue of integrating legal empowerment interventions with other development activities (such as livelihood development, sanitation and health).

With regard to the goal-oriented nature of legal empowerment, the study explored the increased agency of communities through capacity building and to a much lesser extent, changes at an institutional level, i.e. changes in the way that specific rules or procedures in the system are applied.

The methodology followed in the study was primarily in-depth fieldwork of a qualitative nature. Careful thought and consideration were put into research design to capture as much relevant information to cover as many of the research questions. The methodological steps involved the following:

- Developing the theoretical framework through a survey of existing literature and an exploration of current field experiences. This enabled the identification of areas of focus relevant to the Sri Lankan context through preliminary discussions with TAF partner organizations. The literature review provided substantive insight into the current theoretical debates with regard to the concept of legal empowerment. A review of the project documents from partner organizations as well as discussions with key practitioners afforded information about suitable areas of practice on which to focus in the investigation of legal empowerment practices. Some of the key processes that may make the effective elements of practice were identified for greater scrutiny within the study, especially for the ethnographic component of research.
- Following on from the initial establishment of the parameters of the study, the next activities focused primarily on the development of the draft tool for the research and a sectioned, open-ended qualitative interview structure, comprising the collection of detailed case studies and the exploration of concepts such as empowerment and legal empowerment, was selected as the most appropriate. This stemmed from the fact that concrete details of case studies were required in order to examine the actors, institutions, responses, strategies, processes and influential factors involved in each case study. These would also be grounded in everyday realities, making an examination of the legal empowerment process easier. It was felt that an open, non-directive approach with regard to the type of cases selected by informants would provide some insight into the range of community and interpersonal issues requiring intervention towards dispute resolution from a legal empowerment position. The research methodology also included a discussion on the role of partner organization-enhanced committees in dispute resolutions, so as to tease out the specific role played by the committees in their response to community and interpersonal problems identified by the informants. At the same time, an exploration of both the terms ‘empowerment’ and ‘legal empowerment’ was required, so as to understand community perspectives on these terms.

The selection of partner organizations for study was done for their diversity in approach as well as for their established experience in legal and rights education and activism. It was thought that their work would provide a good understanding of how their justice and legal empowerment programmes are funded by TAF. Although the organizations worked in a number of different geographical areas, three districts in Sri Lanka were selected where legal empowerment activities were done by home-based workers, women experiencing violence, displaced persons and estate workers. The sample comprised 110 interviews in the three locations.

In addition to the categories of sampling described above, attention was also given to the demographic categories of gender, age group and the socio-economic status. The socio-economic status of respondents was derived from their occupation and observable markers of wealth. The interviewers were cautioned against too much profiling but rather to provide a short a description of the apparent background of the informant. Further, the sample selected covered all geographical directions of the village, thereby aiming to obtain a good cross-section of the community.

The research study was also enhanced by a number of interviews with key informants in the capital on themes identified from the interviews. These revolved around law and justice in the country, alternative dispute resolution mechanisms and their empowerment potential. The key informants were identified based on their experiences of advocacy and engagement in legal work, human rights or related activism, covering various entry points into empowerment (e.g. social sciences, political sciences, law, religious clergy) and different sectors (e.g. state, civil society, politics, media, academic).

The research arrived at several legal empowerment concepts particular to Sri Lanka. The most common understanding of and justification for legal empowerment is that knowledge of the law or of administrative procedures (either directly or through the help of someone else) invariably strengthened one's position in tackling or addressing a personal or common issue. This was accepted as being able to empower oneself or to help empower or encourage someone else.

The rule of law and legal empowerment were recognized as two inseparable processes: The law itself and people's adherence to its existence and implementation (i.e. the rule of law) are necessary if people are to be empowered to make use of the law. In other words, where there is no rule of law, there is little hope that people's knowledge of it would result in dividends. More specifically, this means the following:

- Both the existence and upholding of the law and the empowerment of people to know and utilize the law strengthen access to justice in the community. To this end, raising awareness seems to be a necessary first step. Knowing that a law or regulation or administrative procedure exists to address a particular type of situation or crisis helps the individual and community to frame their ongoing experience or issue as having legal dimensions (and possibly a legal or administrative solution).
- A situation is unlikely to be ever defined wholly as a legal or administrative issue. The social, historical and political dimensions of a problem situation are keenly felt by members of the community, and especially so by the ones who are stakeholders in the situation. This is where social backgrounds, connections, affiliations and social status play an important and critical role in access to justice or legal empowerment issues.

- Understanding how social dynamics play a role in accessing justice is a crucial step towards unpacking the way that legal empowerment may be achieved for a community. Respondents openly acknowledge sources of empowerment (e.g. wealth, prestige, power) in their description of empowerment.
- Issues of conflict, poverty, politics and power are probably the most important aspects to be negotiated in all empowerment activities, including legal empowerment. Empowerment processes and activities are designed to redress the balance of power within social relationships, in favour of the disempowered and the disadvantaged.
- A key question that comes to mind when perusing the list of empowerment sources is how such redressing of the balance of power actually takes place, at ground level, within the community and at individual levels?
- Many of the legal empowerment activities first attempt to educate or to make people aware of key legal provisions concerning their rights and grievances. But this is only a preliminary step. It takes actual power for the disempowered groups to dislodge the balance of power in their favour in a given encounter. Such 'power' can in turn be acquired through actual increases in wealth or income, actual expansion of connections and links (and the right ones, i.e. links to people who have power), and actual increase in prestige (through becoming educated for example, or through becoming a person who knows useful things by attending the right workshops).
- Thus legal empowerment cannot take place only at the level of knowledge. There is further work to be done in terms of changing the actual circumstances and social positioning of disempowered or marginalized people, if they are to have a meaningful say or influence in the way that justice is served within the terrain of a community. This means actual social and economic development activities. However, there are some constraints to this. Where the circumstances or social positioning of a person is more intractable, greater efforts are required. If the social background of a person or community is more fixed, for example due to gender and/or ethnicity, this requires work of a different nature. Development activities alone may not be enough, though they are necessary too. What is required is a type of conscientiousness, a reordering of values. People have to be encouraged or motivated to become more powerful. But at the same time, others (e.g. members of the more powerful groups) have to be encouraged and motivated to 'let empowerment happen' by opening up the spaces for the other groups to have increased access to justice and even better justice itself (i.e. if this is to happen in a non-violent manner).
- One of the key dangers identified in the way that 'empowerment' and 'legal empowerment' are conceptualized is that these words could simply mean a shifting of who belongs to the more powerful circles, i.e. shoring up the numbers of those who are economically well-off or politically linked or socially privileged rather than challenging the status quo. This is where empowerment (and legal empowerment) is required to bring about changes in action and thinking.
- A key recognition of legal empowerment is that it requires courage, as an ordinary citizen, to insist on utilization of the law or regulations in order to address a particular situation. It requires even more courage to insist, it appears, on the principles of the rule of law, for example that of impartiality, because it reasserts the value of the equality of human beings (regardless of social background), that all people deserve to be treated as equal before the law. Making that assertion and insisting on its implementation is indeed risky because it threatens those who are already powerful. Thus true empowerment cannot be done only by the weak and marginalized. For this reason, legal empowerment activities need to

influence and mobilize strategic actors who are within middle or upper classes, or in more powerful circles.

- This means that legal empowerment activities must articulate and argue why it is important to adhere to the law and to use the law (to ensure justice for all people, for example, regardless of gender, social status, political affiliation or ethnicity), and convince many more people of these values beyond those who are marginalized or victimized.
- Government officials or professionals who are willing to evoke, enforce and abide by the principles of justice (or the rule of law) are a necessary part of the legal empowerment process.

Law and policy reform at the Asian Development Bank: Legal empowerment – advancing good governance and poverty reduction⁷²

Provides groundbreaking material for the assessment of access to justice focusing on legal empowerment as an approach to enabling access to justice.

The Asia Development Bank's (ADB) work on studying legal empowerment in 2000 provided ground-breaking material for the assessment of access to justice focusing on legal empowerment as an approach to enabling access to justice.

The ADB legal empowerment study, carried out within ADB's efforts to assess its law and policy reform activities, provides an in-depth introduction to legal empowerment as a concept, its approach and results, and also a methodology for assessing legal empowerment.

The rationale for the study is articulated as the following:

ADB believes that national and local good governance are important for its overarching objective of reducing poverty; that an accessible and responsive legal system furthers good governance; and that legal empowerment can strengthen legal systems, governance, and development. The success of development projects depends in large part on public agencies' responsible exercise of legal powers that affect the rights and interests of project beneficiaries, and on opportunities for beneficiaries to advance their rights and interests through informed participation in decision-making processes concerning the projects. Governance is best advanced where officials are sensitive and responsive to the needs, priorities, and participation of beneficiaries.

The report defines legal empowerment as the use of law to increase the control that disadvantaged populations exercise over their lives thus contributing to good governance, poverty reduction and other development goals. The study aims to bridge the gap between what the law is in theory and how it is actually experienced by the disadvantaged. The 'disadvantaged' are described as the poor as well as those who face discrimination or abuse as a result of their gender, race, ethnic identity or other personal attributes.

⁷² ADB (2000), *A multi country study of Bangladesh, Indonesia, Mongolia, Pakistan, Philippines, Thailand and Viet Nam*. Available at: http://www.adb.org/documents/others/law_adb/lpr_2001.asp?p=lawdevt.

The central goal of the report is to facilitate the ADB and other development institutions in their efforts to promote good governance and poverty reduction, and, in the larger picture, and to help disadvantaged people to obtain and claim their rights and improve their quality of life through the fulfilment of those rights.

The study aimed at exploring legal empowerment initiatives in seven countries and drew experiences from Bangladesh, Indonesia, Mongolia, Pakistan, the Philippines, Thailand and Viet Nam. The findings are based on the empirical evidence from these seven sites and bolstered by secondary evidence from other studies on the subject.

The seven-country study and supplementary research was conducted by ADB over the course of a year (2000). The methodology was developed by a group of international consultants that included seven ADB country consultants and project advisers. The study has followed methods of sharing preliminary findings with a diverse group of stakeholders, finalizing the study based on stakeholder feedback and wide dissemination, resulting in a much-referenced document that examines legal empowerment from conceptual, theoretical and practical angles.

The objective of the ADB study was to integrate legal empowerment into the projects it funds (for example, in the fields of forestry, irrigation, health, and other areas of socio-economic development) in order to improve the development impact of these projects. A second objective sought to understand how legal empowerment work can contribute to law reform, to the implementation and enforcement of laws, and to strengthening administrative and other legal mechanisms used for public decision-making. In order to achieve these objectives, the ADB study attempted to identify the most effective strategies for legal empowerment, and analyse the factors that contribute to their success.

The ADB study sets out a fundamental explanation of legal empowerment, which forms the theoretical basis for its examination of legal empowerment. The study accepts that legal empowerment is a process and a goal. As a process, it involves the use of law to increase disadvantaged population's control over their lives through a combination of education and action. As a goal, legal empowerment is about the actual achievement by the disadvantaged of increased control of their lives through the use of the law.

The study accepts that legal empowerment is similar to 'legal literacy' because although the two concepts may differ in nuance they are similar in substance and can be for the most part used interchangeably. The study uses the term 'legal empowerment' to capture the broader goal of the study which is to see how the use of the law empowers the disadvantaged, and it captures the nexus between law and socio-economic development efforts that promote empowerment and related goals.

A review of literature enables the authors of the study to conclude that an understanding of legal empowerment can be drawn from a review of literature on legal literacy and helps move beyond the common but mistaken understanding that legal literacy is simply about legal knowledge and education. The study further finds that legal empowerment is not the same as promoting the rule of law, which traditionally focuses on formal justice sector institutions with indirect involvement of and benefit to disadvantaged populations. While legal empowerment has clear rule of law implications, its focus and expectations deal directly with the circumstances and needs of the disadvantaged while looking at how law can be used to benefit

disadvantaged populations in diverse development fields, thus creating a bridge between the rule of law and socioeconomic development. This relates to how the discourse within ADB developed from looking at legal literacy as a tool for good governance and the empowerment of disadvantaged groups to looking at legal empowerment, which encompasses more than the common definition of legal literacy.

The seven-country study identifies a series of fundamental constraints to accessing justice that are largely consistent throughout Asia, such as:

- Lack of economic independence;
- Minimal understanding of law and the rights that it confers;
- Limited access to affordable legal services;
- Lack of knowledge, incentives, and resources among government officials;
- Limitations in the outreach and capacity of civil society organizations to provide legal services to the disadvantaged;
- Inconsistency between formal law and traditional values;
- Poorly drafted or contradictory laws and regulations;
- Failure to implement sound laws;
- Traditional use of law as an instrument of control (rule by law rather than rule of law); and
- Corruption.

The report finds that these constraints resulted in a ‘learned helplessness’ among the disadvantaged: a feeling of powerlessness among those whose experience leads them to conclude that traditional power relations will invariably prevent them from asserting their rights or participating in public decision-making processes. As a result, the report concludes that the disadvantaged tend to view legal reform efforts with scepticism or indifference.

The legal empowerment study also provides lessons learned from successful legal empowerment initiatives. It concludes that legal empowerment helps to advance good governance and reduce poverty by overcoming main constraints to people’s access to justice and participation in governance by resulting in the following:

- Increased awareness of rights;
- Increased knowledge of specific legal rights and issues;
- Enhanced practical legal skills;
- Increased public confidence and higher expectations;
- Greater access to the legal system and increased participation in public decision-making processes;
- Successful participation in legal implementation and government decision-making;
- Greater sensitivity, responsiveness, and accountability on the part of government officials;
- Participation in law, regulatory and budget reform;
- Improvements in material circumstances;
- Implicit legal empowerment; and
- Basic legal aid provision.

The study also identifies features of successful legal empowerment work and the environment in which such work is most likely to succeed, based on the experiences

of the seven countries studied as well as elsewhere in Asia. Broadly, these point to the following lessons learned:

- Integrated strategies show best success in advancing legal empowerment;
- Knowledge alone is insufficient;
- Organization is power because even if the disadvantaged understand their rights, they may remain powerless unless they work together to assert common interests or to protect members of their group;
- Civil society plays an important role in legal empowerment;
- Government can play an equally important role;
- Legal empowerment occurs primarily at the community level but legal empowerment can potentially have an impact at the national level;
- Legal implementation is crucial; and
- Effective legal empowerment is about legitimate self-interest.

The main recommendations are useful for the ADB and other development institutions. The final report concludes that it is best to integrate legal empowerment into mainstream socio-economic development projects. This recommendation points to the value of integrating legal empowerment work into development projects after assessing potential project performance to determine when a legal empowerment component should be included. It suggests that such a project should include legal empowerment in the project assessment and design, and identifies key actors. It also argues that legal empowerment should be flexible and incorporate various approaches.

Looking at specific approaches, the study recommends integrating legal empowerment into legal reform projects by focusing on non-judicial institutions and processes, legal operations of NGOs and collaborative partnerships between NGOs and government agencies, and looking at the implementation of the law as a priority action. The study also highlights that development agencies, when promoting access to justice, should support projects that feature legal empowerment as their focus, rather than an adjunct to work in other fields. It finally emphasizes the importance of ongoing research.

The Practical Evaluation Process (PEP) is a strategic and effective tool that comes out of the ADB study, which contributes to the discussion on how access to justice assessments should be done. The PEP is used by the ADB study to arrive at the findings and conclusions on legal empowerment based on the assessments of seven countries. The PEP satisfies the interests of development organizations in quantitative indicators that can measure the results of legal empowerment but also proposes an alternative to the indicator-driven approach. The PEP, although called an evaluation process, includes a monitoring component as well. The PEP monitors project performance in order to inform an implementer whether it is achieving its desired results. The PEP enables addressing both short- and long-term issues by monitoring short-term expectations and answering the broader 'why' questions on reasons and explanations of achievements/lack of achievements, which are both critical for legal empowerment.

The PEP is based on the rationale of thinking beyond indicators when assessing legal empowerment initiatives. It requires placing indicators in a context where they may lend themselves to certain programmes and to measure certain kinds of progress where appropriate. The PEP suggests that indicators should not dominate evaluation of legal empowerment work when they are not completely appropriate for what is being assessed.

Assessing legal empowerment programmes for the type of impact assessed in the ADB study brings out evaluation mechanisms at two levels of impact: (1) at the programme-specific level, related to the impact on organizations and individuals directly supported through funding, training, capacity building or otherwise; and (2) the indirect impact, which assesses the ripple effect—how directly-impacted persons affect those who would not otherwise be affected. This could include broader segments of a community or society, or the society as a whole.

Legal empowerment assessment mechanisms comprise qualitative and quantitative methods and should be used individually or in combination based on the nature of the programme. In legal empowerment work, quantitative methods are used to assess numerical data of services/initiatives received, as well as understanding and fulfilment of rights by percentages of populations, while qualitative methods provide data that is conducive to assessing opinions, experiences and observations as well as knowledge, skills and confidence gained.

The ADB study comprises several methods, which are briefly described below:

- Sample surveys of programme beneficiaries/participants;⁷³
- Sample surveys of broader populations, which look at the wider population beyond the beneficiaries and participants—this method would include control group surveys;
- Baseline surveys;
- Qualitative interviews and discussions with participants;
- Qualitative verification through third-party interviews;
- Verification through text analysis;
- Case studies; and
- Incorporation of evaluation planning into programme design/anticipated impact/unanticipated impact/planning of evaluation mechanisms/time-frame/resources/evaluation reporting.

In practice, the ADB study examines legal empowerment in its complex conceptual characteristics through surveys and other research tools. The primary aim of choosing these tools was to move from predominantly anecdotal reports of progress to firmer, verifiable data that can guide future legal empowerment work. The methodology proposed to explore whether and how legal empowerment best helps to reduce poverty and improve governance; illuminate important elements of successful legal empowerment work; and disseminate findings in effective ways, for use by donors, NGOs, governments, and other concerned parties. In practice the study methodology overlapped the PEP.

The methodology used in the legal empowerment study is built on two main gaps in research: (1) the sparseness of knowledge and information on legal empowerment that amounted more to anecdotal information; and (2) the paucity of empirical research on legal empowerment and its link to poverty.

73 This is accepted as the most straightforward way of assessing programmes through oral or written surveys. Surveys can generate both quantitative and qualitative data and should be administered at different intervals to ascertain effective findings. A survey at the start and end of programmes could look at levels of knowledge and surveys at the close of the programmes should include questions that focus on the technical competence of its implementation, as well as questions that measure impact. Surveys will also provide information to ascertain changes in attitudes. After the project period ends, they also provide much better information on retained knowledge, skills, or attitudinal changes initially generated by the programme.

In using applied research to fill these gaps, the legal empowerment study uses five approaches:

1. Survey research involving control populations: Surveys carried out by indigenous research institutes of statistically significant populations enabling comparison of results between communities where legal empowerment work has been carried out over time and demographically similar communities where it has not. The variables could include people's knowledge (of their rights), attitudes (toward themselves, their rights, or the government), behaviour (as demonstrated by participation in relevant processes), and material circumstances (income, health, shelter, or other measures). As important as the first two attributes are, the latter two are clearer reflections of poverty reduction. The questions in these surveys, the report states, should ideally have not focused on the legal empowerment initiatives themselves but should have assessed knowledge of key legal empowerment issues and, learning processes.
2. Survey research involving comparisons of legal empowerment initiatives: Research comparing different types of legal empowerment initiatives. This research should be cautious—so as not to affirm or dismiss different activities.
3. Comparisons of government records: Government documents, even if they do not relate clear and accurate stories, could be a sign of progress, responsiveness or people's tendency to report.
4. In-depth qualitative research at the community level to uncover nuances and insights beneath the obvious. This research complements quantitative studies and anecdotal reporting and helps build informative relationships with community residents in ways that a consultant's brief visit cannot. When carried out by indigenous actors, it may also feature far more societal insight than a foreign consultant could bring to bear.
5. "Before and after" research: Surveys on selected communities before and after legal empowerment work can generate meaningful data on the actual impact of the programme. However, there are some practical problems related to the fact that there is no guarantee that results will materialize or the difficulty in placing a time-frame for the post assessment.

Legal empowerment of the poor: from concepts to assessments⁷⁴

Provides valuable conceptual and methodological insights into the discourse on legal empowerment.

This paper, written by USAID, identifies four main tasks that legal empowerment programmes should involve: reforming the law and giving the poor a voice; providing knowledge as a means for empowerment; 'levelling the playing field' for the poor to overcome diverse barriers to resources and rights; and providing access to enforcement.

According to the paper, legal reforms and giving voice are about rights enhancement. They should be done to ensure that the poor are able to influence the development of policy and law and enhance their rights through democratic and transparent political processes. Providing knowledge as a means for empowerment is related to rights awareness and aims at making sure that the poor understand their rights and the processes by which they can be exercised and enforced. By the task 'levelling

⁷⁴ USAID (2007), *Legal Empowerment of the Poor*. Available at: http://pdf.usaid.gov/pdf_docs/PNADM500.pdf.

the playing field', the document speaks about enabling the fulfilment of rights by ensuring that the poor are able to overcome bureaucratic and cost barriers that broadly affect their access to economic opportunities and wealth generation. Lastly, providing access to enforcement is about rights enforcement, making sure that the poor can protect their rights and access to opportunities and assets through affordable and fair mechanisms for contract enforcement and dispute resolution.

Based on the above, the paper proposes a refined definition of legal empowerment for the poor: Legal empowerment of the poor occurs when the poor, their supporters, or governments—employing legal and other means—create rights, capacities, and/or opportunities for the poor that give them new power to use the legal protections and legal tools to escape poverty and marginalization. Empowerment is a process, an end in itself, and a means of escaping poverty.

The new definition expands and further specifies the following:

1. The source of the empowerment could be government or it could be the poor and others;
2. The means used may be legal or not legal (administrative, physical, and other);
3. Empowerment is not empowerment in general but empowerment to use law and legal mechanisms; and,
4. Legal empowerment is achieved through not only economic, but also social and political means.

What the paper offers in terms of methodological value is a useful measurement of legal empowerment of the poor. The approach to measuring legal empowerment is derived from the necessity to measure through quantitative means with reliable indicators.

The paper bases itself on the understanding that identifying the scope and severity of legal empowerment of the poor, deprivation among the poor would be greatly eased if one could rely on a set of reliable indicators as a basis for characterizing the state of legal empowerment of the poor.

The paper stresses the value of indicators as not only being valuable to improving donor programming in response to situations, but also in enabling donors to evaluate different situations in a consistent manner leading to greater coherence across contexts in the programming applied to remedy or add value to a given situation. Indicators, the paper finds, also significantly facilitate the ability to assess change and progress by allowing direct comparison of their states over time.

Promoting quantitative indicators, the paper finds that quantitative indicators tend to be especially attractive because they permit measuring change with greater degrees of precision and are easy to compare and record.

Objective indicators likewise facilitate comparison. Developing indicators for legal empowerment of the poor and periodically populating them with data would suggest whether a country's policies and investments are contributing to legal empowerment or disenfranchising the poor even further. Over time, such measures can be used to help countries realize the need to make corrections. Time series indicators can also suggest how committed a country is to change and even serve to motivate that change. This is especially so when several countries are measured

according to the same criteria and the results of these assessments are made public. Hence, legal empowerment of the poor indicators could have a role in forging legal empowerment of the poor where vested interests might otherwise stymie its realization.

The paper suggests that a Legal Empowerment of the Poor Index (LEP Index) can be formulated based on the new definition set forth in the same paper. The LEP Index is represented by the general equation:

Legal empowerment of the poor (LEP) = RH + RA + RE + RN

Here RH refers to Rights Enhancement, RA refers to Rights Awareness, RE refers to Rights Enablement, and RN refers to Rights Enforcement.

Conceptually, each component could be thought of as a bundle of issues represented by a set of indicators that cumulatively capture the essence of the component in its entirety for each of the four components. The measurement does not attempt to develop specific and measurable indicators, to be comprehensive nor to prioritize these. The paper provides for detailed indicators that reflect efforts to deliver legal empowerment for the poor, and those that measure the realization of legal empowerment. It is expected that this differentiation will help governments, donors, and civil society alike appreciate when their actions are yielding the expected results and when they are not. If they are not, it may be an indication either of problems in the provision mechanism, or weaknesses in terms of the poor's capacity or willingness to take advantage of what is available.

The paper accepts that developing indicators for a concept as complex as legal empowerment of the poor, even when broken down into four components (*RH*, *RA*, *RE* and *RN*), still poses important challenges as most data relating to the four components is not currently collected by countries, donors, or international bodies. The cost of collection of many of the outcome/effectiveness indicators would be formidable at a scale large enough to be a representative sample for an entire country. The paper also identifies that it can also be risky and misleading.

Making the leap from identifying the conceptual elements of legal empowerment and potential indicators to establishing a minimal but robust indicator set for legal empowerment, the paper calls for a careful weighing of the benefits and challenges in doing this, and sets out a process, through a series of steps, that would lead to its realization. A summary of this legal empowerment process is as follows:

- Conceptual work. This involves identifying: (i) legal empowerment for what sector, type, or rights, and degree of disaggregation; (ii) appropriate construction of LEP Index and components; and (iii) theoretical and functional relationship between different legal empowerment components and indicators.
- LEP assessment methodology. The paper identifies that the feasibility of constructing a legal empowerment index based on widely available data that adequately captures legal empowerment deprivation is extremely doubtful as most of the indicators set out in the paper will not be found in statistical abstracts produced with regularity in the developing world. Thus, the paper states that there is need for both a legal empowerment assessment approach and legal empowerment assessment tool to guide field level enquiry.
- Legal empowerment assessments. Much of the dialogue on legal empowerment, including this particular paper, has focused on theoretical development.

There is need to move beyond concepts to work with the poor to capture their understanding and experience of legal empowerment deprivation. Such assessments or pilots may either be used to develop and test the legal empowerment assessment methodology or be guided by it. In either case, ongoing refinement is needed.

- Surveys. Socioeconomic surveys and investment climate surveys will provide lessons on how to measure legal empowerment. These surveys already capture some of the dimensions of legal empowerment outcomes and effectiveness. Well-designed and well-focused survey instruments ask the respondent to rank perception (e.g. frequency of use, level of access, and attitudes) on a numerical scale. A comparable legal empowerment survey is feasible, asking a sample of the poor and/or representatives of organizations and agencies serving the poor to rank their perceptions on questions related to dimensions of *RH*, *RA*, *RE*, and *RN*; the rankings would form the basis for indicators to measure change over time. There would also be need to ask the same questions to the non-poor in the same country to measure and evaluate relative differences between the poor and non-poor groups.
- Longitudinal studies and expert evaluation. For the reasons above, assessing change over time holds greater value than assessments that are one-off events, capturing only single snap shots. One option is to administer the surveys to the same population of poor and non-poor at multiple points in time. However, the time and expense involved in surveys (whether qualitative or quantitative) can be considerable and beyond the means of governments or donors. An alternative approach is a trans-disciplinary expert panel that meets periodically to discuss the status of legal empowerment in a country on the basis of prevailing knowledge and to rank legal empowerment performance at periodic intervals using consistent criteria. If pursued, serious attention will need to be given to sectoral focus, group selection, methodology for assessing legal empowerment progress, and standardizing assessments to enable comparability over time.
- Piloting methodology. Regardless of the methodology chosen, there will be need for a legal empowerment assessment framework that is replicable, easy to use, and affordable if it is to have widespread application. Early piloting will be necessary to test effectiveness and achieve these objectives.

Defining access to justice to guide assessments

Many access to justice assessments carry a clear definition of access to justice, which formulate the basis of the assessment and provide clear guidance on what is being examined, assessed and understood. These definitions, however, can differ from each other, which in turn sets out a different framework or approach to the assessment.

In different assessments, for instance, access to justice is defined as:

“A person’s ability to seek and obtain fair and effective responses for the resolution of conflicts, control of abuse of power, and protection of rights, through transparent processes, and affordable and accountable mechanisms”

- Pathways to justice: Access to justice with a focus on poor, women and indigenous people⁷⁵

⁷⁵ Ministry of Justice and UNDP Cambodia (2005), *Pathways to Justice*. Available at: <http://www.un.org.kh/undp/knowledge/publications/category/pub-pathways-to-justice>.

“A process by which a range of different inter-related factors combine to enable citizens to obtain a satisfactory remedy for a grievance without, being tempted to take the law into one’s own hands”

- Justice for all: An assessment of access to justice in five provinces of Indonesia⁷⁶

“The ability of persons from disadvantaged groups to seek and obtain a legal remedy in conformity with relevant international human rights standards”

- Establishing baselines on access to justice by poor and disadvantaged people in the Philippines⁷⁷

“A human right that consists of the capacity of human beings (individuals and groups) to obtain fair and effective responses in order to protect human rights, resolve conflicts, and control the abuse of power through transparent and efficient processes, from affordable and accountable mechanisms.”

- Access to justice, customary law and local justice in Timor-Leste⁷⁸

“An assessment that goes beyond examining laws and legal structures and institutions in enabling access to justice and examines what the assessment calls ‘the sociology of the law’- law from the citizens’ perspective.”

- Philippine democracy assessment: Rule of law and access to justice (2010)

“Justice is not just about the law.” A story from Indonesia

Between 2004 and 2006, a comprehensive access to justice assessment was carried out in Indonesia by UNDP, in partnership with the National Development Planning Agency (BAPPENAS) and the Center for Rural and Regional Development Studies (PSPK) at Gadjah Mada University. The purpose of the Assessment was to examine the factors that resulted in access to justice being out of reach for certain groups in society, for reasons including levels of social or economic development, religion, gender or ethnicity. The assessment focused on five provinces of Indonesia – West Kalimantan, Central Sulawesi, Southeast Sulawesi, Maluku and North Maluku. The findings of the assessment are presented in a report entitled “Justice for All”.⁷⁹

If we approach justice as a problem that needs to be addressed, it follows that discussions will often focus on injustices. Similarly, if we consider issues of access

76 UNDP Indonesia (2007), *Justice for All*. Available at: http://www.undp.or.id/pubs/docs/Justice%20for%20All_.pdf.

77 Philippine Supreme Court, UNDP, and OHCHR (2003). Available at: <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/docs/Philippines-Baselines.pdf>.

78 UNDP Timor-Leste and the Ministry of Justice (2009).

79 UNDP Indonesia (2007). *Justice for All – An Assessment of Access to Justice in Five Provinces of Indonesia*. Jakarta, Indonesia: UNDP Indonesia. http://www.undp.or.id/pubs/docs/Justice%20for%20All_.pdf.

to justice, attention must be given to examining the factors that obstruct effective access. The key question to be answered is why certain sections of society do not enjoy access to justice and must accept injustice in their lives.

An access to justice assessment clearly involves an examination of injustices that occur in society. Such an assessment must also attempt to identify the causes of these injustices and how they manifest themselves in practice.

Issues of injustice and access to justice in Indonesia are not simply matters of law. It follows that analysing and understanding access to justice is not something that can be done by lawyers alone. Therefore, in recruiting a team to conduct an access to justice assessment, it is important to ensure that team members have a range of complementary skills and experience, and that lawyers are accompanied by those skilled in social research disciplines and techniques (for example, anthropologists and sociologists).

The formal justice sector is not the only path to justice

If we observe instances of injustice in Indonesia, which ultimately lead to the emergence of conflict, it is clear that efforts to resolve such conflict at the grass-roots level are often pursued outside courts of law. We can therefore see that in practice, the resolution of injustice is not always directly connected to the formal justice sector. For this reason, the access to justice assessment in Indonesia covered not only the state justice system, but also traditional law and other informal dispute resolution mechanisms, which exist in society. This was important, because if we only focused on the formal justice sector, we would have missed the opportunity to collect information about the alternative dispute resolution mechanisms, which exist in the community. In such a situation, it was extremely interesting to learn more about why citizens chose to resolve their disputes via informal justice systems. What is it about the formal justice system that makes the community reluctant to use it? The preferences of justice-seekers at the grass-roots level are inevitably based on reason and logic, which should be understood by actors in the formal justice system.

A representative selection of injustices

Indonesia is a vast country covering 1,904,569 square kilometres, and with a population of more than 230 million spread across 33 provinces. With such a large territory and population, there is great variation in the types of injustices citizens experience and the obstacles they face in accessing justice. For the purposes of the assessment, five provinces were chosen, the majority with a recent history of conflict. In these areas, attempting to access justice could sometimes be a risky activity, and in some cases even a matter of life or death. In order to obtain a representative sample of the types of injustices that citizens face, the selection of research areas within those five provinces was structured to ensure variation in terms of issues of gender, ethnicity, economic development and level of conflict. Then, within those areas, an effort was made to identify some of the most



Collecting data through a focus group discussion

disadvantaged groups in society, and then to focus the research on the obstacles they faced in accessing justice. At the end of this process, the disadvantaged groups that the assessment focused on included: (1) sharecrop or landless farmers in four different province locations; (2) internally displaced people in five different province locations; (3) women in three different province locations; (4) casual labourers in three different province locations; (5) *adat* communities in three different province locations; and (6) residents of slum areas or geographically isolated hamlets in two different province locations.

Quantitative versus qualitative methods



Conducting an interview with community members

Variety exists not just in the type of injustices that are faced by members of the community, but also in the causes and dynamics of those injustices. In order to ensure the appropriateness of strategies and programmes that may be developed to address a particular injustice, a comprehensive understanding of that injustice and the obstacles to justice seekers face in overcoming it is important. Therefore, in order to effectively capture such a breadth of information, the assessment employed both quantitative and qualitative data collection methods.

To get a general overview of the types of injustices that citizens face, and the ways in which they attempt to overcome them, a broad-based quantitative survey was implemented in each assessment province. The survey was then supplemented with qualitative methods (e.g. focus group discussions, in-depth interviews and group interviews) to generate a greater understanding of the general trends identified by the survey. If we had relied on quantitative methods alone, we would have been unable to develop a sufficiently deep understanding of many of the injustices facing the community, and especially the variety of informal dispute resolution mechanisms that exist outside the formal justice sector.

Building a conflict-sensitive research team

In post-conflict areas, a number of particularly sensitive issues often remain, and communities can remain vulnerable to the triggering of further conflict. Research teams operating in post-conflict areas need to be aware of and understand these issues, in order that for them to be accepted by the communities with whom they seek to work. The composition of the research teams selected to carry out the access to justice assessment in Indonesia was also determined in response to these issues, and included diversity of gender, religion and place of origin. In addition, in order to ensure adequate analysis and field research skills, research team members were drawn both from national and local universities and NGOs. Before the assessment began, team members from all provinces gathered for 10 days of team building and training, including on how the assessment sought to apply a human rights-based approach.

Quality assurance and monitoring and evaluation

The access to justice assessment included a rigorous system of monitoring and evaluation, including quality assurance. This was particularly important given the



Central Sulawesi research team members during a training workshop in Yogyakarta

capacity of local research teams, and the fact that they were spending long periods of time interacting with local communities. Periodically throughout the assessment, representatives of PSPK and UNDP would meet with research teams in the five provinces, and provide input and assistance to ensure that the quality of the assessment was maintained. In the implementation of the qualitative survey, efforts were also made to validate the data collected, by sending independent consultants to the field to make random spot checks both during and after the survey was conducted.

The end of the assessment was the beginning of important work to increase access to justice in Indonesia.

The results of the access to justice assessment highlighted the importance of paying greater attention to the justice needs of disadvantaged groups and have influenced a number of follow-up programmes both in the assessment provinces and on a national scale. As such, the assessments contributed to the agenda of ‘justice for all’ in Indonesia.

Author: Dyah Ismoyowati (University of Gadjah Mada)

Conducting assessments in complex situations

Access to justice assessments have been conducted in complex background situations; among them assessments done during and post conflict situations provide valuable insights.

People’s perspectives on access to justice: survey in LAO PDR⁸⁰

Set within the country background of over 25 years of profound social and economic changes moving the country away from a centrally planned to a market-based economy.

A recently concluded and yet to be published study conducted by UNDP in Lao People’s Democratic Republic (PDR),⁸¹ *People’s Perspectives on Access to Justice-Survey in LAO PDR, An Assessment of Access to Justice in Four Provinces in Lao PDR* is set within the country background of over 25 years of profound social and economic changes moving the country away from a centrally-planned to a market-based economy. The many opportunities created by this change in terms of economic development and poverty alleviation, regional and international integration, and increased democratic governance, has created a need to look at the justice sector and the entrenching of the rule of law in Laos. The rationale for the assessment identifies “a burgeoning of legislation has vastly increased people’s rights, as well as their responsibilities. It has

80 UNDP (2011), Survey in LAO PDR.

81 UNDP (2011), Survey in LAO PDR.

also taxed the capacity and resources of administrative and judicial bodies to ensure that officials and the public are made aware of, understand, and implement the law.”

The Lao assessment creates for itself an elaborate definition of access to justice, which includes the following key points:

- Access to justice is a key means by which to ensure that people, particularly society’s most vulnerable, are able to take more full advantage of their rights: thereby mitigating social inequalities, increasing grassroots economic growth, and buttressing social harmony and stability;
- Access to justice is a means by which to address inequalities: to advance democratic governance, increase economic development and reduce poverty, and strengthen social stability and equality;
- Access to justice describes people’s ability to understand and exercise their rights and, in particular, to seek and obtain remedies for grievances that arise in connection with the enjoyment of those rights. The types of grievances can be wide-ranging and commonly include: family conflicts, violence, theft, land disputes, debt or other economic concerns;
- Access to justice is a method or approach to inform the development of the justice sector that is grounded in the local context and respectful of people’s needs, which looks at justice from the perspective of the user, including the perspectives of the poor, marginalized or otherwise vulnerable people; and
- As such, access to justice is cognisant of what mechanisms people actually use to seek justice, and examines the use of formal, semi-formal, and informal justice mechanisms.

Based on such a concept of access to justice, the assessment had the following specific objectives:

- To inform the development of concrete actions for the Legal Sector Master Plan;
- To build upon ongoing initiatives and successes to enhance access to justice across the country;
- To assist in the prioritization of issues, locations and target groups for legal awareness activities and legal aid assistance;
- To identify what are the best methods for conducting legal awareness activities;
- To collect empirical evidence about access to justice across the country; and
- To identify additional strategies, entry points and to propose recommendations responsive to people’s actual needs in order to improve access to justice for all.

In terms of methodology, the assessment was done as a survey to gauge a representational cross-section of Lao society’s perspectives on justice and their interaction with it. The survey aimed at building upon past or ongoing reform efforts, identifying best practices, and informing and validating planned activities or implementation strategies, including that of the Legal Sector Master Plan. The survey was developed on the basis of a review of the specific context in Lao PDR, interpreted in light of general principles of Access to Justice, as well as accepted social surveying methodology

The main partners in the assessment for UNDP were the Ministry of Justice and the Lao Bar Association.

The survey was conducted in four different geographic areas in Lao PDR and each area was linked to a specific geographic, historical, cultural, and linguistic part of the

country. In each area, one province was selected and within each province, three villages each in two districts formed the survey sample.

The tools and methodology have been developed in collaboration with civil society organizations, UN Agencies, and the Ministry of Justice. At the community level, the main tools used to carry out data collection included: interviews with the members of 24 village committees; interviews with the members of 24 village mediation units; semi-structured interviews with 38 service users; 130 gender-segregated focus group discussions; and 600 individual interviews. The team spent four to five days per village.

The field survey occurred simultaneously in the four provinces; after the harvest but before the beginning of the following agricultural season, so as to ensure villagers' availability and participation. Each team was composed of one representative from the local Department of Justice, two ethnic researchers/facilitators, two students from the National University, and two interpreters (and the survey was done in seven minority languages).

The study examines the formal context of the justice sector in Lao set within a rights framework of formal and informal or customary laws and government, judicial, and administrative institutions. It also looks at social and cultural organizations and constraints, which might impact upon access to or the exercise of rights and this includes a special focus on marginalized groups.

The quantitative and qualitative findings of the survey look at the knowledge or awareness of the public of the law and justice mechanisms, as well as the specific justice issues that concern them as a whole—and, in particular, women and children. The study also addresses the question of the public's access to, or ability to interact with, the justice system including the level of participation in and effectiveness of legal awareness-raising activities, as well as the role of facilitating personnel. Physical, social, cultural, and administrative barriers to remedies are also highlighted as well as public experience and perception or confidence in justice institutions and officials, including its potential affect on future choice of forum.

Access to justice assessment in Aceh

The people of Aceh suffered a 30-year conflict and the tsunami, which together killed more than 200,000 people and devastated the lives of another million. In response, UNDP Indonesia with BAPPENAS conducted a comprehensive access to justice assessment in Aceh between 2006 and 2007 and found a range of challenges that constrained the ability of formal and informal justice providers to handle grievances effectively. According to the assessment, a majority of Acehnese people preferred the informal justice mechanisms available in their communities over the formal justice system to resolve their disputes. At the same time, the informal justice system had various challenges, such as lack of knowledge and capacity of the informal justice leaders, absence of guidelines and common standards, discrimination against

women and other vulnerable groups, ambiguity in jurisdictional divisions with the formal system, and insufficient accountability safeguards. Therefore, the assessment recommended engaging with the informal justice system in Aceh to improve the quality of justice delivered to people in the communities.

Based on these findings, UNDP Indonesia implemented the “Adat (customary or informal) Justice Enhancement Component” as part of the Aceh Justice Project (2007-2011) in partnership with the Aceh Customary Council. The project developed and distributed the Informal Justice Guidelines, and trained thousands of informal justice practitioners (including some 500 female leaders) on these guidelines and case management. The Guidelines and trainings have clarified the jurisdiction, processes, and actors of the informal justice system while fostering respect for human rights principles in culturally sensitive ways. For UNDP and BAPPENAS, working to improve the informal justice systems is not intended to diminish the importance of the formal justice systems. Rather, it has been carried out based on recognition—as confirmed by the assessment—that most people in Aceh preferred and used this system, and thus we could not increase access to justice in the target areas without improving the informal justice system. Indeed, the access to justice assessment in Aceh played a critical role in developing an innovative and successful programme on informal justice in Aceh that was supported by strong ownership from the local institutions and communities.

Author: Ahjung Lee, Programme Analyst, Democratic Governance Unit, UNDP Indonesia

Access to justice during armed conflict in Nepal (2005)

This is recognized as the first comprehensive study of access to justice during the armed conflict in Nepal.

In September 2004 an independent team of researchers was commissioned by UNDP to analyse how armed conflict had affected access to justice for poor and disadvantaged people in Nepal. The goal of the study was to find possible strategies to strengthen their access to justice in the context of armed conflict.

The study was set against the background of Nepal's conflict, which started in 1996, and the human rights crisis that the country was facing. The study accepted that access to justice should be an essential component of any peace and development effort in Nepal. It was said to be vital not just in the medium to long term, but in the short term as the situation in Nepal demanded urgent responses.

As a starting point, the study accepted that the most critical requirement to prevent deterioration in access to justice was the cessation of hostilities and the initiation of a peace process, as the prolongation of conflict would only weaken further the state's capacity to ensure justice and build peace in the future. Together with a negotiation process, the study identified that more immediate strategies are necessary to strengthen access to justice and prepare the grounds for peace. This would involve minimizing restrictions on fundamental rights and on the media, investigating and to prosecuting cases of grave violations of human rights, particularly incidents involving multiple violations; and monitoring human rights violations during the armed conflict. The study also noted that a paradigm shift in development assistance

is needed, given the changed conditions of access to justice in Nepal, and sought to provide some specific recommendations for action.

The goal of the study was to analyse the impact of the armed conflict in Nepal on access to justice by poor and disadvantaged people, and to suggest possible strategies to strengthen access to justice in the current context.

There were specific research objectives set out during the assessment:

- To understand and analyse the role of formal and informal justice systems at the community level in situations of conflict;
- To understand and analyse the experiences of different providers of justice-related services (such as judges, prosecutors, lawyers, police, traditional leaders and civil society organizations); and the experiences of poor and disadvantaged users (such as *dalits*, internally displaced people, bonded labourers and poor women from female-headed households);
- To identify specific challenges faced in the context of the conflict by both providers of services and disadvantaged users in their efforts to ensure remedies or to gain access to justice remedies;
- To examine the type of strategies these actors have developed to overcome the obstacles caused by conflict, and the extent to which they succeed in securing access to justice; and
- To provide recommendations on priority areas to strengthen access to justice, suggesting possible capacity development strategies that build on local strengths and solutions.

The conceptual approach to the research was a human rights-based approach to development, within the limitations of time and budget allocated for the research. For the purposes of the research, the UNDP definition of access to justice was used: “access to justice is the ability of people to obtain remedies and settlements in conformity with human rights principles and standards.” The analysis thus looked at the legal and institutional framework governing the justice system, as well as the capacities of users and providers of justice services.

The normative framework guiding the research was explicit; human rights as recognized by international treaties and constitutions and the choice of the human rights framework responds to the Kingdom of Nepal’s international and constitutional obligations, and to UNDP’s own mandate as a UN agency.

In terms of methodology, the research used participatory methods to bring out illustrative voices of poor and other disadvantaged people, and of key providers of justice services. The research, conceived as a pilot study, sought to build on their experiences, perceptions and knowledge.

The project undertook two levels of research covering eight months: 1) field level research, and 2) legal and policy level research. A ‘process-monitoring framework’ was developed by the research team to monitor the research process from a rights-based perspective.

The legal research used both doctrinal and non-doctrinal methodology. Doctrinal methodology included a review of international human rights instruments to which Nepal is a state party, and the Nepali laws and institutions relevant to access to justice and justice system. Non-doctrinal methodology included interactions, discussions and in-depth interviews with 15 people from different 12 institutions.

The field research was carried out in three districts representing different regions where armed conflict was experienced with different levels of intensity. The three districts were also significantly different from each other in terms of terrain, demographics and ethnographic profile. Selection of research sites took into consideration the security of researchers, and the availability of networks to reach both users and providers of justice services. More than 400 respondents were selected to ensure a maximum representation of poor and disadvantaged users of the justice system and of different providers of justice-related services. As regards the users, preparatory field visits identified three or four potential disadvantaged groups per district, with the assumption that these groups may differ from one district to the other. An equal representation of male and female respondents was maintained throughout the study. The age factor was also dealt with by seeking respondents from three age sub-categories.

The research tools used for primary data gathering were qualitative, consisting of in-depth interviews, focus group discussions, site observation and informal sessions. For secondary data various sources were reached at national, district and village level. The main sources of quantitative data included the Supreme Court, the National Human Rights Commission, the police, district government offices, civil society organizations and NGOs active in target locations, international NGOs, and UN agencies.

The key research findings are outlined below:

- Using justice processes has a number of associated potential risks, such as substantial economic/financial loss, death/physical reprisals, ostracism/stereotyping, mental trauma/mental distress, loss of social support, loss of livelihood, delayed decision, non-implementation of decision, and uncertainty of justice procedures.
- Disadvantaged people are those who are relatively more exposed than others to the risks of justice, or who are less able to afford these risks. The three main factors that influence exposure to risks are: (1) status of the victim, (2) type of crime/offence, and (3) status of the perpetrator.
- People in Nepal who are disadvantaged in their access to justice include the poor and other groups such as people from the lowest castes, people who have been internally displaced by the conflict, illiterate people, non-Nepali-speaking people, ethnic and religious minorities, and indigenous peoples. Within these groups, women, children and elderly people are particularly disadvantaged.
- With regard to the type of crime, victims of rape and gender violence, victims of torture and of other crimes committed by the parties to the conflict, and people labelled as Maoists are also at a greater disadvantage in terms of access to justice.
- With regard to the status of the perpetrator, crimes and offences by rich and powerful individuals, and crimes committed by Maoists and by the security forces may increase the risks of justice for the victims.
- Groups who were traditionally disadvantaged in their access to justice in Nepal have also been the most affected by the present conflict. Their insecurity has further deteriorated, while new grounds for insecurity have appeared. In addition, the conflict has created new groups of people who are disadvantaged in their access to justice, such as internally-displaced people and relatives of alleged Maoists.
- As a result of conflict, poor and disadvantaged people feel a greater distrust towards both formal and informal mechanisms of justice, and they are also less able to use them.

The research generated several recommendations for UNDP programming such as:

- To have a proper understanding of the priorities of poor and disadvantaged groups, by using the findings of this research and consulting with poor and disadvantaged users systematically when defining priorities;
- To diminish the extent of 'capture' in programmes and to involve a wider range of relevant counterparts and organizations;
- To recognize traditional systems of justice, and work with them to strengthen their capacity to respect basic human rights standards;
- To conduct systematic and independent impact evaluations of expensive forms of support such as 'study tours' and information technology equipment;
- To revise programmes and indicators;
- To better integrate access to justice issues into other UNDP programmes (e.g. the anti-trafficking programme under the gender portfolio and the programme on pilot courts);
- To integrate legal empowerment approaches in programmes that are not related to justice (e.g. community forestry); and
- To integrate these issues into UNDP's justice portfolio with specific initiatives such as support for Pilot Courts and for court-referred mediation and community mediation.

Sri Lanka access to justice assessment⁸²

This Sri Lanka assessment was halted by the government due to "security concerns during the military conflict in Sri Lanka."

In Sri Lanka, an assessment of access to justice launched by UNDP (*Equal Access to Justice Project*) in 2008 was prematurely stopped due to external issues beyond the control of the project. Despite not recording conclusive findings, the proposed assessment included several methodologies that warrant discussion.

The assessment was undertaken in order to facilitate the development by government and partners of interventions that address the gaps in the justice system. An assessment was needed to identify the capacities and obstacles of citizens to access the justice system and the capacities of the police, courts, prisons, legal aid services and others to provide justice.

The UNDP *Equal Access to Justice Project* thus commissioned a comprehensive nationwide assessment made up of qualitative and quantitative components. The assessment was based on field research in 23 districts in Sri Lanka and comprised a desk review, survey and a series of focus group discussions as the primary tools.

The study included quantitative and qualitative components and focused on vulnerable groups, looking at both their capacity to access justice and on the capacities of service providers to deliver justice and will look at the whole justice process from the occurrence of a grievance to the provision of remedies. The findings and the process itself were expected to support national partners in the design of a national action plan for providing equal access to justice.

Quantitative data were generated through a household survey of approximately 4,500 vulnerable people conducted by a partner, UNOPS. Another partner was to work closely with all partners and stakeholders in the process to assist with the

82 UNDP Sri Lanka (2008), Unpublished notes from the UNDP Equal Access to Justice Project.

design of the qualitative and quantitative parts of the survey, and take the lead on the qualitative data collection. The qualitative component was to include a series of focus group discussions (estimated 100-300 discussions, with approximately 10 people per group) and in-depth interviews.

The framework for the assessment was to follow a human rights-based approach—ensuring participation, accountability, equality and non-discrimination. This meant that along with conducting participatory consultations and information gathering sessions, the assessment team would also share information and hold awareness-raising sessions with participants. A continuous process of feedback from these sessions was expected to channel to the local and national authorities.

The main components of the assessment were an assessment of service providers and an assessment of vulnerable groups, which were defined in the terms of reference.

1. Service providers: A mapping of the justice sector for this sector looked at what the informal and formal institutions are in the justice sector from occurrence of grievance to point of remedy. In addition, it was charged to identify dispute resolution mechanisms at the community, district, provincial and national levels and to identify the actors within these institutions and the types of powers they hold. The group also identified and analysed the (a) positive factors (what is working) and (b) obstacles (what is not working) for service providers in both formal and informal systems to fulfil their obligations. The assessment also aimed to identify awareness, perception and understanding of human rights by the justice sector actors; identify accountability mechanisms that prevent abuse of authority by service providers; and identify incentives and disincentives to ensure responsiveness to those seeking access to justice.
2. Vulnerable groups: In terms of vulnerable groups, the assessment aimed to identify the types of grievances faced by the different vulnerable groups (including estate workers, conflict-affected groups, female-headed households, pre-trial detainees, etc.); identify the priority areas for different groups; and analyse structural problems that contribute to grievances (the conflict, poverty, gender-based discrimination, discrimination based upon ethnicity, denial of citizenship rights, etc.).

The assessment also aimed to identify and analyse the positive factors (i.e. what is working?) and obstacles (i.e. what is not working?) for disadvantaged people to access the justice sector to have their grievances redressed. It also sought to identify awareness, perception and understanding of human rights and the justice system by vulnerable groups; identify coping mechanisms developed in the absence of recourse to formal justice mechanisms; and to identify sources of conflict that emerge out of the lack of access to justice mechanisms.

The purpose of the desk review was to:

- Identify actors in the justice system (formal and informal), including but not limited to: groups at the grass-root level (alternate dispute resolution mechanisms); local authorities including local government officials and religious and community leaders; police force and prosecution; prison system; court system, including administrative courts; legal aid providers; lawyers; and bar association;
- Review existing access to justice projects in Sri Lanka to identify additional mechanisms and initiatives being supported;

- Take stock of and evaluate available statistics; and
- Collect data/information from interviews with justice sector service providers (including prisons, police, legal aid, etc.)

The household survey questionnaire was finalized and administered in two districts of Sri Lanka when the assessment was halted by the government due to “security concerns during the military conflict in Sri Lanka.”

Experiences of an assessment during times of conflict: the Sri Lankan story

In Sri Lanka, the access to justice assessment initiated by UNDP with two implementing partners, UNOPS Applied Research Unit (ARU) and a local NGO, the Social Indicator, was stopped prematurely.

Justice is rightly equated with equity. Access to justice is also, by definition, as much a political process as it is a legal one. As such, studying issues of equity and justice within a country torn by an ethnic war fuelled by socio-political inequalities, can often pose a serious challenge. It was such a challenge that faced the *Access to Justice Survey* in Sri Lanka, and eventually also played a part in halting the process prior to its completion.

Issues of access to justice are considered sensitive in Sri Lanka, particularly as allegations of impunity and challenges to the rule of law are widespread. Thus, the design of the study was a particularly delicate one; one which needed to capture data to inform and strengthen the Securing Equal Access to Justice Programme, but at the same time needed to be cautious and in many ways aspired to be as apolitical as it could possibly be.

In order to achieve this, UNOPS-ARU advised UNDP at the onset to target all districts in the country and not restrict the study to war-affected areas only. Not only did this provide the study with more credibility, but it also noted, quite rightly, that vulnerabilities vis-à-vis the justice system are relative: vulnerabilities thus depend on a number of variables including gender, class and status and cannot or should not be restricted to ethnicity as would have been the suggestion if only the North and the East of Sri Lanka had been targeted.

Despite the conscious attempts made in this regard, and the move to make the Sri Lankan Government (through the Ministry of Constitutional Affairs) an active partner in the process right from the onset, the study began to encounter problems when implementation began. Researchers noticed that this was mainly due to the fact that despite carefully drafted questions leaving out more controversial areas, these very issues related to the state of human rights emerged regularly during the course of interviews. This was clear even in areas not directly affected by the war, and issues of discrimination and lack of due process were consistently raised by the respondents.

The war had also resulted in the setting up of vigilance mechanisms within almost all villages and towns. These vigilance committees were responsible for reporting any seemingly new or suspicious activity within their jurisdictions. Thus, in several areas the researchers were faced with having to report to the authorities, after tip-offs were given by members of such vigilance committees. Authorities were overwhelmingly unaware of the study, and despite researchers displaying UN identity cards and written authorization from the Ministry of Constitutional Affairs, authorities queried the absence of local-level permission for the purposes of the assessment. This in turn resulted in several instances where the safety and security of the researchers were severely compromised.

Further, due to the complex nature of the sampling framework designed to purposively sample various groups within defined geographical areas, seeking out one ethnicity/group to the exclusion of another was often a tricky matter requiring considerable diplomacy and persuasion skills on the part of the researchers in order to prevent intra-group conflict and potential security threats to the researchers themselves. In relation to this, it must be noted, that while assessments are often considered to be outside the framework of project interventions, in a conflict-ridden environment, the research element required for an assessment can in itself be viewed as an intervention. As a result, care must be exercised that this intervention does not change or bring about a new dynamic in already tenuous circumstances.

The process captured suggestions for risk-mitigation when conducting access to justice assessments in conflict-affected areas.

- Partnering with the government or other parties directly controlling the situation in the country may be vital in order to secure access to all areas and ensure smooth running of the assessment. In Sri Lanka, given the nature of the political hierarchy, it would have been wise to seek permission from higher authorities right from the onset through UNDP's partner the Ministry of Constitutional Affairs.
- Implementation partners should be carefully selected so as not jeopardize the process or raise questions with regard to the credibility of findings.

In Sri Lanka, apart from the UNOPS-ARU, several other non-governmental partners were also involved in implementing separate segments of the assessment. In hindsight, less controversial partners should have been chosen. Or, since UNOPS-ARU in Sri Lanka provides this neutral platform within the UN, all activities should have been conducted through it in order to minimize confusion in the field as well as to ensure consistent findings and analysis.

- Introductory meetings with officials should be held in all implementation areas to allow for smooth operation on the field.

In Sri Lanka, meetings should have been held with the bureaucracy, members of the police/armed forces in order to inform them of the process and ensure support on the field.

- Complexity of questionnaire and sampling framework.

In a conflict-affected country, an assessment of this nature would have ideally needed a far simpler sampling framework and assessments tools. The vetting of the design process in Sri Lanka included too many players, all who were seeking to collect data as a result of the process. Many diverse demands for information were condensed into one tool at the risk of complexity and dilution of topics covered. Ideally, from both substantive as well as operational perspectives a

concise and clear questionnaire (or any other data collection tool) would have been preferable. This is also vital within the context of a country such as Sri Lanka, within which war affected communities continue to be subject to regular assessments leading to survey fatigue. Survey fatigue is exacerbated by the fact that results and purposes of assessments are seldom clearly conveyed to the communities after collection. Thus, communities are left wondering how the information they provided informed a larger process. The lack of two-way information sharing resulted in many communities becoming highly disengaged with assessment processes in general.

Author: Krishna Velupillai (UNOPS Sri Lanka)

Chapter 6

Chapter 6

Tools for access to justice assessments

Access to justice assessments can use a range of tools for data and information gathering and analysis. These include tools for gathering quantitative and qualitative data and information and formats for analysis. This chapter sets out details of tools used by assessments over the past decade and provides examples of such tools.

1) Surveys

Surveys can be carried out to understand needs, existing systems, actors and means of improving access to justice. Specific tools include household surveys, needs assessments, analysis of formal and informal institutions, justice needs surveys, attitudes and perception surveys. The tools that can support surveys are sampling techniques, questionnaires, manual and computer-based databases to produce data tables, graphs and charts and analysis systems.

2) Focus group discussions

Focus group discussions are structured discussions with selected sources of information, which are a good means to collect qualitative information. Tools for focus group discussions would be guiding questions, which are open-ended. Analysis is made easy where information is coded and can be done manually or with computer-based systems.

.....

An incredible amount of qualitative data and real life stories that emerged during the research processes of the access to justice assessments undertaken in Indonesia. But these were merely reduced to a paper-form final report, which faced the inevitable constraints of editing and simplification. Had there been alternative forms of capturing the knowledge and data (e.g. documentary, picture-story books, journalistic articles, topical publications,) the assessment findings could have been better used for public education on access to justice issues. One consideration that is valuable in conducting access to justice assessments is to identify creative approaches and greater efforts to capture and utilize the real life stories and rich data from the research processes in forms beyond a printed final report.

Ahjung Lee, Programme Analyst, Democratic Governance Unit, UNDP Indonesia

.....

3) In-depth interviews

In-depth interviews with key informants (or those who know best) provide detailed information on the specifics of access to justice. The main tool for in-depth interviews is a list of guiding questions. The information gathered should be organized through a coding system (manual or computer-based) for easy analysis.

4) Expert interviews

In-depth interviews with experts provide a depth of information that is important to understating formal and informal systems of justice delivery as well as gaps, constraints and challenges. As in any in-depth interview the main tool for in depth interviews is a list of guiding questions and the

information gathered organized through a coding system (manual or computer-based) for easy analysis.

5) Geographic analysis

This analysis provides quantitative data on the environmental issues that impact access to justice. A structured questionnaire for information gathering and content analysis of existing data are the ideal tools for a geographic analysis.

6) Capacity assessments

These provide in-depth information on structures of justice delivery. Capacity assessments involve a range of tools such as surveys, in depth interviews and infrastructural and financial analysis.

7) Institutional monitoring

An effective means of assessing the needs of justice is through monitoring of formal and semi-formal institutions of justice. A tool to be used is a well-structured monitoring guide.

8) Key informant interviews

This subjective method of information gathering is different to the primary data gathering tool described as key informant interviews. This is an ideal method of testing or corroborating previously collected information. The tools for this has to be specially designed with a series of specific questions administered uniformly.

9) Verification process

Assessment methodologies should include detailed verification processes. This involves feedback of information to sources via structured workshops and meetings, key informant interviews, expert interviews. This also involves the appointing of a special team member for monitoring of process.

10) Examples of tools⁸³

1. Access to Justice Questionnaire (Viet Nam);
2. Access to Justice Survey Questionnaire (Viet Nam);
3. Applying HRBA to Access to Justice Assessments (Indonesia);
4. Case Study Format (Indonesia);
5. Consultative workshop agenda (Timor-Leste);
6. Court User Questionnaire (the Maldives);
7. Data Recording Format (Indonesia);
8. Do No Harm Note (Indonesia);
9. Field and Training Guide (Indonesia);
10. Guide Questions to interview authorities and institutions at field level (Timor-Leste);
11. Guide to Focus Group Discussions with Selected Disadvantaged Groups (Indonesia);
12. In depth Interview Guide (Indonesia);
13. Justice Survey Questionnaire (Sri Lanka);

14. Legal Knowledge, Attitudes and Perceptions Survey;
15. Note on Methodology (the Maldives);
16. Note on Participation and Empowerment (Indonesia);
17. Participatory Research Guide (Timor-Leste);
18. Prioritising Disadvantaged Groups (Indonesia);
19. Public Perception Questionnaire (the Maldives);
20. Questionnaire to interview Prisoners (the Maldives);
21. Questionnaire to interview Professionals (the Maldives);
22. Socio Economic Baseline Survey Questionnaire (Sri Lanka);
23. Survey Questionnaire for ADR Minorities and Indigenous People (Cambodia);
24. Survey Questionnaire for ADR Operators and Clients (Cambodia);
25. Survey Questionnaire for Communal Authorities (Cambodia);
26. Survey Questionnaire for Justice Sector (Cambodia);
27. Survey Questionnaire for Women (Cambodia).

Using a public survey-based instrument to measure justice system performance: a case study from Viet Nam

.....

After embarking on economic reforms (known as ‘*đổi mới*’ or ‘renovation’) in 1986, in 1991, Viet Nam undertook to build a socialist rule of law state. The early 1990s also saw the first UNDP-led project involving other donors to support the building of a legal framework and institutional reforms in a country which had previously been run by administrative directions from the Party, rather than by laws.

The first comprehensive assessment of Viet Nam’s progress in legal and judicial reform was undertaken by the Government in 2001, with the support of UNDP and other donors. The *Legal Needs Assessment* involved the establishment of a number of working groups made up of government officials, academics, researchers and lawyers who produced detailed reports and recommendations, which were in turn to lead to the formulation of national strategies for legal and judicial reform (as well as supporting formulation of donor programmes, of which UNDP’s own 2003-2009 Legal System Development Strategy project presents a good example).

However, the assessment process did not engage the wider public in its study, therefore, there was neither public input or opinion nor socio-legal studies or research carried out to find out to what extent 10 years of legal reform had changed people’s lives, enhanced their awareness of laws or justice, or their trust in the justice system. This reflected a wider trend in Vietnamese policymaking, which historically tended to be based on discussions among elites—including government officials, researchers from universities and government research institutes, and to a lesser extent international experts funded from donor projects—rather than on social science research, whether quantitative or qualitative.

More broadly, notwithstanding innovations in the late 1990s, such as the establishment of free legal aid in all provinces and of administrative courts to check the legality of executive actions, Viet Nam's national policies on legal and judicial reform tended to place more emphasis on the vision of law as something to be used by the Government for better (clearer, more transparent) governing of the people, rather than as a tool in the hands of the people to improve their own lives or to bring the Government to account, and some commentators have categorized Viet Nam as a rule-by-law state rather than a rule-of-law state.

The idea of a public survey-based instrument as a measure of the performance of the justice system therefore combines three related but distinct objectives. One is to provide independent evidence of how well the system is working in practice, rather than relying on elite perceptions. Another is to underscore the message that the legal system is there to help the people use the law to solve their problems and protect their rights, and that the people's view of whether it is working is what counts. A third is to encourage participation and create space for citizens to express their views.

The 2003 survey of access to justice from the people's perspective

In 2003, UNDP undertook the first *Survey of Access to Justice from the People's Perspective* on its own initiative. The intention was to measure popular awareness of and trust in laws and legal/judicial institutions as a benchmark of the degree to which the legal/judicial reforms of the previous decade had established a system, which was relevant, trusted and accessible for the people whom it was designed to serve, and to publish the findings. It should be noted at this point that the survey was not designed as part of project formulation—UNDP's latest legal/judicial project was already formulated, approved and in its early stages of implementation.

By conducting questionnaire-based research over a representative population sample, the survey was intended to produce data and objective research findings which could highlight gaps or deficiencies in the legal system which had not been sufficiently identified through the Government's own analysis. As noted above, it was also intended to underscore the message that the people, not the state, are the beneficiaries of the justice system, so that its performance must be measured from their perspective.

The survey was designed to cover a population sample with a particular focus on the most vulnerable groups such as ethnic minorities and poor people, and covering rural as well as urban communities. Accordingly, 1,000 questionnaire-based interviews were conducted in six provinces across Viet Nam—two urban, two rural, two mountainous, covering the mountainous North West, the Red River delta, Hanoi, the central mountainous plateau, Ho Chi Minh City, and the Mekong delta. Fifty-two percent of respondents were women (in line with national population structure). The population sample over-represented key target groups, especially the poor (53 percent of respondents), and ethnic minorities (23 percent of respondents compared with 16 percent in the general population). A full breakdown of respondents is set out at Annex 1 attached.

The 100 or more questions were designed to test the following four main dimensions:

- Awareness of the legal system: To what extent did respondents know about laws and legal reforms? Where did they obtain legal information from, and to what extent did they participate in discussions about law reform?

- Access to judicial institutions: Which institutions did citizens regard as relevant for resolving their legal problems? Did they turn to courts, to local government officials, to mediation, to the police or to village leaders?
- Access to supporting institutions: How did ordinary people use legal aid and lawyers' services in practice?
- Trust in judicial institutions: which institutions did people trust most?

Notwithstanding UNDP's long and close cooperation with the Government of Viet Nam on rule of law and access to justice, this survey was not conducted under the National Implementation Modality project portfolio. This would have required that the Government give its formal support and endorsement to the survey, which (if obtainable at all) would have come at the expense of the independence of the survey team and some of the more challenging questions (such as those measuring citizens' trust in judicial institutions). Accordingly, although informally Government officials expressed interest in and support for the project, it was conducted at UNDP's initiative and funded outside the project portfolio.

The Survey's results were analysed and published by UNDP in 2004 report. The report was shared widely with Government agencies and donors, and UNDP received informal, positive feedback, including from the Minister of Justice. The report provided, for the first time, independent and objective data on the main challenges in legal system reform for the UN in its work in Viet Nam. It had less impact, however, in terms of the Government agencies, which still displayed a reluctance to use data outside official Government channels. Typically, therefore, its findings have been cited in the UN's own analytical work, those of other donors (e.g. the World Bank) and in independent scholarly research, but not in the Government's own reporting.

The updated survey (2010)

In 2005, the Politburo of the Communist Party of Viet Nam published an official Legal System Development Strategy to 2010 with a vision to 2020 (LSDS), as well as a Judicial Reform Strategy to 2020 (JRS), which comprehensively—although at a high level of generality—set out the official directions for legal and judicial reform.

In 2010, with UNDP's support, the Government and National Assembly conducted a review of the first five years of implementation of the LSDS, including reports from the responsible government bodies and also from independent experts. Once again, however, the official process did not include any public opinion survey instruments.

As a result, UNDP undertook an independent review to update the survey based on the same questionnaire and sampling framework used in 2003. The direct comparison of the changes in response to the same questions was intended to provide an indicator of the impact of five years of implementation of the LSDS and JRS in terms of people's awareness of, access to, and trust in legal and judicial institutions. In this way, the updated survey was intended to provide an independent and evidence-based input into the Government's own reflections. It was also intended to underscore the UN's messages of the importance on focusing on outcomes (improving society's knowledge of law, use of law, trust in law and justice) rather than narrow inputs (number of judges trained) or narrow outputs (number of new laws passed), and the importance of hearing directly from the people, including women, poor, ethnic minorities and vulnerable groups, about their experiences of the system.

The updated survey was conducted in the summer of 2010, and preliminary results were shared with a wide group of Government, civil society and donor participants at the UNDP-Ministry of Justice Annual Legal Partnership Forum in September 2010 (a number of key findings were subsequently reported in the mass media). However, as the questionnaire-based survey could produce only quantitative data—what people thought, but not why they thought it—UNDP went on to arrange (with the assistance of its project partner, the Viet Nam Lawyers Association) a series of focus group discussions in the six provinces to explore the survey findings and reflect on the reasons behind them. In each province, separate focus group discussions were conducted over the winter/spring 2010-2011 with groups of claim-holders and duty-bearers (representatives of departments of justice, judges, police, prosecutors etc.) to discuss the findings and record reactions and reflections on them.

This stage of the process demonstrates the advantages of UNDP's project portfolio, which stress policy dialogue and advocacy. Although the research was not conducted by a government agency (as discussed above), its policy dialogue forum with the Ministry of Justice enabled the findings to be widely disseminated to government agencies as well as donors and others, while the partnership with the Viet Nam Lawyers Association (an organization which is non-governmental but whose membership includes most Government legal personnel) enabled the organization of focus groups with officials at local levels to get their feedback on the survey findings.

The last stage will be a workshop at central level in Hanoi with a wide spectrum of policymakers to present the survey's findings as well as reflections from the consultative process. It is envisaged that the final report, incorporating both quantitative and qualitative aspects, will be published by UNDP by the end of 2011.

Challenges

The team faced many challenges when conducting the 2003 survey and the 2010 updated survey, such as:

- **Access to respondents:** In Viet Nam, independent researchers, unless acting in a government project or under the umbrella of a government agency, need to inform and in many cases to obtain the approval of local authorities in order to access members of the public directly and conduct interviews, especially on politically sensitive topics such as legal and judicial reforms and in rural and mountainous areas. Such approval is necessary not only to ensure that local authorities do not interfere with the research, but also because without such approval respondents would feel reluctant to cooperate and might self-censor their responses. At the same time, in order to ensure objectivity in survey design and implementation, UNDP wanted to conduct the survey using independent researchers. Accordingly, the independent research team had to seek cooperation from the local government agencies in each province to conduct the survey. This would not have been possible without UNDP's official support to the survey. The research team stressed UNDP's overall mandate to support legal and judicial reform in Viet Nam together with its long history of cooperation with central government agencies to convince local authorities that the research project could legitimately be supported, even in the absence of any direct documentation from central agencies supporting the research.
- **Population sample:** The research team used a mixed methodology to combine pre-defined sample frame with random sampling. At first, public information (as

for urban areas) and/or recommendations from village heads and other local business and community leaders (as for rural areas) were obtained by researchers to draw up the lists of those to be interviewed, ensuring that the population sample met the predefined criteria in relation to gender, profession and ethnic origin. People of different ages or income levels were then randomly selected from the list in line with the predefined target quotas. The reliance on local leaders to provide lists provided a pragmatic and feasible approach, at the expense of a more rigorously scientific random sampling methodology.

- **Perception versus experience:** In Viet Nam, as in most countries, relatively few people have actual experience using judicial institutions to resolve disputes. For instance, only eight percent of respondents had actual experience with courts, and only three percent had direct experience of prosecutors (as compared with over 60 percent who had engaged local government in resolving dispute). Most survey questions relating to trust in the institutions, in terms of reliability, fairness and efficiency, therefore reflected perceptions that were rarely based on actual experience. As a result, this weakened the evidentiary value of the tool in relation to the actual performance of the institutions. This emerged from the qualitative stage (focus groups) during which many respondents displayed considerable scepticism about the findings—scepticism which was voiced even by the research team itself. For instance, findings that legal and judicial reforms had had positive outcomes were felt to reflect overall improvements in public administration or standards of living generally, rather than providing a reliable indicator of positive change.
- **Capacity:** Conducting public opinion surveys on access to justice requires a combination of two specialized skill sets: (1) legal skills (related to the content of the questionnaire) and (2) social science/fieldwork skills (related to methodology). Field work research capacity in Viet Nam is relatively low, and finding researchers with both sets of skills is a particular challenge, particularly when so little scientific and objective research has been carried out to international standards in the legal/judicial field in Viet Nam.

The Vietnamese research team was very strong on legal skills and experience, but weaker in relation to social science methodology, particularly when the survey was first conducted in 2003. This had an impacted on the sampling framework and questionnaire design. This presented a methodological problem for the 2010 survey update. On the one hand, it presented an opportunity to apply a more rigorous scientific approach to methodology, but this in turn made it more difficult to achieve the objective of updating the 2003 baseline, because using different questions and a different population sample would have made it very hard to compare the results of the 2010 and 2003 surveys.

This capacity gap was also reflected within UNDP itself, which had strong capacities on substantive questions of legal and judicial reform, but had weaker in-house capacities in relation to social science research and methodology.

- **Impact:** As mentioned above, socio-legal research and public opinion surveys are rarely conducted by the government, and even more rarely conducted according to international methodological standards. While UNDP chose to resolve this by conducting its own study with independent researchers, this approach makes it correspondingly harder to achieve impact from the study's findings on policy makers. It is too early at this stage, with a central-level workshop not yet organized, and the report not yet finalized and published, to assess the success of the updated study in this respect.

- **Sustainability:** Similar questions need to be posed about the sustainability of this kind of exercise. Essentially, in terms of both impact and sustainability, in an environment where evidence-based policy-making and grass-roots participation are not yet mainstreamed, such exercises are undertaken to try to generate interest from policymakers and an appetite for further work in the future – there is an element of risk involved.

The future

UNDP Viet Nam is committed to the principle of supporting evidence-based, published data about public services from the perspectives and experiences of the people, and to create space for citizen's feedback on key governance issues. Since 2009, and for the first time in Viet Nam, UNDP has supported a broader survey-based instrument, the Governance and Public Administration Performance Index (PAPI), measuring citizens' interactions and experiences across a range of issues related to governance and public administration, including corruption, red tape and the quality of health and education services. PAPI uses a fully randomized sampling methodology which has been carefully developed with international expertise. It was pilot tested in three (out of 63) provinces in 2009, and conducted in 30 provinces in 2010, and it is to become a countrywide index including all 63 of Viet Nam's provinces from 2011 onward. PAPI was itself inspired by the need to provide a reliable and objective measure of progress in the public administration reform process, and builds on the success of the Provincial Competitiveness Index. This Index has been conducted every year since 2005 among the business community, producing public data on the business-friendliness of different local administrations at the provincial level, and creates a competitive environment to be a high-scoring province, which in turn increases both awareness of and impact of the survey.

PAPI addresses many of the challenges set out below.

- **Access:** Research is conducted with the support of the Viet Nam Fatherland Front (VFF), an umbrella group for mass organizations with close links to the Party, which assists in securing cooperation from local authorities with the survey and dissemination. The VFF is a highly vertically integrated organization, present at every level from the grassroots in every commune (and village) right up to the centre, where its leadership has strong connections to Party leadership. This enables PAPI to obtain central-level approval for the survey (both as to methodology and content), which can then be implemented in every survey location throughout the country.

At the same time, the actual survey work is conducted by an independent research organization, according to a scientifically valid random sampling methodology, so that the objectivity and independence of the fieldwork is not impaired. Because the approval for the survey is centrally negotiated, researchers were not dependent upon negotiation with local authorities at the grassroots level, and could therefore implement a randomized and nationally consistent sampling frame, unlike the 2003 and 2010 survey teams.

- **Capacity:** The research organization has worked closely UNDP's in-house expertise through the policy advisory team and international social science survey experts who have extensive experience conducting this type of research in Viet Nam as well as in other Asian countries. Now in their third year of conducting PAPI, the Vietnamese members of the research team have developed considerable

capacity in conducting this type of research, and continue to work under the close guidance of UNDP's policy adviser and international experts.

- **Perception vs. experience:** The PAPI survey focuses mostly on experiences, as it aims to capture citizens' interactions with local authorities at different levels and issues.
- **Impact and publication of results:** A website was created at www.papi.vn where all background information, analysis, reports and data is publically available. PAPI has also received significant media coverage.
- **Sustainability and impact:** PAPI is still entirely donor-funded, and while the annual publication of survey findings has aroused considerable interest from government, party and media alike, it is too early to talk about impact. However, there are good examples of data collection initiatives, which were once donor-funded become mainstreamed into government practice. For instance, the *Viet Nam Household Living Standards Survey* was introduced and fully funded by UNDP in the early 1990s, and is now fully undertaken and funded by the government without donor participation.

UNDP is therefore currently exploring the possibility to use the resources and advantages of PAPI as a platform for a survey-based instrument for the justice sector—a Justice Performance Index (JUPI). JUPI would use the same sampling frame as PAPI, the same partnership with the Fatherland Front, and the same human resources, thus addressing many of the core challenges with the previous surveys, at less cost than attempting to build up a parallel survey instrument from scratch.

Initially the intention was to develop a module of justice question, which could be added on to the existing PAPI process, essentially to minimize cost. Therefore, a very small (20 minute) questionnaire model was developed for JUPI and piloted in three provinces (452 respondents from different demographic background and randomly selected) in late 2010. The expert team who developed the questionnaire brought the legal experts from the survey/update together with social scientists from PAPI including an expert who carried out a major access to justice survey in China in 2003–2005. This questionnaire sought to address some of the other challenges experienced in the survey/update.

- **Perception/experience:** The questionnaire no longer asked perception-based questions, based on the very limited evidential value of such responses (perhaps the most important lesson learned from the Survey/Updated Survey). However, dealing with this problem remains the most significant challenge, given that (as noted above) few respondents are likely to have actual experience of using formal judicial institutions, so that experience-based questions are also unlikely to provide useful data.

The solution adopted to this problem, which had previously been tested in a major access to justice survey in China conducted in 2003–2004, was to use a hypothetical vignette setting out a typical problem likely to be familiar to all respondents, and to see how they would go about addressing such a problem if they faced it, with a ranking order (from the institution/solution path they would be most likely to use down to the least likely). This enabled more focused and concrete data indicating the level of trust/accessibility of institutions than had been provided by the previous perception-based questions.

The questionnaire also tested for actual experience (focusing on land disputes, the ways respondents chose to resolve them and their satisfaction levels).

Confirming other findings, actual experience of solving such disputes was very low— around five percent.

- **Legal awareness:** The original and updated surveys attempted to measure popular awareness through general questions about laws (how often have you accessed a legal document? How easy was it to understand? Have you ever participated in the law-making process? What is your level of familiarity with the court/procuracy/police? The problem with such questions is that laws and legal institutions are highly technical anywhere, and very few citizens actually read laws, have participated in law reform, or have a detailed understanding of the way they work. What is more important is that citizens know their rights and they know where to go to enforce them. To different approach is required to generate data about these questions.

Therefore, to test legal awareness, the JUPI questionnaire included a legal knowledge test requiring respondents to say whether 11 statements about legal rights and duties were true or false. The questions were selected to have clear right or wrong answers on issues close to citizen's daily lives —labour, land, family and similar issues. This approach provides a more concrete indicator of the impact of government and other programmes to improve legal awareness on key issues touching ordinary citizens.

The questionnaire was also tested in focus groups before being administered in the pilot provinces to ensure that the questions were clearly understood, regarded as appropriate, etc. The results from the pilot study were interesting and encouraging. The major finding was that the set of legal issues which respondents face is too diverse to be adequately sampled through a 20-minute module. Accordingly, the idea of a simple justice module bolted on to PAPI was abandoned. As a result, the expert team is now designing a full-length questionnaire, modified to take account of the lessons learned from last year's pilot, which it is hoped to conduct in late 2011 or early 2012.

Another issue for discussion is whether the survey should be designed to enable cross comparison between different provinces or national administering. The advantage of producing data at the provincial level (as with PAPI) is that the survey can generate a sense of competition between provinces to be one of the best provinces, and in turn, this increases the level of interest in and impact of the survey itself, while the data can still be aggregated to produce national level information.

Some lessons learned and recommendations

Assessing justice through public-opinion surveys is hard. Unlike public goods like healthcare and education, which touch on the lives of every citizen, only a minority of any country's citizens have actual experience with using public institutions to resolve legal problems. Furthermore, in countries like Viet Nam, citizens more often turn to informal contacts, local government, village leaders or mediators to resolve legal issues than to lawyers or courts. Designing a questionnaire that captures the variety of paths to resolution and the institutions involved, and designing the appropriate sampling and surveying methodology, both present highly sophisticated challenges, which require a combination of social science/fieldwork as well as legal expertise.

This underscores the need for international social science expertise to be working closely with local experts who understand the cultural and institutional context of the local justice sector. UNDP usually has good connections to the latter, but weaker

experience with the former. Equally, in many countries local capacities for social science research are likely to be weaker than local legal expertise.

Furthermore, it must be frankly admitted that there are few examples of good practice to learn from. Many survey instruments in relation to rule of law or justice have tended to concentrate on the formal judicial system and the business sector, where objective data are perhaps easier to come by. Fashioning a survey which is relevant to the needs of the poor and marginalized in developing countries is a much more sophisticated endeavour.

This relates to the larger issue that rule of law and access to justice development work is difficult, especially in middle-income countries, and within the scholarly community there is still considerable debate about the effectiveness of it and the best ways to do it. As a knowledge organization, UNDP also needs to move upstream and play a stronger role in supporting this emerging scholarship, not only by bringing different practitioners together to share experiences (which was done successfully by APRC in 2010 and through this case study exercise), but by taking the exercise to the next level and supporting academic research on the methodological and epistemological challenges involved in the notion of measuring access to justice through public opinion surveys.

In addition, UNDP at central and regional level should devote resources, in partnership with other rule of law development organizations, to identify the small pool of real expertise and document relevant experiences, and to support further academic research and international conferences to develop our theoretical and practical understanding in the field, and to disseminate this expertise throughout the country and around the world. The political sensitivity of such exercises presents a major challenge. Legal and political reform are closely linked; governments often wish to keep control of the justice system; publishing data which reveals citizens' view of the system, and which is based on the premise that citizens (and not governments) own the justice system, presents challenges both to the ability to conduct such exercises, and to achieve official recognition and impact of the findings. The provincial competitiveness approach of PCI, now adopted by PAPI and possibly by JUPI in the future, presents one response to this challenge.

UNDP and other relevant partners at regional/central level should also document different strategies to generate impact from surveys, whether through national debates and/or government adoption and action on findings.

The question of sustainability also remains to be addressed. This is perhaps less of a concern for access to justice assessments which are conducted as part of project/programme formulation, but the aims of the survey and JUPI were different: not just to help identify the problems which need to be solved, but to produce follow-up data in repeat surveys to track progress against the benchmark, and to publicize the results in order to encourage a more transparent, inclusive and evidence-based debate on justice sector reform.

UNDP at regional/central level should gather examples of successful integration of these kinds of data collection exercises into regular government-owned and financed statistical programmes, in the way that was achieved in Viet Nam with the Household and Living Standards Survey.

Lastly, flexible means of project implementation need to be devised. The Viet Nam experience would not have been possible under traditional Country Office structure and project modalities. These initiatives emerged from a fluid partnership of UNDP in-house national and international experts using both national and global informal expert networks, taking inspiration from other UNDP initiatives (PAPI), designing and funding the survey outside our NIM project portfolio, but also using NIM projects as a platform for dissemination of the research findings to policy makers. This flexibility, and the synergy between NIM projects and the policy advisory team, which is part of our Country Office Structure, are important features of UNDP's governance work in Viet Nam.⁸⁴ We think it highly relevant for consideration in other countries, particularly middle-income countries where the basic legal and institutional framework is in place, and the challenge is to support more effective, transparent and people-centred realization of citizens' rights and accountability through that framework. In such contexts, public opinion surveys on justice—notwithstanding their considerable challenges—surely have an increasing role to play.

Author: Nicolas Booth (Policy Advisor for Rule of Law and Access of Justice, UNDP Viet Nam)

References

Alternative Law Groups and Social Weather Stations (2008). 'Research on the Poor Accessing Justice and the Alternative Law Groups as Justice Reform Advocate'. *Inroads Study Series No. 4*, Social Weather Stations (SWS).

Anderson, M.R. (2003). 'Access to Justice and Legal Processes: Making Legal Institutions Responsive to Poor People in LDCs'. *IDS Working Paper 178*, Institute of Development Studies, United Kingdom. Available at: <http://www.ids.ac.uk/files/Wp178.pdf>.

Asia Foundation and Asian Development Bank (2003). *Access to Justice for the Urban Poor*.

Asia Foundation, UNDP Sri Lanka, and UNHCR Sri Lanka (2009). *Assessment of Legal Aid Sector in Sri Lanka*. Sri Lanka: The Asia Foundation.

Asia Foundation and United States Agency for International Development (2004). *Law and Justice in East Timor – A Survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor*. Audian, Dili, Timor-Leste: The Asia Foundation. Available at: http://asiafoundation.org/pdf/easttimor_lawsurvey.pdf.

Asia Foundation (2007). *Promoting Improved Access to Justice – Community Legal Service Delivery in Bangladesh*. Bangladesh.

—— (2008). *Twentieth National Public Perception Study Report*. Bangladesh.

—— (2009). *National Public Perception Study Report*. Bangladesh.

Asian Development Bank (2000). *Law and Policy Reform at the Asian Development Bank – Legal Empowerment: Advancing Good Governance and Poverty Reduction*. Metro Manila, Philippines: Asian Development Bank. Available at: http://www.adb.org/documents/others/law_adb/lpr_2000_1.pdf.

—— (2005). *Technical Assistance for legal Empowerment for Women and Disadvantaged Groups*. Metro Manila, Philippines: Asian Development Bank.

—— (2010). *Access to Justice for the Urban Poor: Toward Inclusive Cities*. Metro Manila, Philippines: Asian Development Bank.

Basnyat, A. (2005). *Lessons Learnt from Access to Justice Assessments in the Asia-Pacific Region*. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

Buendia, E., and Wong, R. (2003). *Establishing Baselines on Access to Justice by Poor and Disadvantaged People in the Philippines*. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

—— (2003). *Guidelines for Participatory Consultation on Access to Justice*. United Nations Development Programme.

Buscaglia, E. (2001). *Justice and the Poor. Formal vs. Informal Dispute Resolution Mechanisms: A Governance-Based Approach*. Washington, D.C.: World Bank.

Commission on Legal Empowerment of the Poor and United Nations Development Programme (2008). *Making the Law Work for Everyone: Report of the Commission on Legal Empowerment of the Poor*.

Dung, L.T. (2003). *Legal Needs Assessment – Building Ownership and Partnership for Legal Reform in Viet Nam*. Ha Noi, Vietnam: UNDP Vietnam.

Gramatikov, M. (2010) *A Handbook for Measuring the Costs and Quality of Access to Justice*. Antwerpen, Belgium: Maklu Publishers.

Golub, S. (2003). *Beyond Rule of Law Orthodoxy – The Legal Empowerment Alternative*. Washington, D.C.: Carnegie Endowment for International Peace.

—— (2010). *Legal Empowerment Working Papers*. Rome, Italy: International Development Law Organization.

Graca, A.P. (2009). *Sri Lanka Country Assessment*. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

Jayasundere, R., and Rudge, Z. (2007). 'Legal Empowerment Survey Concept Paper: The Asia Foundation Law and Justice Program'. The Asia Foundation.

Kathmandu and Bangkok SURFs (2003): 'Practice in Action - Workshop Report'. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

Kavadi, S., Kulkarni, S., and Bhoptakar, G. (2007). *Strengthened Access to Justice: Mapping Informal Justice Systems in Maharashtra*. Pune: National Centre for Advocacy Studies and Indian Institute for Para Legal Studies.

La Salle Institute of Governance and United Nations Development Programme (2003). 'Background Paper Access to Justice Indicators in the Asia-Pacific Region'. Working paper, La Salle Institute of Governance, Metro Manila, the Philippines. Available at: <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/docs/AccessToJusticeIndicators.pdf>.

Masser, Adam L. (2009). 'A Measurement Methodologies for Legal Empowerment of the Poor'. Discussion paper, UNDP Oslo Government Centre, Oslo.

Mhatre, S., Andersson, N., and Ansari, N.M. (2002). *Access to Justice for the Women of Karachi*. Project Report. Ontario, Canada: CIET Canada.

Ministry of Justice and UNDP Cambodia (2005). *Pathways to Justice – Access to Justice with a focus on Poor, Women and Indigenous People*. Phnom Penh, Cambodia: UNDP Cambodia.

Ministry of Justice and Home Affairs, Open Society Forum, and UNDP Mongolia (2005). 'Access to Justice Needs Assessment Report'.

Office of the United Nations High Commissioner for Human Rights (2006). *Rule of Law Tools for Post Conflict States: Mapping of the Justice Sector*. Geneva, Switzerland: Office of the United Nations High Commissioner for Human Rights.

Ramanathan, U. (2010). *India Country Assessment*. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

Regional Consultation on Access to Justice Assessments (2010). Hosted by the UNDP Asia-Pacific Regional Centre. Bangkok, Thailand 7-8 October.

Reiling, D., Hammergren, L., and di Giovanni, A. (2007). *Justice Sector Assessments Handbook*. Washington, D.C.: World Bank.

Roy, R.D., Hossain, S., and Guhathakurta, Dr. M (2007). *Access to Justice for Indigenous People in Bangladesh*. Dhaka-1000, Bangladesh: UNDP Bangladesh.

Salih, M. (2009). *Legal Empowerment of the Poor: Lessons learned from Indonesia*.

Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems (2009). *A Handbook for Measuring the Costs and Quality of Access to Justice*. Available at: <http://measuringaccesstojustice.com/index.php /basicconcepts>. Last accessed 16 September 2010.

United Nations Development Programme (2003). *Operationalising the Practice Concept: Visioning Workshop Report*. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

— (2004a). 'Access to Justice: Practice Note.' Available at: http://www.undp.org/governance/docs/Justice_PN_English.pdf. Last.

— (2004b). *Lessons from Operationalising the Practice Concept*. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

— (2004c). *Lessons on Applying a Human Rights-Based Approach to Development programming*.

— (2005). *Programming for Justice: Access for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

— (2009). *Regional Assessment*. The Asia-Pacific Rights and Justice Initiative. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme.

— (2010). *Integrating Legal Empowerment of the Poor in UNDP's work – A Guidance Note*.

— (2011). 'People's Perspectives on Access to Justice - Survey in LAO PDR, An Assessment of Access to Justice in Four Provinces in Lao PDR'.

UNDP Cambodia (2005). 'Pathways to Justice – Access to Justice with a focus on Poor, Women and Indigenous People'. Phnom Penh, Cambodia: UNDP Cambodia. Available at: http://www.un.org.kh/undp/media/files/p2j_en_chapter1.pdf.

UNDP India (2007). *Mapping Informal Justice Systems in Madhya Pradesh*. National Law Institute University, Bhopal.

UNDP Indonesia (2007). *Justice for All – An Assessment of Access to Justice in Five Provinces of Indonesia*. Jakarta, Indonesia: UNDP Indonesia. Available at: http://www.undp.or.id/pubs/docs/Justice%20for%20All_.pdf.

UNDP Maldives (2007). 'Survey on Access to Justice'.

UNDP Nepal (2005). 'Access to Justice during Armed Conflict in Nepal'.

UNDP Sri Lanka (2008). 'Access to Justice Assessment Notes'. Equal Access to Justice Project. Available at: http://www.undp.org/governance/docs/Justice_PN_English.pdf.

UNDP Timor-Leste (2009). 'Strengthening the Justice System in Timor-Leste: UNDP Justice System Programme Update'. Available at: 74.119.210.141/sites/.../5be57d7ef5dd07b2a60ce38bc9f1b3ce.pdf.

UNDP Viet Nam (2004). Access to justice in Viet Nam - Survey from a people's perspective.

_____ (2010). 'Access to Justice in Vietnam'. An ongoing and unpublished document.

United Nations Office for Project Services in Sri Lanka (2008). *Equal Access to Justice Baseline Survey Preliminary Results presentation*.

United States Agency for International Development (2007). *Legal Empowerment of the Poor: From Concepts to Assessment*. Washington, D.C.: United States Agency for International Development.

World Bank (n.d.). 'Access to Justice Topic Brief'. Available at: <http://go.worldbank.org/ZELBVA60W0>.

— (2005). *Legal Empowerment of the Poor: An Action Agenda for the World Bank*. Washington, D.C.: The World Bank.

— (2006). *Note on Justice for the Poor Programme*. Washington, D.C.: The World Bank.

Appendices

1. Access to Justice Questionnaire (Viet Nam)
2. Access to Justice Survey Questionnaire (Viet Nam)
3. Applying HRBA to Access to Justice Assessments (Indonesia)
4. Case Study Format (Indonesia)
5. Consultative workshop agenda (Timor-Leste)
6. Court User Questionnaire (The Maldives)
7. Data Recording Format (Indonesia)
8. Do No Harm Note (Indonesia)
9. Field and Training Guide (Indonesia)
10. Guide Questions to interview authorities and institutions at field level (Timor-Leste)
11. Guide to Focus Group Discussions with Selected Disadvantaged Groups (Indonesia)
12. In depth Interview Guide (Indonesia)
13. Justice Survey Questionnaire (Sri Lanka)
14. Legal Knowledge, Attitudes and Perceptions Survey
15. Note on Methodology (The Maldives)
16. Note on Participation and Empowerment (Indonesia)
17. Participatory Research Guide (Timor-Leste)
18. Prioritizing Disadvantaged Groups (Indonesia)
19. Public Perception Questionnaire (The Maldives)
20. Questionnaire to interview Prisoners (The Maldives)
21. Questionnaire to interview Professionals (The Maldives)
22. Socio Economic Baseline Survey Questionnaire (Sri Lanka)
23. Survey Questionnaire for ADR Minorities and Indigenous People (Cambodia)
24. Survey Questionnaire for ADR Operators and Clients (Cambodia)
25. Survey Questionnaire for Communal Authorities (Cambodia)
26. Survey Questionnaire for Justice Sector (Cambodia)

ANNEXES



ANNEXES

TOOLS USED IN ACCESS TO JUSTICE ASSESMENTS

1. Methodology notes

- a. Applying HRBA to Access to Justice Assessments (Indonesia)
- b. Do No Harm Note (Indonesia)
- c. Note on Participation and Empowerment (Indonesia)
- d. Prioritising Disadvantaged Groups (Indonesia)
- e. Note on Methodology (The Maldives)
- f. Participatory Research Guide (Timor Leste)

2. Survey questionnaires

- a. Survey Questionnaire for ADR Minorities and Indigenous People (Cambodia)
- b. Survey Questionnaire for ADR Operators and Clients (Cambodia)
- c. Survey Questionnaire for Communal Authorities (Cambodia)
- d. Survey Questionnaire for Justice Sector (Cambodia)
- e. Survey Questionnaire for Women (Cambodia)
- f. Court User Questionnaire (The Maldives)
- g. Public Perception Questionnaire (The Maldives)
- h. Questionnaire to interview Prisoners (The Maldives)
- i. Questionnaire to interview Professionals (The Maldives)
- j. Legal Knowledge, Attitudes and Perceptions Survey (Sierra Leon)
- k. Justice Survey Questionnaire (Sri Lanka)
- l. Socio Economic Baseline Survey Questionnaire (Sri Lanka)
- m. Access to Justice Questionnaire (Vietnam)
- n. Provincial Justice Index Questionnaire (Vietnam)

3. Interview and discussion guides

- a. Guide to Focus Group Discussions with Selected Disadvantaged Groups (Indonesia)
- b. In depth Interview Guide (Indonesia)
- c. Guide Questions to interview authorities and institutions at field level (Timor Leste)
- d. Consultative workshop agenda (Timor Leste)

4. Formats for capturing data and case studies

- a. Case Study Format (Indonesia)
- b. Data Recording Format (Indonesia)



ANNEXES 1

Methodology Notes

Applying HRBA to Access to Justice Assessments (Indonesia)

ACCESS TO JUSTICE ASSESSMENT AND RIGHTS BASED APPROACH TO DEVELOPMENT¹

Introduction

This document presents a short and concise overview of:

- How the Access to Justice Project assessments by field researchers relate to a rights based approach to development
- What a “Human Rights approach to Development” is, and
- How to apply it in the Access to Justice Project assessments by field researchers and in development planning.

The intention is to provide a quick and easy reference and introduction to the Field Researchers of the Access to Justice Project assessment.

Human Rights Questions for Adat

1. While adat dispute resolution is undoubtedly the most accessible system of justice by the community, it does not specifically guarantee compatibility to basic international human rights standards.
2. While these rapid and accessible forms of informal dispute resolution are preferable to the courts, their independence, neutrality or whether they favor the interests of the poor and marginalized could also be biased.
3. The traditional systems have not yet evolved to provide better access by specific groups including women, young people, minorities, and the very poor within the community.
4. Little is known of the effects of ethno-religious violence on traditional structures and how they function *vis-a-vis* village minorities or in terms of bridging issues resulting from inter-communal grievances. How does adapt discriminate and how does it resolve inter-communal grievances?

What does the Access to Justice Project contribute?

Community level access to justice needs and priorities require greater attention and understanding to ensure synergies between reform of state institutions and increased availability and accessibility of the justice systems to the majority of Indonesians.

¹ Adapted from *Programming for Justice: Access for All – A Practitioner’s Guide to a Human Rights-Based Approach to Access to Justice (UNDP 2005)*

The absence of base line data, clear entry points, interventions sensible to local needs and cultures, etc. leads to a lack of evidence-based policy prescriptions to build effective lobbying and advocacy strategies at sub-national and national levels.

In conflict prone and post-conflict contexts, the limited number of programmes with a focus on strengthening people's access to justice at community level and the capacities of claim holders and duty bearers have tended to be designed with a limited understanding of local particularities and needs.

This project addresses this gap by seeking to devise strategies to increase access to justice at the local level, and to complement and enhance the national governance reform agenda by defining a longer-term programme, which will improve access to justice for the poor and conflict affected communities.

How does the Access to Justice Project relate to Human Rights?

The Access to Justice project covers two major activities:

1. An access to justice assessment, and;
2. Capacity development of selected civil society organizations to engage in access to justice activities in five provinces in Indonesia.

One of the purposes with the Access to Justice Project is to Identify strategies and entry points to improve access to justice at the local level and to improve the quality of the justice system. This means that the project relates to Human Rights standards in two ways.

Firstly, the assessment will help developing a strategy for how the justice systems can be made available to the poor and disadvantaged by understanding how their needs, capacities and problems relate to Human Rights standards.

Secondly, the assessment will help in developing a strategy for how the justice system can be improved in relation to Human Rights standards by identifying the impact of conflict on the capacity of the justice system to deliver speedy, fair and impartial justice, particularly for the poor and disadvantaged.

The UNDP Definition of Access to Justice

The mapping exercise in the Access to Justice Project is based on UNDP's framework for action on access to justice. Such a framework views access to justice as **“the ability of people, particularly from poor and disadvantaged groups, to seek and obtain a remedy through formal and informal justice systems and in accordance with human rights principles and standards”**.

This definition sets the project in the human rights context by providing the normative framework for how to evaluate adequacy and quality of the justice systems, be it formal or non-formal.

What are Human Rights?

Human rights may be defined as:

- Universal legal guarantees,
- that belong to all human beings, and
- that protect individuals and/or groups
- from actions and omissions of the State and some non-State actors
- that affect fundamental human dignity.

Human rights are legal guarantees against actions and omissions

Human rights are, in addition to principles and values related to human dignity, also a legal framework of entitlements and obligations. Whenever there is a right there is a duty and that is reflected in that every particular right has claim-holders and duty-bearers.

The duty-bearer mainly consists of the State as the State is generally the most powerful actor in relation to social relations, and therefore has the greatest influence on human rights.

Individuals also have responsibilities to contribute to the realization of human rights, as they have duties to other individuals and to the communities to which they belong. All people have the obligation to contribute to the realization of human rights and these obligations are set by national legislation. Therefore, the State should have both the will and the necessary capacities to respect, promote and fulfill its own obligations, and to ensure others within its territory do so as well.

As legal norms, human rights specify a series of actions that need to be taken, or that should not be taken at all in the exercise of power or authority.

Human rights are universal

Human rights belong to all human beings simply because they are “human”. This is known as the “universality” of human rights.

Human rights protect individuals and groups

Human rights may protect an individual or a group of individuals defined in some way, such as minorities and indigenous peoples.

Human rights refer to fundamental human dignity

It is generally true that all human beings would like to enjoy human rights fully (e.g. to food, to work, to life, to a fair trial, protection against torture and slavery), and that nobody would want to be deprived of them. These aspects of human wellbeing are universally valued to the extent of being considered fundamental to human dignity.

Fundamental Points to Understand Human Rights

1. According to human rights law, everyone has responsibilities.
2. Human rights are **minimum** and not maximum standards.
3. Human rights do not dictate how a State should apply particular rights.
4. Human rights protect differences and cultural diversity.

5. The collective or group through which human rights are exercised is as important in human rights thinking as the right of the individual.
6. The West is not the guardian of human rights: all nations and regions of the world are.
7. Implementing human rights is about cooperation, looking for ways of building the capacity of states to protect and promote rights.
8. Some restrictions are permissible, but they must be well justified, applied only as far as required under the circumstances and only for as long as strictly necessary.

Who makes the Human Rights?

The international legal system, as outlined in the Charter of the United Nations, is built around a community of States. The law which governs that system, therefore, is principally for, by and about States. As such, it is the States themselves that make the rules, through the development of custom, through the development of treaties and through the development of declarations, bodies of principles and other similar instruments. States agree on the content of these sources and agree to be bound by them. In the case of human rights law, while it is individuals and groups which are protected, it is the conduct of States (and State actors) which is regulated.

Where do Human Rights “rules” come from?

Human rights norms and standards are derived from two principal types of international sources:

- Customary law
- Treaty law

Customary law

Customary international law (or simply “custom”) is international law which develops through a general and consistent practice of States, followed because of a sense of legal obligation. In other words, if over a period of time States perform in a certain way because they all believe that they are required to do so, that behavior comes to be recognized as a principle of international law, binding on States, even if not written in a particular agreement. Thus, for example, while the Universal Declaration of Human Rights is not in itself a binding treaty, certain provisions of the Declaration are considered to have the character of customary international law.

Treaty law

Treaty law includes the law of human rights as set out in many international agreements (treaties, covenants, conventions) collectively developed and signed and ratified by States. Parties to these instruments are legally bound by them.

How are Human Rights enforced?

Primarily, human rights enforcement is a function of the State in enforcing national legislation. The international community has weak mechanisms of enforcement, such as special bodies created by human rights treaties, or special structures within the UN system that can exercise political pressure. The UN Security Council may decide on the use of force, and the recently created International Criminal Court provides certain mechanisms for judicial enforcement.

Is there a hierarchy of rights?

Human rights are interrelated and there is no hierarchy of rights. All rights are an expression of various aspects relating to human dignity, and therefore no right can be denied on the grounds of realizing other human rights first or instead. This does not mean that priorities cannot be established between human rights as many human rights have a positive impact on other human rights.

The Capacity of the State and Human Rights Realization

It is a common fact that the realization of Human Rights is not without costs. So how is that reflected in the international human rights framework, taking into account the differences in available human and financial resources?

The international human rights framework recognizes that the State complies with its obligations as long as it *strives to ensure that human rights are respected for all*, within the State's available natural, human and financial resources –including resources coming from development cooperation. However, the State is under the *obligation to prove that maximum progress is made given the constraints it faces*.

Access to Justice and a Human Rights Approach to Development

The two main causes of preventing the realisation of human rights are the lack of political will and insufficient capacities. Whereas “human rights monitoring” seeks to foster political will, a human rights approach to development seeks to develop capacities accordingly. A human rights approach to development views access to justice as being a fundamental right, as well as a key means to defend other rights.

There are two advantages of applying a Human Rights approach to development:

- 1. It provides a normative baseline for policies and programmes²**As human rights protect the basic wellbeing of all persons it highlights the importance of inclusion and attention to all groups affected by development policies and programmes.
- 2. It enhances the capacity to demand accountability**
A human rights approach seeks to develop people's capacities to demand accountability in two ways: First, by defining a minimum scope of legitimate claims (human rights) that people can use to demand accountability; and secondly, by enhancing accountability mechanisms and processes (e.g. the justice system).

People who are least able to influence decision-making in a particular context are also the ones most at risk. As a consequence, they are likely to fall deeper into poverty. This breeds frustration with the system, constituting a fertile ground for violent conflict.

² UN Common Understanding on a Human Rights Approach to Development, Stamford, USA 2002

Human rights define a minimum basis for *legitimate demands and obligations* related to people's wellbeing. This basis aims to empower poor and other disadvantaged people, and to strengthen democratic governance.

As Indonesia is bound by international Human Rights charters, people can use human rights as legitimate demands for accountability.

Key features of rights-based programming for access to justice

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

- Situates an access to justice problem in the context of a human rights/legal framework
- Analyses 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 capable to respond
- Assesses the capacity of both the claim holders and the duty bearers to address the problem and ideally, ensures capacity development strategies for both sides
- Attempts to establish participatory processes where those who are suffering the problem are free and meaningfully involved

Examples of Human Rights that Define Legitimate Demands for Accountability

- The right to life
- Freedom from torture and cruel, inhuman or degrading treatment or punishment
- Freedom from arbitrary arrest or detention
- The right to a fair trial
- Freedom from discrimination
- The right to equal protection of the law
- Freedom from arbitrary interference with privacy, family, home and correspondence
- Freedom of association, expression, assembly and movement
- The right to seek and enjoy asylum
- The right to a nationality
- Freedom of thought, conscience and religion
- The right to vote and take part in government
- The right to just and favorable work conditions
- The right to adequate food, shelter, clothing and social security
- The right to health
- The right to education
- The right to property

- The right to participate in cultural life
- The right to development

How to Apply a Human Rights Approach in Development Programming

The operationalization of a Human Rights Approach is called Rights Based Programming (RBP). It consists of the integration of human rights principles and standards into all stages in the program development process:

- In assessment and analysis
- In objective formulation
- In the design of capacity development strategies
- In implementation of programs
- In monitoring and evaluation

For the Access to Justice Field Researchers this involves the following four particular tasks:

1. **Identifying what specific results should be pursued in line with a human rights framework in a particular situation**
2. **Identifying who the claim-holders and the duty-bearers are in that situation**
3. **Identifying their specific claims and obligations**
4. **Identifying the specific capacity problems they face to exercise those claims or to fulfill those obligations**

Some tips regarding assessment and analysis:

- **Think on terms of problems, not institutions.** The entry point is the problem, the question who is entitled to the solution of these problems (claim holders) and who is obliged to solve the problem (duty bearers). Don't be confined by the boundaries of 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/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 obtained through a participatory process, using adequate techniques for poor and disadvantaged groups. For guidance on applying 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 of people who will gain the most from the achievement of the goal. Without this step there is a risk that programmes and projects 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 duties.** Where there is a right, there is also a duty, and 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 focus 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.

The Importance of the Initial Assessment for Rights Based Programming

Human Rights Programming applies five guiding principles to ensure an adequate development process. Whereas the guiding principle of **linkage to human rights standards** helps in identifying where problems exist which requires special attention during the assessment, the initial assessment is also essential in providing sufficient data to enable capacity development. The **human rights framework provides guidance** on access to justice problems in at least three ways:

- Generally, it provides a *broad roadmap for development goals* (e.g. equality before the law)
- Human rights standards provide *much more detailed guidance* on specific obligations for selected duty-bearers (such as the police and prisons)
- Human rights help to define the *scope of remedies* (e.g. there is a right to free speech, hence there should be a remedy when such a right is not respected)

The following guiding principles all rely on a proper assessment to enable the necessary capacity development:

Participation cannot be realized without knowing the existing organizational capacity, access to information, institutional characteristics and factors relevant to creating capacities for participation.

Accountability cannot be realized without knowing the specific obstacles that duty-bearers face to exercise their obligations, and how to develop capacity to overcome them.

Empowerment cannot be realized without knowing the specific capacities people have to claim and exercise rights in a particular situation. Only with that knowledge can the capacity needs the people have be targeted and addressed. Empowerment is the process by which the capacities of people to claim and exercise rights grow.

Finally, the guiding principle on **non-discrimination, equality and attention to vulnerable groups** cannot be followed if the assessment does not identify the vulnerable groups in the communities or if data is not disaggregated in relation to generations, literacy, sexes, social strata, marital status, displaced persons etc.

P A N E L:

- Participation
- Accountability
- Non-discrimination, Equality and Attention to vulnerable groups
- Empowerment
- Linkages to human rights standards, progressive realization of rights and non-retrogression

Accountability and Empowerment

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.

In developing a program for access to justice it is important 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 either in the supply or the demand side risks ineffectiveness and frustration. At the same time one should bear in mind that justice systems cannot adequately ensure accountability if they are not accountable themselves

The value of a human rights approach for understanding “accountability” in development activities is that it sets specific rights and obligations. It ensures that accountabilities with respect to the results and the process of development are not defined exclusively by those who take the decisions, thus lessening the probability that such a definition would help to protect their own interests at the expense of those of most disadvantaged groups.

To ensure accountability, rights-based programming starts by assessing specific obstacles that duty-bearers face to exercise their obligations. This analysis sets a baseline to formulate development strategies to remove them.

A human rights approach uses a “capacity development perspective”: **it aims to build on claim-holders and duty-bearers’ existing strengths and solutions**, instead of starting from zero and replace them.

Defining clear accountabilities, and developing capacities accordingly, may however not be enough. For accountability to be effective it also needs to be demanded. For that reason, rights-based programming calls for the inclusion of civil society oversight elements in program design and implementation.

A fundamental implication of accountability from a rights-based perspective is the need to pay close attention to risk analysis. As empowering disadvantaged people is likely to face resistance by some groups, such an analysis should include assessing the conflict potential of the participatory development activities, and develop a strategy to manage these potential conflicts.

Ways to enhance accountability through access to justice strategies

- through *internal mechanisms* (e.g. putting internal oversight mechanisms in place; complementing this through 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.

Empowerment

Empowerment is the process by which the capacity of people to claim and exercise their rights grow and improve. People are “empowered” when they are able to claim and exercise their rights more effectively. Empowerment is a key principle to guide development strategies. Rights-based programming starts by analyzing **what specific capacities are needed** to claim and exercise their rights in a particular situation, in order to target them in the programming process. Participation is linked to empowerment in the sense that, when participation is active, free and meaningful, the mere fact of being able to take and implement decisions is an indicator of empowerment.

Empowerment is directly connected to participation and without participation there can be no real empowerment as disadvantaged groups are excluded to decide and influence the reality in which they lives. *Empowerment requires “meaningful” participation – that is, one that involves a degree of decision making and control*

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 experienced by people as a perception. Therefore, it is necessary to gather people's perceptions on the meaning of access to justice in a particular context to fully understand the problem (see next point on "analysing the access to justice problem")

As a vehicle for empowerment however, not every participatory process is equally valid. 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 means, UNDP's role is restricted to one of a facilitator. Similarly, the process should enhance participants' capacities to analyse access to justice problems and seek solutions.

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 would demand a special focus on participation of those who are most excluded.

Steps in the Rights Based Approach in Assessment and Analysis

PHASE I: MAPPING THE SITUATION

1. Mapping of actors within the justice systems

What are the institutions and their functions? What roles do individual actors have?

2. Identification of vulnerable groups and claim-holders

Vulnerable groups; groups facing discrimination in access to power and resources; different degrees of vulnerability among those groups (profiles on which data should be disaggregated). Attention to linkages of cause and effect for the disadvantaged from a social, political and economic perspective.

3. Linkage to international and domestic human rights standards

Elements of major rights being affected; linkages to cause and effect and with respect to other human rights and external factors.

Analyze interrelations among those concerns: What human right concerns seem to be more influential in affecting others in the particular situation?

PHASE II: DEVELOPING THE CAPACITY NEEDS FRAMEWORK

4. Selection of the disadvantaged groups

5. Identification of obstacles that prevent disadvantaged groups from obtaining remedies through the justice system (formal and informal)

6. Identification of capacities affecting the realization of human rights

a. Accountability analysis

Identify *duty-bearers* at all levels (State – executive, legislative and judicial branches; local governments, groups, individuals) and *specific duties* involved with regards to the selected human rights concerns, including duties of claim-holders if relevant.

Identify *capacities needed* at different levels to perform human rights duties.

Assess *existing capacities* through a SWOT analysis. Build on existing strengths and solutions. Target weaknesses and vulnerabilities.

b. Empowerment analysis

Identify *capacities needed* to claim and exercise rights at different levels, specifically for the most vulnerable groups.

Assess *existing capacities* through a SWOT analysis. Build on existing strengths and solutions. Target weaknesses and vulnerabilities.

c. Causes analysis

What are the underlying causes in relation to the lack of capacities: systems, events, actions, attitudes and behaviors, and the interrelationships among them.

7. SWOT analysis of justice sector actors

Analysis of the ability to provide a remedy and to be accountable.

Example of SWOT analysis for informal justice sector:

STRENGTHS Quick Enjoys wide acceptance ...	WEAKNESSES Any evidence accepted Little understanding of HR ...
OPPORTUNITIES May extend to vulnerable groups ...	THREATS Attitudes towards non-discrimination ...

PHASE III: PROGRAM DESIGN & ADVOCACY

8. Development of policy recommendations

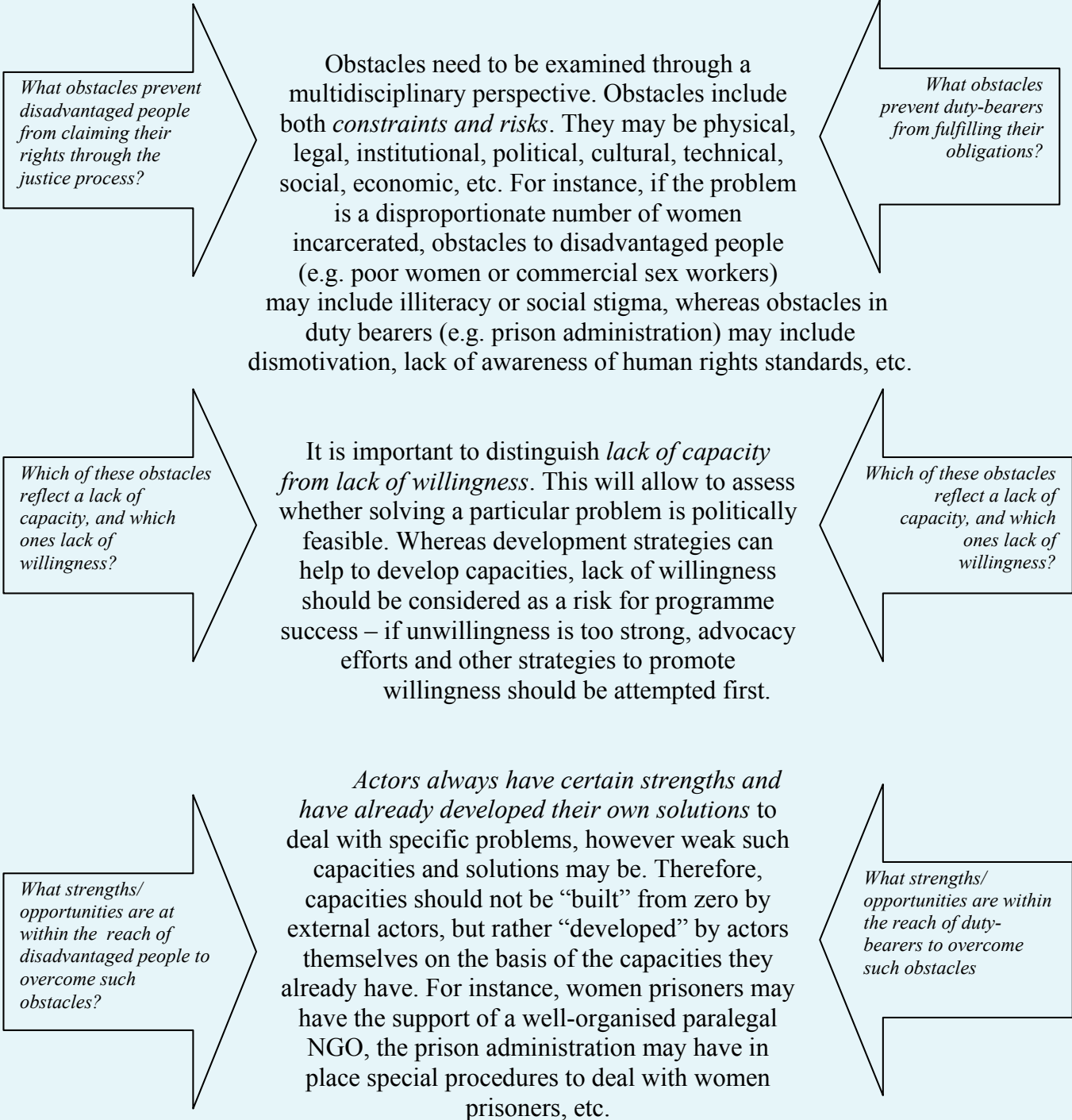
9. Advocacy and knowledge sharing campaign

10. Program design

Assessing Stakeholder Capacity

Capacities of claim-holders

Capacities of duty-bearers



Questions to Consider in Assessing the Situation

- In what ways does the absence of justice remedies increase people's vulnerability to poverty?
- What factors contribute to the problem?
- What human rights claims are being ignored and what type of remedies are needed?
- 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 norms promote or hinder respect for legally recognised human rights?
- Who are the duty bearers that need to fulfil their obligations in order for the *selected* claim-holders to effectively secure their rights?
- Who are the duty bearers to solve the root causes?
- Who are the duty bearers that are absolutely indispensable for the solution of the access to justice problem?
- What are the specific duties the duty bearers are responsible for?
- What persons are least able to claim their rights when they need them?

Non-ratified Human Rights Treaties by Indonesia

CAT-OP -Optional Protocol to the Convention Against Torture and Cruel Inhuman or Degrading Treatment or Punishment	No Action	
CCPR -International Covenant on Civil and Political Rights	No Action	
CCPR-OP1 -Optional Protocol to the International Covenant on Civil and Political Rights	No Action	
CCPR-OP2-DP -Second Optional Protocol to the International Covenant on Civil and Political Rights	No Action	
CEDAW-OP -Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Signature only	28/02/2000
CESCR -International Covenant on Economic, Social and Cultural Rights	No Action	
CMW -International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Signature only	22/09/2004
CRC-OP-AC -Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	Signature only	24/09/2001
CRC-OP-SC -Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	Signature only	24/09/2001

Ratified Human Rights Treaties by Indonesia

UDHR-Universal Declaration on Human Rights
CERD-Convention on the Elimination of All forms of Racial Discrimination
CEDAW-Convention on the Elimination of All Forms of Discrimination against Women
CAT-Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment
CRC-Convention on the Rights of the Child

Table: Sample analysis of an access to justice problem

Access to justice problem: Female offenders are disproportionately incarcerated for long sentences for minor offences	
<i>In what ways does the absence of justice remedies increase people's vulnerability to poverty?</i>	The problem affects (a) women that are incarcerated, as in the future they may be discriminated in access to employment or suffer from social ostracism, (b) families of women prisoners, particularly children, as women often play a critical role in poor families regarding income generation, caring for health and education, etc.
<i>What factors contribute to the problem?</i>	Legal factors (penal law assigns unreasonably high sentences for minor offences) Attitudinal factors (judges usually give high prison sentences because they believe prison will "teach women a lesson") Economic factors (When judges impose fines instead of imprisonment, women are too poor to pay and have to go to prison) Institutional factors (Women are "forgotten" in prison, because records are incomplete) Human resource factors (Women have no access to lawyers because the number of lawyers is insufficient) Human factors (women are ignorant about the law and they don't know how to appeal) Social factors (women know they are unfairly treated, but they are afraid to speak out)
<i>What human rights claims are being ignored and what type of remedies are needed?</i>	Prison Act (national law) Body of principles for the Protection of All Persons under Any Form of detention or imprisonment
<i>Who are the actors mandated to respond through the justice process, and in what ways?</i>	The judiciary The prison administration The Ministry of Justice and other providers of legal services
<i>What persons are least able to claim their rights when they need them?</i>	Illiterate women Indigenous women Commercial sex workers (they face social stigma and they are afraid to seek legal literacy programs)
<i>What obstacles prevent disadvantaged people from claiming their rights through the justice process?</i>	Illiteracy Fear and social stigma
<i>What obstacles prevent duty-bearers from fulfilling their obligations?</i>	Attitudes of judges Women prisoners not a priority for Prison Department and Ministry of Justice Insufficient number of lawyers Deficient records

	Demotivation of prison staff because of low wages Prison administration and staff have never heard about women's rights and prison standards
<i>Which of these obstacles reflect a lack of capacity, and which ones lack of willingness?</i>	There is a general unwillingness to deal with the rights of prisoners as this may mean appearing "lenient" towards crime (electorate considers dealing with crime a high priority) Some women prisoners are unwilling to seek help because of fear of being punished by prison staff
<i>What strengths/ opportunities are at within the reach of disadvantaged people to overcome such obstacles?</i>	A number of NGOs working in prisons are starting paralegal services for women
<i>What strengths/ opportunities are within the reach of duty-bearers to overcome such obstacles?</i>	National Human Rights Commission and Ministry of Labour are champions of women's rights Media have been paying attention to the situation of prisons Some donors have expressed willingness to assist the government in improving prison conditions

Do No Harm Note (Indonesia)¹

ACCESS To JUSTICE ASSESSMENT AND DO NO HARM

Doing No Harm

Increasingly there is an awareness within the development community that development projects can have unintended negative effects. What is valid for development projects is equally true for social research on development issues, in particular those relating to sensitive issues such as conflict and justice issues. Collectively, we have a moral responsibility to ensure that both the process of research, and the results it produces, do not cause any harm (directly or indirectly) to the individuals and communities that we are studying. To avoid adverse impacts, remain constantly aware of the potential ways in which the research could have negative effects, the ways in which respondents may view what we are doing, and the meaning our actions embody.

Some potential scenarios where our research could potentially ‘do harm’ include (but are not limited to):

- Where asking questions about past conflicts reignites passions, and hence acts as a trigger for a reoccurrence of conflict; and
- Where it is perceived that you are taking sides in the conflict, and hence acting as a ‘supporter’ of one side or another.

As such, be very careful when you are doing research. If at any time you feel tensions are rising too high, slow things down by asking questions about non-sensitive, ‘safe’ issues. Make sure respondents do not see you as supporting one conflicting group over another. This becomes a delicate balancing act, and achieving this balance is as much a mark of a good researcher as the quality of the data you produce.

Second, you need to remain aware at all times of the fact that the knowledge you are obtaining in the research is power. If you do your job well, you will discover very delicate and sensitive information on a range of issues including illegal acts, corruption, perpetrators of violence, and possibly planned acts of future violence. It is not your responsibility as a researcher to seek to remedy these things. If you do so, you will lose the trust of the people you are interviewing. Rather, unless you feel there is an imminent threat (e.g. a planned act of severe violence) you should not report these—for example, to the police. It is important that you convey to your informants that the information they give will be treated as confidential; that is, names will be changed before the material (case studies and analytical pieces) is released beyond the research team.

¹ Do No Harm Approach & Ethics in Assessment Access to Justice Project – Christopher Dureau

These notes are taken largely from the work of the Collaborative for Development Action. The most useful reference is

**Options
For Aid in Conflict
Lessons from Field Experience
Mary B. Anderson, Editor**

Copyright © 2000 The Collaborative for Development Action, Inc.²

The Origin

The origin of the concept is in the Medical Profession and derives from the Hippocratic oath: To always attend to the needs of the patient. An extension of this become First, Do no harm. The meaning of this is that in any intervention, in particular of a medical nature, the first principle is to avoid doing more damage than was there in the first place.

More recently the words Do No Harm are associated with providing development aid to areas of the world dominated by conflict. The same principle or understanding as was applied to the medical profession is now applied to any intervention, particularly those that are described as development or aid where there is already overt or covert conflict.

‘Beginning in the early 1990s, a number of international and local NGOs collaborated through the Local Capacities for Peace Project (LCPP) to learn more about how aid that is given in conflict settings interacts with the conflicts. We knew that aid is often used and misused by people in conflicts to pursue political and military advantage. We wanted to understand how this occurs in order to be able to prevent it.

The collaboration was based on gathering and comparing the field experience of many different NGO programmes in many different contexts. Through this, we were able to identify very clear patterns regarding how aid and conflict interact. These lessons are reported in the book, *Do No Harm: How Aid Supports Peace—Or War*.

Knowing how aid and conflict interact is not the same as doing anything about it, however. It is difficult to translate lessons from the past into proactive, operational guidelines for the future. This is especially true because it is in the nature of conflicts to involve the specifics of histories, contexts and personalities and to be constantly in flux and unpredictable.

From late 1997 through fall 2000, from Kosovo to Congo, in Sri Lanka and Afghanistan, Liberia and northeastern India, and elsewhere, aid workers providing both humanitarian and development assistance have been using the Do No Harm Framework for Analyzing Aid and Conflict. They have redesigned and monitored their programmes seeking to find ways to work that do not inadvertently feed into and worsen intergroup conflict but, instead, support and reinforce intergroup connectors and local capacities for peace.

² 130 Prospect Street, Ste. 202 Cambridge, MA 02139, Phone: (617)661-6310. Fax: (617)661-3805. Website: www.cdainc.com

The Concept

Conflicts are never simple. DO NO HARM does not, and cannot, make things simpler. Rather, DO NO HARM helps us get a handle on the complexity of the conflict environments where we work. It helps us see how decisions we make affect inter-group relationships. It helps us think of different ways of doing things to have better effects. The aim is to help aid workers deal with the real complexities of providing assistance in conflicts with less frustration and more clarity and, it is hoped, with better outcomes for the societies where aid is provided.

“The most useful thing about the Do No Harm approach is that it gives us a way of thinking about programming options. We knew some of our work fed into conflict. We just did not know what to do about it. Now, we have a way of thinking of new

The Project seeks to identify the ways in which international humanitarian and/or development assistance given in conflict settings may be provided so that, rather than exacerbating and worsening the conflict, it helps local people disengage from fighting and develop systems for settling the problems which prompt conflict within their societies.

“Rather than exacerbating and worsening the conflict, our assistance helps local people disengage from fighting and develop systems for settling the problems which prompt conflict within their societies”.

Our question is: how can the realities of any conflict be factored into program or project design so that humanitarian and development assistance achieves its intended goals and, at the same time, provides space and voice for local people to engage in peace-building rather than war-making?

Basic Assumptions behind DO NO HARM

A project using the do no harm approach is based on several premises the most important of these are described by Mary Anderson as:

1. First, we observe that outsiders can never fundamentally “make” or “keep” peace for others. Rather, people and societies must create their own systems for achieving peace and for resolving internal dissensions. On the other hand, because outside aid can either exacerbate conflict or support local efforts for peace, it is important for donor agencies to design their efforts to avoid negative impacts and maximize positive impacts on conflict.
2. Second, many of the wars which consume societies in the late twentieth century do not inspire widespread patriotism among the citizens of the war-torn countries. In the past, while people eschewed war and resorted to it only as the last option to attain some goal (independence or the overthrow of a dictator, for example), once they entered into conflict, they believed it to be both necessary for achieving the goal and effective in doing so. Today's civilian-based wars, fought among groups who have lived and worked together, are viewed by many as pointless. More and more, civilians in these conflicts are disavowing any “ownership” of their war and noting that, rather than solving problems, the war itself is adding to the very real problems their societies face.
3. Third, even though they disclaim any desire to engage in these wars, many if not most civilians find that they have no option but to become involved. In these situations, opposition to war is interpreted as disloyalty to one's own group and people who openly express their opposition often risk ostracism or even death at the hands of their own identity group. In the locally fought, civilian-based wars of today, grass-roots opposition to war is silenced as neighbors fear former neighbors and, thus, insist upon unquestioned loyalty within their own groups.

Why is the approach to do no harm important?

Although it is clear that, by itself, aid neither causes nor can end conflict, it can be a significant factor in conflict contexts. Aid can have important effects on inter-group relations and on the course of inter-group conflict.

For example, an NGO estimated that militia looting of aid garnered US \$400 million in one brief (and not unique) rampage. Both of these examples occurred in very poor countries where aid's resources represented significant wealth and power.

At the same time, giving no aid would also have an impact—often negative. The Local Capacities for Peace Project chose to focus on how to provide aid more effectively and how those of us who are involved in providing assistance in conflict areas can assume responsibility and hold ourselves accountable for the effects that our aid has in worsening and prolonging, or in reducing and shortening, destructive conflict between groups whom we want to help.

Some Fundamental Lessons

In all of the Pilot Implementation Projects it was found:

1. It is possible—and useful—to apply Do No Harm in conflict-prone, active conflict and post-conflict situations.
And, doing so:
2. Prompts us to identify conflict-exacerbating impacts of aid much sooner than is typical without the analysis;
3. Heightens our awareness of intergroup relations in project sites and enables us to play a conscious role in helping people come together;
4. Reveals the interconnections among programming decisions (about where to work, with whom, how to set the criteria for aid recipients, who to hire locally, how to relate to local authorities, etc.);
5. Provides a common reference point for considering the impacts of our assistance on conflict that brings a new cohesiveness to staff interactions and to our work with local counterparts;

and, the most important single finding:

6. Enables us to identify programming options when things are going badly. In fact, many people involved in the Pilot Implementation Projects say that for some time they have been aware of the negative impacts of some of their programmes but that they thought these were inevitable and unavoidable. Do No Harm is useful precisely because it gives us a tool to find better ways--programming options--to provide assistance.

The elements of the Framework.

Step 1: Understanding the Context of Conflict

Step one involves identifying which conflicts are dangerous in terms of their destructiveness or violence. Every society has groups with different interests and identities that contend with other groups. However, many--even most--of these differences do not erupt into violence and, therefore, are not relevant for DO NO HARM analysis.

DO NO HARM is useful for understanding the impacts of aid programmes on the socio/political schisms that cause, or have the potential to cause, destruction or violence between groups.

Step 2: Analyzing DIVIDERS and TENSIONS

Once the important schisms in society have been identified, the next step is to analyze what divides the groups. Some DIVIDERS or sources of TENSION between groups may be rooted in deep-seated, historical injustice (root causes) while others may be recent, short-lived or manipulated by subgroup leaders (proximate causes). They may arise from many sources including economic relations, geography, demography, politics or religion. Some may be entirely internal to a society; others may be promoted by outside powers. Understanding what divides people is critical to understanding, subsequently, how our aid programmes feed into, or lessen, these forces.³

Step 3: Analyzing CONNECTORS and LOCAL CAPACITIES FOR PEACE

The third step is analysis of how people, although they are divided by conflict, remain also connected across sub-group lines. The LCP Project found that in every society in conflict, people who are divided by some things remain connected by others. Markets, infrastructure, common experiences, historical events, symbols, shared attitudes, formal and informal associations; all of these continue to provide continuity with non-war life and with former colleagues and co-workers now alienated through conflict. Similarly, LCPP found that all societies have individuals and institutions whose task it is to maintain intergroup peace. These include justice systems (when they work!), police forces, elders groups, school teachers or clergy and other respected and trusted figures. In warfare, these "LOCAL CAPACITIES FOR PEACE" are not adequate to prevent violence. Yet, in conflict-prone, active conflict and post-conflict situations they continue to exist and offer one avenue for rebuilding non-war relations. To assess the impacts of aid programmes on conflict, it is important to identify and understand CONNECTORS and LCPs.

Step 4: Analyzing the Aid Program

Step four of the DO NO HARM Framework involves a thorough review of all aspects of the aid programme. Where and why is aid offered, who are the staff (external and internal), how were they hired, who are the intended recipients of assistance, by what criteria are they included, what is provided, who decides, how is aid delivered, warehoused, distributed?

³ This Section is a summary of the findings presented, first, in *Do No Harm: How Aid Supports Peace--Or War*, (Mary B. Anderson, Lynne Rienner Publishers, Boulder Colorado and London, 1999).

Step 5: Analyzing the Aid Programme's Impact on DIVIDERS and CONNECTORS

Step five is analysis of the interactions of each aspect of the aid programme with the existing DIVIDERS/TENSIONS and CONNECTORS/LCPs.

We ask: Who gains and who loses (or who does not gain) from our aid? Do these groups overlap with the DIVISIONS we identified as potentially or actually destructive? Are we supporting military activities or civilian structures? Are we missing or ignoring opportunities to reinforce CONNECTORS? Are we inadvertently undermining or weakening Local Capacities for Peace?

Each aspect of programming should be reviewed for its actual and potential impacts on D/Ts and C/LCPs.

Step 6: Considering (and Choosing) Programming Options

Finally, if our analysis of 1) the context of conflict; 2) DIVIDERS and TENSIONS; 3) CONNECTORS and LOCAL CAPACITIES FOR PEACE; and 4) our aid programme shows that our aid exacerbates intergroup DIVIDERS, then we must think about how to provide the same programme in a way that eliminates its negative, conflict-worsening impacts. If we find that we have overlooked local peace capacities or CONNECTORS, then we should redesign our programming not to miss this opportunity to support peace.

Once we have selected a better programming option (more will be said about this in all sections below), it is important to re-check the impacts of our new approach on the DIVIDERS and CONNECTORS.

Other Considerations that describe the influence of outside aid.

RESOURCE TRANSFERS

Resource Transfer refers to the delivery of resources in whatever form to the local setting. This could be both goods and services on the one hand and local employment on the other. Resource Transfer affect conflict in five ways:

1. Theft or Diversion for Use by Warriors. Aid's resources are often stolen or taxed by military authorities who use them directly, or sell them, to support the war effort.
2. Distribution Effects. Aid is given to some people and not to others. Insofar as the groups included and excluded match or overlap with those in conflict, aid reinforces the conflict.
3. Market Effects. Aid's resources influence wages, prices and profits. Some people gain; others lose. Incentives to pursue a war economy or a peace economy are affected. These impacts can either reinforce intergroup conflict and the war economy; or they can reinforce economic interdependence and civilian economic activity.

4. Substitution Effects. When international aid agencies assume responsibility for civilian survival in conflict areas, this can free up the resources that are available internally for pursuit of warfare.
5. Legitimization Effects. How aid is given legitimizes some people and some activities and de-legitimizes others. These impacts can reinforce warfare or non-warfare.

SUMMARY OF THE STEPS IN THE FRAMEWORK AND KEY ACTIVITIES.

Steps	Key Point	Key activity
1	Understanding the context of conflict	Identify which conflict oriented groups exist
2	Analysing the Dividers and Tensions	Identify who/which group is likely to play the role of divider or focus on tension
3	Analysing Connectors and Local Capacity for Peace	Identify who/which group are seen as crossing over the divisions or promoting unity
4	Analysing where the Aid/Research program is going	Identify potential bias in our intervention and choice of local resource persons, sites...
5	Analysing how our intervention might affect the DIVIDERS and the CONNECTORS	Ask the question: Who will benefit and Who will loose with this Project. Identify the groups you do not want to encourage and those you do.
6	Choose Program Options	Identify strategies to ensure that we support the local capacities for peace-making and avoid support for those who will most continue to create divisions or lack of access to resolution

Note on Participation and Empowerment (Indonesia)¹

Access to Justice Project Participation and Empowerment

Importance of Participation

‘Participation is described as the collaborative stance that project sponsors and designers take so that those for whom the project is designed influence and share control over the decisions that are made.’

The level of influence determines the level of decision making. A person can be said to participate by simply listening to the plans others have made for them and following them. To obey is to participate at one level.

In some situations participation in decision making is neither desirable nor effective. The military does not run on a participative model because they require very hierarchical command structures and strict adherence to command.

At the other end of the spectrum full participation requires that all who are involved in the action are also provided with the opportunity to influence the direction of the action depending on the level of their involvement. So at its highest or fullest level of participation, those who stand to benefit most from an action should take the largest stake in decision making processes.

In bring about social change, especially in post conflict environments, a very high level of participation is considered desirable. One reason for this is that by empowering the weakest link – the least advantaged in the community or in a relationship movement towards greater cohesion and cooperative effort is more likely. In other words for as long as there are weak members of the team then the whole team suffers.

One of the first steps in increasing participation is for the whole group to acknowledge the least advantaged and those who have to have the most attention to include their voice in the discussion or plan for action. Focusing on the least advantaged or those with the weakest or least heard voices means that we ensure greater success for all.

For example, in many parts of our society, women play a very significant role in carrying out actions but are often given a much smaller opportunity to talk, share information or describe what they consider to be a good solution. This is why any engagement with the community must ensure that the voices of women are heard as much as men.

¹ Participatory Approaches in Assessment Access to Justice –Christopher Dureau

Similarly in a broader social context there are always groups in the community who are least advantaged (or most marginalised). Current social analysis and strategies for social change encourage all of us to develop tools that help all to identify who these groups or individuals are and then to ensure that their voices are also heard and acknowledged.

Different Levels of Participation have different uses and different effects. For example the table below is a very simple description of four different levels going from the level of the smallest amount of participation in project or program implementation through to the largest amount of participation.

Participatory and Ethical Approach to Interviewing

Strategic considerations in participatory assessment:

Gathering information in a participative way will begin by acknowledging the following six strategic considerations

People who provide information have to be treated with the dignity and respect they deserve as human beings as defined under all the UN conventions.

Information provided by one person to another is never neutral – The content of the information is determined by the context in which that information is provided

Information can be directed towards an analysis of the past or a search for a better future.

– The information gathered will be determined by the choice of these two perspectives

Any single piece of information can never contain the whole story – to get a full perspective the picture must be viewed from different angles or sides

Most information or articulation of a perceived reality is a conclusion drawn from single experience or set of experiences which are often more revealing than the conclusion.

Participative assessment requires both parties to be in search of a new understanding or appreciation of reality.

Operational principles in participatory assessment:

Participative approaches require that these principles are acknowledged in the operation of information gathering and assessment.

Prior to the assessment or data gathering:

Openly identify the purpose of gathering the information and limits to which the information will be used.

Acknowledge and engage the right of the person to determine the use of information provided (e.g. a consent form).

Provide opportunity to determine confidentiality of the information provided.

Determine variables such as location, language and time that advantage the person/s providing the information.

During the initial stages of the assessment or data gathering:

Identify a common ground in the search for knowledge around the specified topic

Identify common goals

Create an atmosphere of cooperative searching for the truth between two parties.

During the process of collecting information that is anecdotal or analytical:

Provide the opportunity for positive experiences to be shared as well as negative ones.

Affirm the person's right to have and share information

Affirm the legitimacy of the experience and the reflection on the experience of the person providing the information.

Act as a facilitator rather than an examiner

Act as a supporter rather than a person who needs to be convinced

Demonstrate interest and encouragement to the person /group to reveal more.

At the close of the interaction:

Acknowledge the contribution of the person providing the interview

Acknowledge the process for using the information including if appropriate any feedback of information intended.

Change strategies that encourage participation in a rights based approach:

The following is an extract from a report of a joint research initiative coordinated by the Participative Group of the Institute for Development Studies, UK and Just Associates, USA. The study is a comprehensive review of current thinking around the world on the links between participation and citizen's rights. The paper describes the following as important to include in any strategies that **link rights and participation**:

“ A power analysis that pushes beyond formal structures and agendas of what is “on the table” to scrutinize the hidden and invisible dimensions of power under the table. This kind of analysis allows facilitators and organizers to get beyond a disempowering “ask the people, they know” approach to solving problems that often romanticizes grassroots knowledge and stifles critical thinking. It also clarifies the similarities between how power operates in the public and private spheres and can help people envision ways to challenge its negative impact while tapping its positive force and creating more inclusive creative alternatives.

A deeper analysis of the process of social change through continuous evaluation and efforts to understand the dynamics of change and power and their relation to questions of equitable development, empowerment and justice.

A sense of clarity about the interaction among needs, rights and responsibilities. At one level, this is based on an understanding that meeting basic human needs has political and rights implications and involves responsibilities of both people and states. Partly it has to do with the capacity of the state or other institutions charged with upholding rights to deliver and partly with the ability of citizens to exercise and claim rights. The daily challenge of meeting human needs will always require struggle both to realize rights and at the same time to strengthen the institutional capacity to protect, fulfill and enforce

rights through accountable governance and community action and organization.

A broader understanding of identity and its application to strategy. Personal identity is a place in which rights and participation intersect. Rights may be sought and participation may be based, in part, on individual identity. People have multiple identities, however, and naming and choosing them can help individuals define rights, build alliances, and negotiate differences. Such processes also need to help people reflect on values, on questions of community and solidarity, and develop a more inclusive vision of society and the common good

Learning opportunities for diverse actors to share ideas, surface questions, challenge one another and deepen their knowledge and analysis about concepts and strategies related to the overall struggle for justice, including rights, development, participation, advocacy, power and change”.

Positive Approach to Assessment.

The purpose of Access to Justice program is to promote prevention and recovery in conflict areas across Indonesia. In this sense the purpose of information gathering and assessment is to develop strategies for the future. These strategies hope to build local capacities and response options.

In this sense the purpose of the project is to create a desirable future rather than analyse a failed past. Traditionally researchers and designers of strategies for social change looked at what was not working or what were the obstacles to change. In more recent times many social researchers and organisational change managers take an approach that only focuses on the history of success and the potential for greater success in a community or organisation. This represents a very different and even contrasting approach to traditional information gathering, assessment and design techniques.

The key analysis of the two approaches is clearly articulated in this quotation:

If you look for problems, you find more problems;

If you look for successes, you find more success.

If you believe in your dreams you can accomplish miracles."

Prioritising Disadvantaged Groups (Indonesia)

Background

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.

Non-discrimination implies a particular focus on disadvantaged groups and paying attention to the impact of the future access to justice programme on those who are not the focus of development interventions.

The most disadvantaged groups should be identified in relation to the above 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.

Groups may suffer disadvantage as a result of different causes. Therefore, disadvantaged groups need to be disaggregated.

Analysis Framework

Disadvantaged Group	Why are they disadvantaged?	Are they discriminated against? How?	Can they access legal services/remedies?	Are they affected by conflict? How?	Level of participation in public life.	Do they suffer from intimidation? From whom?	Are they exploited?	Violation of/ unfulfilment of rights: • Political • Social • Economic

Key questions to ask

- Who among those already identified as disadvantaged in phase 1A of the assessment, are most affected or unable to obtain remedy?
- Which groups have least access to resources/power?
- Who are the most vulnerable? Why?
- Do women and men experience the situation differently?
- Who are least able to rectify the situation without assistance?
- Who are already receiving assistance through other initiatives?
- Who will be the least able to rectify the situation without UNDP assistance?

Guide for In-depth Interviews with Most Disadvantaged Group Members

This guide is not a set of rigid questions. Basically, it is ONLY a tool (checklist) to help the researcher in eliciting information through detailed and comprehensive in-depth interviews with members of the most disadvantaged group. Confidentiality of informants will be maintained.

Sequence and process of the interview is very much dependant on the situation, especially on relations between the researcher and informant. The process of eliciting information is expected to flow through free, relaxed dialog, initiated with an introduction and abiding by the principle of no-harm. DO NOT patronize and intervene.

Aside from information, the researcher must also consider and collect other relevant data such as: documents, secondary data, etc. The researcher is QUITE EXPECTED to refer back to the framework (the one agreed on during the Yogyakarta workshop) to get details on information to elicit. As for reporting, standard data formatting of previous interviews applies.

Case Identification

1. Brief description of case (chronology) and its domain (whether it is categorized as Public / Private / Domestic).

Legal Protection

2. Grievances / issues faced by the disadvantaged group in formal and informal justice systems are acknowledged and addressed.
3. Forms of acknowledgement to the justice system (written and unwritten).

Legal Awareness

4. Knowledge of the disadvantaged group on availability of (formal / informal) legal aid to obtain justice for grievances / issues.
5. Knowledge of the disadvantaged group on various (formal / informal) legal aid actors from which to choose from.
6. Efforts of the disadvantaged group to get (formal / informal) legal aid, and which legal aid actor was selected and why.
7. Obstacles of the disadvantaged group to obtaining (formal / informal) legal aid.
8. Actions / efforts to address the obstacles.

Legal aid and counseling

9. Knowledge / awareness of legal aid actors on grievances / issues of the disadvantaged group and actions needed to be taken by them.
10. Availability of legal aid actors (is it conditional or not to costs / staffing / time, etc.) to assist the disadvantaged group and kind of assistance.
11. Obstacles of legal aid actors to delivering legal aid to the disadvantaged group.

Adjudication Process

12. Justice processes selected (formal and / or informal), reporting actors (e.g. victims or legal aid actors or both) and risks of reporting grievances.

13. Responses of (formal / informal) justice actors towards cases reported by the disadvantaged group and time needed.
14. Actors involved in the process.
15. Costs of the adjudication process (including cost breakdown and person to pay).
16. Obstacles to the adjudication process experienced by the disadvantaged group.

Upholding of decision

17. Decision from the adjudication process (fittingness / fairness of decision, advantaged / disadvantaged party, etc.)
18. Reaction towards decision (e.g. decision is accepted / rejected, appealed), acknowledgement and execution of decision.

Note on Methodology (Maldives)

SURVEY SCOPE AND METHODOLOGY

2.1 Scope

The survey sets out to examine **four crucial aspects** of access to justice in the Maldives. The **first is knowledge and opinions of law and justice**; this provides us with insight into the level of awareness that the people of the Maldives have of what protection the law provides for them and to compare it with their perception of ‘justice’ means to them.

The **second aspect is the perceptions of the judicial system**; a person can be hampered in accessing justice not just by the dereliction of duty of responsible officials (police, prosecutors, judges) but also by perceptions of how such officials, and the institutions they work in, behave. The perception of police inefficiency, for example, can discourage a person from addressing the police with an issue that is within its remit – irrespective of whether this perception is grounded in reality or not. Finally, it is particularly important to clarify at this stage that the report uses the term ‘judicial system’ to denote the range of institutions and officials that are responsible for interpreting and upholding the law and for protecting citizens from abuses by other individuals as well as by institutions. Thus, the survey examines the workings of the police, the Prosecutor General’s office, the Attorney General’s office, the courts and private lawyers.

The **third aspect is the experiences of the respondents vis-à-vis the judicial system**; it is not within the remit of this survey to consider the ‘correctness’ of decisions. Instead, we sought to gain insight into judicial institutions’ decision-making processes and how ordinary citizens - parties to cases or complainants to the police or other users of the justice system - understood them.

The **fourth aspect is perceptions and experiences of members of the judiciary and court staff**. Members of the judiciary were surveyed for their perception of issues facing citizens in wishing to access justice as well as for insider insight into the challenges facing them as service providers. Unfortunately, as will be discussed in more detail, the abovementioned political upheaval likely caused a low rate of response by respondents. The implications for the survey’s findings are discussed more in section 2.3.

2.2 Key issues and groups

The scope of the research also necessitated the identification of key access to justice issues as well as of groups in Maldivian society that are particularly vulnerable in this regard. The process of identifying the most important issues and the most vulnerable groups with regard to access to justice was comprised principally of a series of interviews with key stakeholders in Maldives, including judges, the Prosecutor General, the Human Rights Commission, officials from key ministries and government bodies (including the Ministry of Labour and Human Resources, the Ministry of Immigration, the Attorney General’s office), NGOs,

migrant worker associations, and so on (for a complete list of interviewees, please see Annex XX). In addition, existing reports on the situation in the Maldives (such as the report of the UN Special Rapporteur on the independence of judges and lawyers) were consulted to provide a more complete picture. The most important findings that emerged from this process of desk research and consultation were:

- Certain groups face particular difficulties in accessing justice. Chief among these are women, migrant workers, and employees in general. Each of these groups faces their own particular set of issues, but a common theme was that they are placed on an unequal footing by the law and by its interpretation by the courts and other judicial institutions. Despite the Constitutional guarantees to equal treatment with men (see articles 17 and 20), Shari'ah law places women in an unequal position to men with regard to matters of family law, such as the right to divorce, the prosecution of *hadd* offences. This inequality inherent in the legal framework is compounded, interviewees felt, by the attitudes pervasive among some officials in judicial institutions, where the notion of equal treatment for women is derided. Migrant workers, we were told, have a hard time exercising their labour rights, due to their subservient position to their employer, which arises by virtue of the fact that most of them have to pay an exorbitant fee to obtain a work permit. Once migrant workers arrive in the Maldives, workers organizations said, employers feel at liberty to violate the terms of the contract previously agreed (lower salaries, longer hours, fewer paid holidays), knowing that most migrant workers will be reluctant to return home without having earned sufficient funds to justify the initial expense. At the same time, most migrant workers were said to struggle with both Dhivehi and English, thus causing further problems for them in obtaining redress.
- Although there are too many access to justice issues to examine in one survey, the most pressing are the lack of awareness about the law and about the work of the judicial institutions, the rights of the accused and of detainees, and equal treatment and non-discrimination at work, in the family and in public institutions. While there was no hard data on Maldivians' level of awareness about the law and the judicial system (it is generated here - an added value of this survey), the interviewees' experiences indicated that people in the Maldives lacked knowledge about the law, including the content of the Constitution. Equally, it was felt, particularly by members of the judiciary, that ordinary citizens' were not well versed in the workings of the judicial system. Further, the recently introduced constitutional guarantee of the inadmissibility of confessions in the pre-trial stage, combined with the increase in the crime rate affecting society, have led to concerns about the disparity between the law and citizens' awareness of their rights. Finally, the feeling that discrimination was pervasive was common among the stakeholders interviewed in the preparatory phase of the survey. Aside from the above-mentioned discrimination on the grounds of gender and nationality, it was also felt that access to justice was significantly more difficult for residents of atolls outside of Male, particularly for those from smaller communities and further away from the capital. Their ability to get fair trials was imperilled by the lack of lawyers outside of Male, while appealing judgments would be difficult due to constraints of cost and time.

2.3 Objectives and methodology

2.3.1 Objectives

The objectives of the Access to Justice survey and report are to:

1. *Provide baseline information on public confidence in the justice system and citizens' awareness of, and access to, justice;* as was mentioned above, there is a lack of data on the public's knowledge of the law and legal processes and on its confidence in the judicial system. This survey provides baseline data that will be useful in formulating future interventions in the field of judicial reform.
2. *Identify the types of grievances faced by people and the obstacles they face in seeking redress;* despite anecdotal evidence, there is little information on the types of disputes that people are faced with and what steps they take to resolve them. This goes beyond cases taken to court and includes disputes that never make it there, either because one of the aggrieved parties does not act on it, because they are not aware whom to address or because they do not have confidence in the responsible institutions.
3. *Identify the challenges and obstacles faced by the duty bearers;* almost no sources of data exist on this, and it is crucial for the purposes of a comprehensive picture on access to justice to understand the problems that the duty bearers (courts, police and other relevant institutions) have in securing justice for citizens.
4. *Provide avenues for further policy discussions on improving access to justice in Maldives and on justice sector reforms generally.*

2.3.2 Methodology

The survey was conducted using a mix of qualitative and quantitative methods, thus allowing for an extensive and in-depth analysis of access to justice and related issues.

The centrepiece of the data collection was a **poll** of the population of the Maldives. The poll was administered by enumerators (employed by a survey firm contracted by UNDP) to a randomly selected sample of approximately 2150 Maldivian citizens. The interviewees were chosen on a random selection of households, with one member interviewed for each household. The common technique of interviewing all household members was thought to be inappropriate for this survey, as it was thought that one member's experiences with the justice system would colour the perceptions of all household members in this regard and thereby influence the data obtained. Although the sample was randomly selected, one slight concession was made to purposeful (non-random) sampling; it was thought to be important to have a gender-balance in the sample. Therefore, those polled were selected to ensure that the male-female ratio does not veer significantly from 1:1.

Maldives was divided into four strata, formed according to the independent variable of distance from Male. The principal reason for this was that it was established through conversations with stakeholders that distance from Male is an important factor influencing the availability of justice for the Maldivian population. The court system is structured in such a way that the tribunals (the Employment Tribunal) and courts of first instance for the most serious offences/disputes (the Civil Court, Criminal Court, Family Court and Juvenile Court),

and appeal courts (High Court, Supreme Court) are situated in Male. The problem is compounded by the fact that almost all private lawyers (if not virtually all) are based in Male.

Dividing the country into the four above-mentioned strata enabled us to measure how distance from Male influences the availability of justice. The four strata are: Male, atolls close to Male, Northern atolls far from Male and Southern atolls far from Male. The allocation of atolls into strata was done according to the distance index developed and published in the Vulnerable Populations Assessment II. Following the selection of atolls, one island was randomly selected to be surveyed from each atoll. It was widely perceived that this would additionally strengthen the legitimacy of the survey among the population and our interlocutors.

The poll consisted of two questionnaires administered by enumerators. The smaller – designed to measure general perceptions and knowledge of law, specific perceptions of the judicial system and some basic experiences with it – was answered by approximately 2000 people. The size of the sample was determined in order to obtain answers with 97% certainty and with a margin of error of 3%.

The larger questionnaire – designed to probe far more in-depth about respondents' attitudes towards, and knowledge of, the law, as well as their experiences in resolving disputes, particularly within the judicial system – was answered by approximately 150 people. The size of the questionnaire and the length of time it took to complete (circa 45 minutes per person) meant the pollsters couldn't interview a sufficient number of persons to have made the answers quantifiable to the same level of certainty as the smaller questionnaire. However, the number of answers obtained is sufficient to draw qualitative conclusions on trends noticed among respondents.

Other sources of data include **questionnaires** administered to - and specially tailored for - **migrant workers, prisoners, court users and professionals from the judicial system** (judges, court staff, police, staff of the Attorney General's office, staff of the Prosecutor General's office and private lawyers), as well as **case studies** of criminal, civil and family cases in the Maldivian judicial system.

Migrant workers were surveyed for their knowledge of the labour law as it applies to them, their experiences with employers and awareness of the institutions mandated with protecting their rights. As knowledge of the local Dhivehi language among migrant workers tends to be quite rudimentary, the questionnaires were translated into Bengali, Sinhalese and four most commonly spoken languages among Indians working in Maldives (budgetary considerations constrained us from translating the questionnaire into languages spoken among the smaller migrant communities such as the Nepalese). The questionnaires were administered to nearly 80 randomly selected Indians, Sri Lankans and Bangladeshis.

Prisoners and court users were examined for their experiences in court, including their treatment at the hands of judges and court staff, the costs of the proceedings, and so on. For the prisoners' questionnaire, we randomly selected prisoners at Maafushi prison. However, political unrest in Maldives circumscribed access to all but a few prisoners. For the court users' questionnaire we used snowball sampling, where we contacted a number of courts, including both island courts and courts in Male, to obtain the names and addresses of parties to cases. Frequently, a party to a case would put us in touch with the other party, allowing us to gather data from both parties. This also led to a number of case studies interspersed throughout this report, where we triangulated data from both parties (in criminal cases this

meant interviewing defendants and prosecutors) and consulted case files to create a full picture of the case and the proceedings before the court.

Finally, professionals were surveyed for their application of the Constitution and the law, as well as their perceptions and experiences of the judicial system. The questionnaire was sent to all of the members of the professions concerned, which was intended to generate data with the same level of certainty and within the same margin of error as the poll. However, professionals answered the questionnaire in smaller-than-hoped-for numbers, which means we can discern only trends from the obtained answers.

All of the data collection methods employed by the survey have their limitations. Quantitative polls necessarily generalise and often measure only the broadest indicators of people's understanding of an issue (in this case, access to justice). Further, there is a risk that the qualitative data generated through snowballing techniques could lead to a biased sample, particularly among the case studies carried out for the survey. To mitigate these risks, all of the data collection tools were tested prior to their use, including a dry run of the two questionnaires administered in a poll. Further, the case studies were carefully screened to ensure a cross-section of cases was presented by the survey.

Overall, the methodology outlined above, with its mix of qualitative and quantitative data collection methods, helped to draw up a comprehensive picture of the obstacles facing the Maldivian population in accessing justice. It also clarified the challenges presented to the Maldivian state and judiciary in providing access to justice and remedies to the citizenry. These findings are presented in the next chapter.

Participatory Research Guide (Timor Leste)

ANALYSIS AND IMPACT OF PARTICIPATE RESEARCH-ACTION PROCESS¹

Participative research-action is part of a political process that let people to arrive to a common understanding of the current situation, needs and rights and the social changes that are necessary to implement in order to achieve social justice by improving access to justice.

Research-action team

- Political actors (State, customary, indigenous authorities, communities)
- Social actors: NGOs, social organizations
- Technical actors: UNDP, Academic/ experts
- Allies: donors, sponsors, etc.

Multi-objectives of the process

1. **To Research: to obtain information** to base proposals for policy development and draft legislation.
2. To provide information to people about the reform process & rights.
3. To **empower** disadvantage sectors to participate meaningfully and to promote interaction between actors.
4. **To consult about needs and proposals for further policy development, draft legislation, etc.**

Issues

- Social demand for justice (problems, conflicts, violations of HR, abuse of power)
- Supply: all justice services
- Specific issues
- Proposals

Tools & analysis

Tools	What	Who	When	Why for
National & international normative framework	Legal framework	Researchers-shared with actors	At the beginning	To identify what it is necessary to change in the legal arena
Desk review/ -Statistic info -Institutional	All available information	Researchers – shared with actors	At the beginning	To establish the level of institutional implementation &

¹ Raquel Yrigoyen Fajardo International Institute on Law and Society raquelyf@alertanet.org

information -Judgements				law enforcement
Preliminary visits/ in depth interview	-Local situation -Perceptions	Research team	At the beginning	To set up the process of consultation
Survey	-Social demand for justice -Supply	Researchers / experts Shared with actors	Along the process	To identify tendencies, validate qualitative data and to support proposed changes
Field study & Case-study and observation	Situations & Cases (in depth)	Research team	Along the process	To identify specific issues, contrast other sources
Consultative workshops: • Local • Sector • National • Validation	-Social demand for justice -Supply of justice services -Proposals	Different Actors	Along the process	1) To be aware of the situation, 2) To identify needs, 3) To negotiate values & priorities 4) To discuss proposals
Institutional consultation	Proposals related to institutional changes	Institutions involved	After consultative workshops	To analyse -institutional behaviour -Proposals
Expert consultation	-General/ specific proposals	-Experts of different areas	Along the process/ by the end	To provide specific inputs, validate proposals (considering best practices, comparative experiences, etc.)
International workshops	Findings Comparative experiences	Actors	By the middle/ end of the process /	To validate findings To encourage reforms

Who does the analysis?: all actors

What?: legislation, data, perceptions, different opinions.

When?: along the process of consultation

Where?: at local and national events.

Why for: to arrive to a consensus to produce social changes.



ANNEXES 2

Survey Questionnaires

SURVEY QUESTIONNAIRE FOR MINORITY/INDEGENOUS PEOPLE (CAMBODIA)

Job No.		CH:
	(1) (2) (3) (4) (5) (6)	CO:
Interview No.	1 / / / / / /	DC:
Interviewer Name		
Interviewer No.		
Date of Interview	/ / 2004	
Interview Length	Fr: : To: :	

Respondent's Name: _____ (7)
 Organisation Name: _____ (8)
 Address: House: _____ Street: _____ Village/Sangkat: _____ Commune: _____
 District/Khan: _____ Province/City: _____ Spot: _____ (9)
 Telephone. Number: _____ (10)

N 1 Sample Type	N 2 Survey Location
(11)	(12)
Formal judicial system operators..... 1	Siem Reap 17
Communal authorities 2	Kampong Chhnang 4
ADR clients, potential clients, operators..... 3	Kampong Speu 5
Women 4	Mondulkiri 16
Minorities/indigenous people..... 5	

N 3 Respondent Classification

(13)

Judge 1	Check Quotas
Lawyer, legal professional..... 2	Check Quotas
Police (l'tenant & above)..... 3	Check Quotas
Police (below l'tenant)..... 4	Check Quotas
Communal/ district authority 5	Check Quotas
ADR client, potential client 6	Check Quotas
ADR operator 7	Check Quotas
Woman 8	Check Quotas
Minority 9	Check Quotas
Minority authority 10	Check Quotas
Minority authority 11	Check Quotas

INTRODUCTION & PROFILING

Good morning/ afternoon, my name isI am an interviewer for Indochina Research an independent research company. We are conducting a study on access to justice in Cambodia. The Project is sponsored by the United Nations Development Program in Cambodia. Please be assured that any information you provide will be anonymous and no personal information collected will appear in any documents or reports based on this survey.

Profile of the community *Firstly I would like to talk about the community you live in....*

- Q 1 a** Which of the following best describes your community? **Record SA**
- (14)
- Rural village 1
 Rural commune/sangkat 2
 Urban commune/sangkat 3
 Other (specify) _____ 4
- Q 1 b** How many people make up your community? (15)
- Q 1 c** What are the main occupations of people in your community?
- 1 _____ (16)
 2 _____ (17)
 3 _____ (18)
- Q 2** What is the mother tongue of most people in your community? **Record SA**
- (19)
- Phnong 1

- Tampuan, Stieng, Kraol (specify)..... 2
- Vietnamese 3
- Other (specify)_____ 4

Q 3 a Are there any people of a different mother tongue in your community? **Record SA**

- (20)
- Yes 1 **Continue to Q3b**
 - No 2 **Go to Q4**
 - Don't know 98 **Go to Q4**

Q 3 b Which are they?

 (21)

 (22)

 (23)

Q 4 a Do you consider your people/ community/ group to be different from the Khmer people? **Record SA**

- (24)
- Very different 1
 - More different than similar..... 2
 - A little different 3
 - Not different 4
 - Don't know 98
 - Refuse 99

Q 4 b Why do you say that?

 (25)

 (26)

 (27)

Q 5 a Have you heard of any Cambodian laws dealing with minority groups like yours in Cambodia? **Record SA**

- (28)
- Yes 1 **Continue to Q5b**
 - Maybe 2 **Continue to Q5b**
 - No 3 **Go to Q7a**
 - Refuse 99 **Go to Q7a**

Q 5 b Can you tell me what you remember about these laws?

 (29)

 (30)

 (31)

"COMMON CORE" QUESTIONS (All TGs)

Use of formal & informal justice systems

Q 7 a In Cambodia, there are two ways of accessing justice. One is going to court (judges, police), the other is going to the informal justice system, which can be: arbitration councils, or cadastral commissions, or communal authorities. What in your opinion are the main differences between formal and informal systems?

 (5)

 (6)

 (7)

 (8)

Q 7 b Let's talk about both systems, formal and informal, and about the need for better access to justice. In your opinion, of the people who are in need of justice, how many actually use each system?

	Formal	Informal
	(9)	(10)
Few (less than 15%)	1	1
Some - up to 1/3 (16- 35 %)	2	2
Many - up to a half (36- 50%)	3	3
A lot -more than a half (51/ 65%).....	4	4
Most - 2/3 or more (above 66%).....	5	5
Don't know/don't answer	98	98

Q 7 c In your opinion, for which cases do people most use each system (max 3 answers)?

	Formal	Informal
land disputes	1 (11)	1 (20)
labour disputes	2 (12)	2 (21)
domestic violence	3 (13)	3 (22)
inheritance disputes	4 (14)	4 (23)
divorce, separation, alimony, custody.....	5 (15)	5 (24)
criminal cases (other than dv).....	6 (16)	6 (25)
civil cases (debts, loans, commercial conflicts).....	7 (17)	7 (26)
Other (specify).....	8 (18)	6 (27)
Don't know/don't answer	98 (19)	98 (28)

Q 7 d In your experience, how do you think people rate both systems? **Record SA each**

	Formal (29)	Informal (30)
Very satisfactory	1	1
Satisfactory	2	2
More satisfactory than unsatisfactory.....	3	3
Don't know	4	4
More unsatisfactory than satisfactory.....	5	5
Unsatisfactory	6	6
Very unsatisfactory	7	7
Refuse	99	

Perceptions and knowledge - formal system

Q 8 Let's now talk about the formal system. I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree	Strongly agree	
[] The formal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status.....	1	2	3	4	5	6	7	(31)
[] It effectively controls the abuses of power	1	2	3	4	5	6	7	(32)
[] It effectively solves conflicts between citizens	1	2	3	4	5	6	7	(33)
[] For most people, courts are within reasonable distance from where they live.....	1	2	3	4	5	6	7	(34)
[] The language spoken in court is understood by most people.....	1	2	3	4	5	6	7	(35)
[] Most people understand how the formal justice system works	1	2	3	4	5	6	7	(36)
[] The staff (judges, police, clerks) treat people well	1	2	3	4	5	6	7	(37)
[] The staff (judges, police, clerks) understand people's problems.....	1	2	3	4	5	6	7	(38)
[] The staff rarely ask for money	1	2	3	4	5	6	7	(39)
[] In the Cambodian justice system, every person has the same rights.....	1	2	3	4	5	6	7	(40)
[] Victims usually receive some kind of reparation or compensation.....	1	2	3	4	5	6	7	(41)
[] Offenders usually are rehabilitated or reintegrated to the community.....	1	2	3	4	5	6	7	(42)
[] If one has to go to court, s/he roughly knows in advance how much it will cost.....	1	2	3	4	5	6	7	(43)
[] One can roughly predict a court case's outcome from the study of past cases.....	1	2	3	4	5	6	7	(44)
[] Most people trust the police	1	2	3	4	5	6	7	(45)
[] Most people trust judges and court clerks	1	2	3	4	5	6	7	(46)

Q 9 a What are, in your opinion, the main problems with the police?

_____ (47)

_____ (48)

_____ (49)

Q 9 b And what are, in your opinion, the main problems with the judges? _____ (50)
 _____ (51)
 _____ (52)

Q 9 c Apart from what you've said above, what are the main problems of the formal justice system? _____ (53)
 _____ (54)
 _____ (55)

Perceived trends - formal system

Q 10 a Do you think the formal system is worse, better or the same than about ten years ago?
Q 10 b Why do you say that? _____ (56)
 _____ (57)
 _____ (58)

Q 10 c And, do you think that in ten years' time the formal system will be better, worse or the same as it is now?
Q 10 d Why do you say that? _____ (59)
 _____ (60)
 _____ (61)

	Ten years ago (62)	In ten years (63)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 11 a Have you heard there is a reform process underway to improve the justice? **Record SA**
 (64)
 Yes 1
 No 2
 Don't know/don't answer 98

Q 11 b What would you think should be done to improve the formal justice system in Cambodia? _____ (65)
 _____ (66)
 _____ (67)

Perceptions and knowledge - informal system

Q 12 Let's now talk about informal justice system (arbitration, cadastral commissions, communal authorities, elders) I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the statement, and 7 means "I strongly agree"
Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree	Strongly agree	
[] The informal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status.....	1	2	3	4	5	6	7	(68)
[] It effectively controls the abuses of power.....	1	2	3	4	5	6	7	(69)
[] It effectively solves conflicts between citizens.....	1	2	3	4	5	6	7	(70)
[] For most people, informal justice is within reasonable distance from where they live.....	1	2	3	4	5	6	7	(71)
[] The language spoken in informal justice is understood by most people.....	1	2	3	4	5	6	7	(72)
[] Most people understand how the informal justice system works.....	1	2	3	4	5	6	7	(73)
[] The people of ADRs and CSJs treat people well.....	1	2	3	4	5	6	7	(74)
[] The people of ADRs and CSJs understand people's problems.....	1	2	3	4	5	6	7	(75)
[] The people of ADRs and CSJs rarely ask for money.....	1	2	3	4	5	6	7	(76)

[]	In the informal justice system, every person has the same rights.....	1	2	3	4	5	6	7	(77)
[]	Victims usually receive some kind of reparation or compensation.....	1	2	3	4	5	6	7	(78)
[]	Offenders usually are rehabilitated or reintegrated to the community.....	1	2	3	4	5	6	7	(79)
[]	If one has to access informal justice, s/he roughly knows in advance how much it will cost.....	1	2	3	4	5	6	7	(80)
[]	One can roughly predict an informal case's outcome from the study of past cases.....	1	2	3	4	5	6	7	(81)
[]	Most people trust arbitration and cadastral commissions.....	1	2	3	4	5	6	7	(82)
[]	Most people trust communal authorities and elders.....	1	2	3	4	5	6	7	(83)

Q 13 a What are, in your opinion, the main problems with arbitration and cadastral commissions? (84)

_____ (85)

_____ (86)

Q 13 b And what are, in your opinion, the main problems with communal authorities? (87)

_____ (88)

_____ (89)

Q 13 c Apart from what you've said above, what are the main problems of the informal justice system? (90)

_____ (91)

_____ (92)

Perceived trends - informal system

Q 14 a Do you think the informal system is worse, better or the same than about ten years ago?

Q 14 b Why do you say that? (93)

_____ (94)

_____ (95)

Q 14 c And, do you think that in ten years' time the informal system will be better, worse or the same as it is now?

Q 14 d Why do you say that? (96)

_____ (97)

_____ (98)

	Ten years ago (99)	In ten years (100)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 15 a What would you think should be done to improve the informal justice system in Cambodia? (101)

_____ (102)

_____ (103)

Q 15 b Do you believe that ADR (arbitration council, cadastral commissions) should be given more authority?

Q 15 c Do you believe that CJS should be legally recognized?

	ADR (104)	CJS (105)
Yes	1	1
No	2	2
Don't know	98	98
Refuse	99	99

"GOOD LAW"

I now want to talk about what a good law should be....

Listed on this card are descriptions of several elements of a good law as described by people like yourself I would like to get your opinion, based on your experience, of how well you think that the justice system in Cambodia presents the elements described on this card

Give Respondent "Justice" Showcard, Allow them time to read it then ask:

Q 15 d I am going to read out each of the 4 statements regarding what a good law should be

Please rate each statement on a scale from 1 to 7

Where 1 means "Strongly disagree that this element is present in the Cambodian Justice System"

Where 7 means "Strongly Agree that this element is present in the Cambodian Justice System"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	The laws are written clearly and can be understood by people who need to use them.....	1	2	3	4	5	6	7	(5)
[]	Information about laws that affect the people is available to those who need it.....	1	2	3	4	5	6	7	(6)
[]	Equal access is granted to all people (regardless of age, gender, race, social status) and no-one is denied access.....	1	2	3	4	5	6	7	(7)
[]	There are formal / informal legal institutions close to my home where I can go to discuss legal problems.....	1	2	3	4	5	6	7	(8)
[]	Travelling distance is not a barrier to being able to access the legal system....	1	2	3	4	5	6	7	(9)
[]	Similar cases are treated in the same way in terms of process and time taken.....	1	2	3	4	5	6	7	(10)
[]	The outcomes of similar cases are usually very similar.....	1	2	3	4	5	6	7	(11)
[]	I think the outcomes of most cases are generally fair	1	2	3	4	5	6	7	(12)
[]	Outcomes of cases are usually enforced in accordance with the decision....	1	2	3	4	5	6	7	(13)
[]	Outcomes of cases are usually enforced within a reasonable timeframe....	1	2	3	4	5	6	7	(14)
[]	Outcomes of cases are nearly always enforced....	1	2	3	4	5	6	7	(15)

Indexes:

Clarity of Law = 1+2 (% of 14)

Accessibility = 3+4+5 (% of 21)

Equity / Predictability = 6+7+8 (% of 21)

Enforceability = 9+10+11 (% of 21)

Overall = (aCL + bA + cE/P +dE) /4

SPECIFIC TARGET GROUP QUESTIONS (TG5)

Q 16 a What are the most important problems in your community? (multiple answers)

- | | | |
|---|----|------|
| Poverty | 1 | (5) |
| Land disputes | 2 | (6) |
| Companies taking land from villagers..... | 3 | (7) |
| Housing | 4 | (8) |
| Public health | 5 | (9) |
| Crime | 6 | (10) |
| Drugs | 7 | (11) |
| Corruption | 8 | (12) |
| Human rights abuses | 9 | (13) |
| Debt | 10 | (14) |
| Oother (specify)_____ | 11 | (15) |

Q 16 b The problems you just mentioned may be specific of your people/group, or may be similar to Khmer ones. What is your opinion, and why?

 (16)

 (17)

 (18)

Q 17 a Are there any conflicts between your people and the Khmers? **Record SA**

- | | | |
|------------------|------|--------------------------|
| | (19) | |
| Yes | 1 | Continue to Q 17b |
| No | 2 | Go to Q 18a |
| Don't know | 98 | Go to Q 18a |
| Refuse | 99 | Go to Q 18a |

Q 17 b Can you describe them?

 (20)

 (21)

 (22)

Q 18 a Let's talk about your communal authorities. Did you ever have to go to them for one or more of the following reasons? **[multiple answers in interval 1-7]**

- | | | |
|---|----|-----------------------|
| Land disputes | 1 | (23) |
| Labour disputes | 2 | (24) |
| Domestic violence | 3 | (25) |
| Inheritance disputes | 4 | (26) |
| Divorce, separation, alimony, custody..... | 5 | (27) |
| Criminal cases (other than dv)..... | 6 | (28) |
| Civil cases (debts, loans, commercial conflicts)..... | 7 | (29) |
| Other (specify)_____ | 8 | (30) |
| No | 9 | (31) Go to Q19 |
| Don't know/don't answer | 98 | (32) Go to Q19 |

Q 18 b How was it managed and solved?

 (33)

 (34)

 (35)

Q 18 c Were you happy with the result? **Record SA**

- | | |
|---------------------|------|
| | (36) |
| Yes | 1 |
| Basically yes | 2 |
| Not very much | 3 |
| No | 98 |
| Refuse | 99 |

Q 19 Do you feel your communal authorities are: **Record SA**

- | | |
|---|------|
| | (37) |
| Fair to everybody | 1 |
| Basically fair | 2 |
| A little biased in favour of the rich & powerful..... | 3 |
| Quite biased in favour of the rich & powerful..... | 4 |
| Refuse | 99 |

Q 20 a Let's talk about the district authorities (courts, police).
 Did you ever have to go to them for one or more of the following reasons?
[multiple answers in interval 1-7]

Land disputes	1	(38)	
Labour disputes	2	(39)	
Domestic violence	3	(40)	
Inheritance disputes	4	(41)	
Divorce, separation, alimony, custody	5	(42)	
criminal cases (other than dv)	6	(43)	
Civil cases (debts, loans, commercial conflicts)	7	(44)	
Other (specify)	8	(45)	
No	9	(46)	Go to Q21
Don't know/don't answer	98	(47)	Go to Q21

Q 20 b How was it managed and solved?

_____ (48)
 _____ (49)
 _____ (50)

Q 20 c Let's talk a little more about your case with the district authorities.
 I am going to read out some statements regarding it.
 Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	I understood the procedures of the district court.....	1	2	3	4	5	6	7	(51)
[]	Judges and clerks understood my problem.....	1	2	3	4	5	6	7	(52)
[]	Judges and clerks treated me well	1	2	3	4	5	6	7	(53)
[]	I had to go back to the court more than two times.....	1	2	3	4	5	6	7	(54)
[]	I had to pay money to the clerks	1	2	3	4	5	6	7	(55)
[]	I trust the district court	1	2	3	4	5	6	7	(56)
[]	I was happy with the result of my case.....	1	2	3	4	5	6	7	(57)

Q 20 d How long did your case take, from when it was brought to the court to the solution? months (58)

Q 20 e And how much did it cost you, including official and unofficial payments?

Value (US\$ or Riels) Riels (59)
 or US\$

Q 20 f And did you receive any compensation as the victim or relative of the victim?

Value (US\$ or Riels) Riels (60)
 or US\$

Q 21 Do you feel the district authorities are: **Record SA** (61)

Fair to everybody	1
Basically fair	2
A little biased in favour of the rich & powerful.....	3
Quite biased in favour of the rich & powerful.....	4
Refuse	99

- Q 22 a When your people go to these authorities (courts, police, etc), are they allowed to speak in their own language?
- Q 22 b Is there a translator? *Record SA*
- Q 22 c Do these authorities understand your customs? *Record SA*
- Q 22 d Do you think these authorities respect your people/group? *Record SA*

	Q22a language (62)	Q22b translator (63)	Q22c customs (64)	Q22d respect (65)
Yes	1	1	1	1
Yes, occasionally	2	2	2	2
Yes, rarely	3	3	3	3
No	4	4	4	4
Don't know	98	98	98	98
Refuse	99	99	99	99

- Q 23 a Do you know anybody of your people/group who has been to prison? *Record SA*

	(66)	
Yes	1	<i>Continue to Q23b</i>
No	2	<i>Go to Q24</i>
Don't know	98	<i>Go to Q24</i>
Refuse	99	<i>Go to Q24</i>

- Q 23 b What for?

_____ (67)

_____ (68)

_____ (69)

- Q 23 c For how long? months (70)

- Q 23 d What kind of problems did he/they have in prison?

_____ (71)

_____ (72)

_____ (73)

- Q 23 e What kind of problems had relatives visiting him/them in prison?

_____ (74)

_____ (75)

_____ (76)

- Q 24 a Let's talk about the ADR (arbitration, cadastral commissions).
Did you ever have to go to them for one or more of the following reasons?
[multiple answers in interval 1-7]

Land disputes	1	(77)
Labour disputes	2	(78)
Domestic violence	3	(79)
Inheritance disputes	4	(80)
Divorce	5	(81)
Criminal cases (other than dv)	6	(82)
Other (specify) _____	7	(83)
No	8	(84) <i>Go to Q25a</i>
Don't know/don't answer	98	(85) <i>Go to Q25a</i>

- Q 24 b How was it managed and solved?

_____ (86)

_____ (87)

_____ (88)

Q 24 c Let's talk a little more about your case with the ADI
 I am going to read out some statements regarding i
 Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the statement,
 and 7 means "I strongly agree
Read out Responses, Rotate beginning with one market "X". Record SA

			Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	I understood the procedures of the ADF	1	2	3	4	5	6	7	(89)	
[]	ADR staff understood my problem	1	2	3	4	5	6	7	(90)	
[]	ADR staff treated me well	1	2	3	4	5	6	7	(91)	
[]	I had to go back to the ADR more than two times	1	2	3	4	5	6	7	(92)	
[]	I had to pay money to ADR staff	1	2	3	4	5	6	7	(93)	
[]	I trust the ADR staff	1	2	3	4	5	6	7	(94)	
[]	I was happy with the result of my case	1	2	3	4	5	6	7	(95)	

Q 24 d How long did your case take, from when it was brought to the ADR to the solution months (96)

Q 24 e And how much did it cost you, including official and unofficial payments? *Record SA*

Value (US\$ or Riels) Riels (97)
 or US\$

Q 25 a Do you know somebody who has gone to the ADR *Record SA*

(98)
 Yes 1 *Continue to Q25b*
 No 2 *Go to Q26*
 Don't know 98 *Go to Q26*
 Refuse 99 *Go to Q26*

Q 25 b Where they happy with the result? *Record SA*

(99)
 Yes 1
 Basically yes 2
 Not very much 3
 No 4
 Refuse 99

Q 26 Do you feel the ADR staff are *Record SA*

(100)
 Fair to everybody 1
 Basically fair 2
 A little biased in favour of the rich & powerful 3
 Quite biased in favour of the rich & powerful 4
 Refuse 99

Q 27 Finally, what do you think should be done to make it easier for you and your people to go to justice

 _____ (101)
 _____ (102)
 _____ (103)

Q 28 Would you like somebody from UNDP to visit your community to talk about the administration of justice?

(104)
 Yes definitely 1
 Probably yes 2
 Unsure 3
 Probably not 4
 Definitely not 5
 Refuse 99

Demographics

Now a few final questions about yourself and your household to help us in our analysis.....

D 1 What is your marital status ? (5)

Single.....	1
Married with children.....	2
Married without children.....	3
Divorced.....	4
Widowed.....	5
Refused	98

D 2 How Old are You? (6)

(7)

Code Response	20 to 24 years	1
	25 - 29 years	2
	30 - 34 years	3
	35 - 39 years	4
	40 - 44 years	5
	Over 45 years	6

D 2 a Gender (8)

Male.....	1
Female.....	2

Q 6 What is your mother tongue? **DEMOGRAPHICS**

(9)

Phnong	1
Tampuan, Stieng, Kraol (specify).....	2
Vietnamese	3
Other (specify).....	4

D 3 What is the last grade of formal education you completed ?

(10)

No formal schooling.....	1
Some primary	2
Completed Primary School.....	3
Some Secondary School.....	4
Completed Secondary School.....	5
Technical / Vocational.....	6
Some/completed Pre-University (A-Level).....	7
Some/completed Diploma Degree	8
University.....	9
Post Graduate.....	10
Do not know	98
Refused	99

D 4 What is your occupation? (11)

Position : _____ Industry: _____

Skill/Qualification: _____

* If retired, previous occupation: _____

* If Self-Employed/Managerial. How many employees responsible for: _____

* If Civil Service/Armed forces. What grade, what rank? _____

D 4 a How many people live at your house? (Include all those sleeping in the dwelling for at least three of the last 12 months including children, adult relatives and domestic servants for whom you have a financial responsibility)

Record MA (11)

Give respondent "Age Group" showcard and ask:

- D 4 b** Please tell me how many males in females in each age group currently live full time in your household?
Please include yourself other adults, children and babies. Do not include servants or guests visiting you.

Male			
0-4	(12)	40-44	(20)
5-9	(13)	45-49	(21)
10-14	(14)	50-54	(22)
15-19	(15)	55-59	(23)
20-24	(16)	60-64	(24)
25-29	(17)	65-69	(25)
30-34	(18)	70-74	(26)
35-39	(19)	75+	(27)
		Total	

Female			
0-4	(28)	40-44	(36)
5-9	(29)	45-49	(37)
10-14	(30)	50-54	(38)
15-19	(31)	55-59	(39)
20-24	(32)	60-64	(40)
25-29	(33)	65-69	(41)
30-34	(34)	70-74	(42)
35-39	(35)	75+	(43)
		Total	

Give respondent "HHOLD Income Contribution" Showcard as ask:

- D 5** According to the choices on this card - How important is your income to the total household income?

- (44)
- It is the only income 1
Largest part of the household income..... 2
It make a substantial contribution (more or less as much as other HH income sources..... 3
Helps to increase total household income as an add on to other income sources..... 4
Refuse 99

Give respondent "HHOLD YSE" card as ask:

- Q 7** Could you please tell me, which category on this card best describes your household in terms of:
- a** What would you think is the total amount that your HH spent on food consumption in the last month?
- b** What would you think is the total amount that your HH spent on non-food consumption in the last month?
Clothing, cooling, domestic rents, education fee, health cost, leisure etc...?

	a) Food (45)	b) Non Food (46)
Less than 50 USD (<200,000 R)	1	1
50 to 100 USD (200,001-400,000R)	2	2
101 to 150 USD (400,001-600,000R)	3	3
151 to 200 USD (600,001-800,000R)	4	4
201 to 250 USD (800,001-1,000,000R)	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8
More than 400 USD (>1,600,000R)	9	9
Don't Know	98	98
Refused	99	99

- D 8** Give respondent "HHOLD YSE" card as ask:

Could you please tell me, which category on this card best describes your household in terms of:

	Monthly Income (47)	Monthly Expenditure (48)	Monthly Saving (49)
Less than 50 USD (<200,000 R)	1	1	1
50 to 100 USD (200,001-400,000R)	2	2	2
101 to 150 USD (400,001-600,000R)	3	3	3
151 to 200 USD (600,001-800,000R)	4	4	4
201 to 250 USD (800,001-1,000,000R)	5	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8	8
More than 400 USD (>1,600,000R)	9	9	9
Don't Know	98	98	98
Refused	99	99	99

- D 9** Give respondent "DURABLES" card as ask:

For each of the items listed on this card can you please tell me how many of each item does your household own? **Record the number of each item owned**

	Yes	How Many	Points	Total
Colour television	1 (50)	(51)	x 4 =	
Black and white television	2 (52)	(53)	x 1 =	
Video cassette player	3 (54)	(55)	x 1 =	

Video CD player	4	(56)			(57)	x	1	=			
Stereo system (no CD)	5	(58)			(59)	x	1	=			
CD Stereo System	6	(60)			(61)	x	4	=			
Laser Disc Player	7	(62)			(63)	x	2	=			
Karaoke Machine	8	(64)			(65)	x	2	=			
Piano / Electric Organ	9	(66)			(67)	x	4	=			
Camera	10	(68)			(69)	x	1	=			
Handycam / Video camera	11	(70)			(71)	x	2	=			
Personal computer	12	(72)			(73)	x	8	=			
Air conditioner	13	(74)			(75)	x	5	=			
Fixed line Telephone	14	(76)			(77)	x	2	=			
Mobile phone	15	(78)			(79)	x	4	=			
Fridge and / or Freezer	16	(80)			(81)	x	3	=			
Microwave	17	(82)			(83)	x	3	=			
Washing Machine	18	(84)			(85)	x	3	=			
Dishwasher	19	(86)			(87)	x	3	=			
Motorcycle under 100 cc	20	(88)			(89)	x	10	=			
Motorcycle over 100 cc	21	(90)			(91)	x	20	=			
Boat	22	(92)			(93)	x	20	=			
Car (Year 1985 and before)	23	(94)			(95)	x	12	=			
Car (Year 1986 to 1993)	24	(96)			(97)	x	40	=			
Car (Year After 1994)	25	(98)			(99)	x	160	=			
Own home	26	(100)			(101)	x	50	=			
Fan	27	(102)			(103)	x	0.2	=			
Gas cooker	28	(104)			(105)	x	1.1	=			
Sewing machine	29	(106)			(107)	x	0.5	=			
Water pump	30	(108)			(109)	x	0.7	=			
Hot-cold water container	31	(110)			(111)	x	1.2	=			
Rice cooker	32	(112)			(113)	x	0.7	=			
Radio set	33	(114)			(115)	x	0.1	=			
Bicycle	34	(116)			(117)	x	0.4	=			
Fax	35	(118)			(119)	x	4.0	=			

TOTAL A

TOTAL B (D4a)

Total A div Total B

<<< SES CALCULATION

	(120)	
A class (35.1 plus)	1	
B class (from 25.1 to 35)	2	
C class (from 17.1 to 25)	3	
D class (from 11.1 to 17)	4	
E&F class (11 below)	5	

Thank Respondent For Co-operation & Close

SURVEY QUESTIONNAIRE : ADR OPERATORS AND CLIENTS (CAMBODIA)

Job No.	MS420						CH:
	(1)	(2)	(3)	(4)	(5)	(6)	CO:
Interview No.	1	/	/	/	/	/	DC:
Interviewer Name							
Interviewer No.							
Date of Interview	/ / 2004						
Interview Length	Fr: :	To :					

Respondent's Name: _____ (7)

Organisation Name: _____ (8)

Address: House: _____ Street: _____ Village/Sangkat: _____ Commune: _____
 District/Khan: _____ Province/City: _____ Spot: _____ (9)

Telephone. Number: _____ (10)

N 1 Sample Type

	(11)
Formal judicial system operators	1
Communal authorities	2
ADR clients, potential clients, operators	3
Women	4
Minorities/indigenous people	5

N 2 Survey Location

	(12)
Siem Reap	17
Kampong Chhnang	4
Kampong Speu	5
Mondulkiri	16

N 3 Respondent Classification

	(13)	
Judge	1	Check Quotas
Lawyer, legal professional	2	Check Quotas
Police (l'tenant & above)	3	Check Quotas
Police (below l'tenant)	4	Check Quotas
Communal/ district authority	5	Check Quotas
ADR client, potential client	6	Check Quotas
ADR operator	7	Check Quotas
Woman	8	Check Quotas
Minority	9	Check Quotas
Minority authority	10	Check Quotas

INTRODUCTION & PROFILING

Good morning/ afternoon, my name isI am an interviewer for Indochina Research an independent research company. We are conducting a study on access to justice in Cambodia.

The Project is sponsored by the United Nations Development Program in Cambodia.

Please be assured that any information you provide will be anonymous and no personal information collected will appear in any documents or reports based on this survey.

Profile of the case

Firstly I would like to talk about the ADR and the case....

Q 1 Are you a: **Record SA**

	(14)
Current or past user of an ADR	1
Potential future user of an ADR	2
ADR operator	3
Other (specify)_____	4

Q 2 a Which kind of ADR is it? **Record SA**

	(15)
Arbitration council	1
Cadastral commission	2
Other (specify)_____	3

Q 2 b How did you [*if Q1=3: How do clients generally*] learn about the ADR?

(16)

 _____ (17)
 _____ (18)

Q 3 a What is/was your case about? [*if Q1=3 What are the majority of the cases about?*]
 _____ (19)
 _____ (20)
 _____ (21)

Q 3 b Are there any other conflicts connected to your case?
 [*if Q1=3 In general, are there any other conflicts connected to the individual cases?*] **Record SA**

(22)

Yes, personal injuries 1
 Yes, property damages 2
 Yes, family quarrels 3
 Yes, other (specify) _____ 4
 No 5
 Don't know 98
 Refuse 99

Q 4 And what is approximately the amount involved in your case ? [*if Q1=3 in the average cases?*]

Value (US\$ or Riels) Riels (23)
or US\$

Q 5 For how long did you have your problem before you came to the ADR?
 [*if Q1=3 For how long do the clients have a problem before they come to the ADR?*] months (24)

"COMMON CORE" QUESTIONS (All TGs)

Use of formal & informal justice systems

Q 7 a In Cambodia, there are two ways of accessing justice. One is going to court (judges, police), the other is going to the informal justice system, which can be: arbitration councils, or cadastral commissions, or communal authorities. What in your opinion are the main differences between formal and informal systems?
 _____ (5)
 _____ (6)
 _____ (7)
 _____ (8)

Q 7 b Let's talk about both systems, formal and informal, and about the need for better access to justice. In your opinion, of the people who are in need of justice, how many actually use each system? **Record SA each**

	Formal (9)	Informal (10)
few (less than 15%)	1	1
some - up to 1/3 (16- 35 %)	2	2
many - up to a half (36- 50%)	3	3
a lot -more than a half (51/ 65%)	4	4
most - 2/3 or more (above 66%)	5	5
dk/da	98	98

Q 7 c In your opinion, for which cases do people most use each system (max 3 answers)?

	Formal	Informal
Land disputes	1 (11)	1 (20)
Labour disputes	2 (12)	2 (21)
Domestic violence	3 (13)	3 (22)
Inheritance disputes	4 (14)	4 (23)
divorce, separation, alimony, custody	5 (15)	5 (24)
criminal cases (other than dv)	6 (16)	6 (25)
civil cases (debts, loans, commercial conflicts).....	7 (17)	7 (26)
other (specify) _____	8 (18)	8 (27)
dk/da	98 (19)	98 (28)

Q 7 d In your experience, how do you think people rate both systems?

Record SA each

	Formal (29)	Informal (30)
Very satisfactory	1	1
Satisfactory	2	2
More satisfactory than unsatisfactory	3	3
Don't know	4	4
More unsatisfactory than satisfactory	5	5
Unsatisfactory	6	6
Very unsatisfactory	7	7
Refuse	99	

Perceptions and knowledge - formal system

Q 8 Let's now talk about the formal system. I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" w with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree	Strongly agree	
[] The formal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	6	7	(31)
[] It effectively controls the abuses of power.....	1	2	3	4	5	6	7	(32)
[] It effectively solves conflicts between citizens.....	1	2	3	4	5	6	7	(33)
[] For most people, courts are within reasonable distance from where they live....	1	2	3	4	5	6	7	(34)
[] The language spoken in court is understood by most people.....	1	2	3	4	5	6	7	(35)
[] Most people understand how the formal justice system works.....	1	2	3	4	5	6	7	(36)
[] The staff (judges, police, clerks) treat people well.....	1	2	3	4	5	6	7	(37)
[] The staff (judges, police, clerks) understand people's problems.....	1	2	3	4	5	6	7	(38)
[] The staff rarely ask for money.....	1	2	3	4	5	6	7	(39)
[] In the Cambodian justice system, every person has the same rights.....	1	2	3	4	5	6	7	(40)
[] Victims usually receive some kind of reparation or compensation.....	1	2	3	4	5	6	7	(41)
[] Offenders usually are rehabilitated or reintegrated to the community.....	1	2	3	4	5	6	7	(42)
[] If one has to go to court, s/he roughly knows in advance how much it will cost....	1	2	3	4	5	6	7	(43)
[] One can roughly predict a court case's outcome from the study of past cases.....	1	2	3	4	5	6	7	(44)
[] Most people trust the police.....	1	2	3	4	5	6	7	(45)
[] Most people trust judges and court clerks.....	1	2	3	4	5	6	7	(46)

Q 9 a What are, in your opinion, the main problems with the police?

_____ (47)
 _____ (48)
 _____ (49)

Q 9 b And what are, in your opinion, the main problems with the judges?

_____ (50)
 _____ (51)
 _____ (52)

Q 9 c Apart from what you've said above, what are the main problems of the formal justice system?

_____ (53)
 _____ (54)
 _____ (55)

Perceived trends - formal system

Q 10 a Do you think the formal system is worse, better or the same than about ten years ago?

Q 10 b Why do you say that?

_____ (56)
 _____ (57)
 _____ (58)

Q 10 c And, do you think that in ten years' time the formal system will be better, worse or the same as it is now?

Q 10 d Why do you say that?

_____ (59)
 _____ (60)
 _____ (61)

	Ten years ago (62)	In ten years (63)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 11 a Have you heard there is a reform process underway to improve the justice? **Record SA**

	(64)
Yes	1
No	2
Don't know/Don't answer	98

Q 11 b What would you think should be done to improve the formal justice system in Cambodia?

_____ (65)
 _____ (66)
 _____ (67)

Perceptions and knowledge - informal system

Q 12 Let's now talk about informal justice system (arbitration, cadastral commissions, communal authorities, elders) I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" w with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree	Strongly agree
[] The informal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status.....	1	2	3	4	5	6	7
[] It effectively controls the abuses of power.....	1	2	3	4	5	6	7
[] It effectively solves conflicts between citizens.....	1	2	3	4	5	6	7
[] For most people, informal justice is within reasonable distance from where they live.....	1	2	3	4	5	6	7
[] The language spoken in informal justice is understood by most people.....	1	2	3	4	5	6	7
[] Most people understand how the informal justice system works.....	1	2	3	4	5	6	7
[] The people of ADRs and CSJs treat people well.....	1	2	3	4	5	6	7
[] The people of ADRs and CSJs understand people's problems.....	1	2	3	4	5	6	7
[] The people of ADRs and CSJs rarely ask for money.....	1	2	3	4	5	6	7
[] In the informal justice system, every person has the same rights.....	1	2	3	4	5	6	7
[] Victims usually receive some kind of reparation or compensation.....	1	2	3	4	5	6	7
[] Offenders usually are rehabilitated or reintegrated to the community.....	1	2	3	4	5	6	7
[] If one has to access informal justice, s/he roughly knows in advance how much it will cost.....	1	2	3	4	5	6	7
[] One can roughly predict an informal case's outcome from the study of past cases.....	1	2	3	4	5	6	7
[] Most people trust arbitration and cadastral commissions.....	1	2	3	4	5	6	7
[] Most people trust communal authorities and elders.....	1	2	3	4	5	6	7

Q 13 a What are, in your opinion, the main problems with arbitration and cadastral commissions? (84)
 _____ (85)
 _____ (86)

Q 13 b And what are, in your opinion, the main problems with communal authorities? (87)
 _____ (88)
 _____ (89)

Q 13 c Apart from what you've said above, what are the main problems of the informal justice system? (90)
 _____ (91)
 _____ (92)

Perceived trends - informal system

Q 14 a Do you think the informal system is worse, better or the same than about ten years ago?
Q 14 b Why do you say that? (93)
 _____ (94)
 _____ (95)

Q 14 c And, do you think that in ten years' time the informal system will be better, worse or the same as it is now?
Q 14 d Why do you say that? (96)
 _____ (97)
 _____ (98)

	Ten years ago (99)	In ten years (100)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 15 a What would you think should be done to improve the informal justice system in Cambodia? (101)
 _____ (102)
 _____ (103)

Q 15 b Do you believe that ADR (arbitration council, cadastral commissions) should be given more authority?
Q 15 c Do you believe that CJS should be legally recognized?

	ADR (104)	CJS (105)
yes	1	1
no	2	2
dk	3	3
refuse	98	98

"GOOD LAW"

I now want to talk about what a good law should be....

Listed on this card are descriptions of several elements of a good law as described by people like yourself. I would like to get your opinion, based on your experience, of how well you think that the justice system in Cambodia presents the elements described on this card

Give Respondent "Justice" Showcard, Allow them time to read it then ask:

Q 15 d I am going to read out each of the 4 statements regarding what a good law should be

Please rate each statement on a scale from 1 to 7

Where 1 means "Strongly disagree that this element is present in the Cambodian Justice System"

Where 7 means "Strongly Agree that this element is present in the Cambodian Justice System"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree
[]	The laws are written clearly and can be understood by people who need to use them...	1	2	3	4	5	6	7
[]	Information about laws that affect the people is available to those who need it....	1	2	3	4	5	6	7
[]	Equal access is granted to all people (regardless of age, gender, race, social status) and no-one is denied access	1	2	3	4	5	6	7
[]	There are formal / informal legal institutions close to my home where I can go to discuss legal problems	1	2	3	4	5	6	7
[]	Travelling distance is not a barrier to being able to access the legal system.....	1	2	3	4	5	6	7
[]	Similar cases are treated in the same way in terms of process and time taken....	1	2	3	4	5	6	7
[]	The outcomes of similar cases are usually very similar.....	1	2	3	4	5	6	7
[]	I think the outcomes of most cases are generally fair	1	2	3	4	5	6	7
[]	Outcomes of cases are usually enforced in accordance with the decision.....	1	2	3	4	5	6	7
[]	Outcomes of cases are usually enforced within a reasonable timeframe.....	1	2	3	4	5	6	7
[]	Outcomes of cases are nearly always enforced.....	1	2	3	4	5	6	7

Indexes:

Clarity of Law = 1+2 (% of 14)

Accessibility = 3+4+5 (% of 21)

Equity / Predictability = 6+7+8 (% of 21)

Enforceability = 9+10+11 (% of 21)

Overall = (aCL + bA + cE/P + dE) /4

SPECIFIC TARGET GROUP QUESTIONS (TG3)

Q 16 Let's talk about your case [*if Q1=3, about the average cases*].

a How long does it take to come to the ADR? **Record SA**

	(5)
Less than 1 hour	1
Between 1 and 3 hours	2
Between 3 and 6 hours	3
Between 6 and 12 hours	4
More than 12 hours	5
Don't know	98
Refuse	99

Q 16 b Which kind of transport is prevalently used? **Record SA**

- (6)
- Walk 1
 - Bus 2
 - Taxi/ mototaxi..... 3
 - Own bycycle..... 4
 - Own motorbike 5
 - Own car 6
 - Don't know 98
 - Refuse 99

Q 16 c How much does it cost, each time, to come to the ADR? **Record SA**

- (7)
- Less than 2000 riel..... 1
 - Between 2000 and 4000 riel 2
 - Between 20000 and 50000 riel 3
 - More than 50000 riel..... 4
 - Don't know 98
 - Refuse 99

Q 17 a Was the case [*if Q1=3, Is the average case*] previously managed by another authority? **Record SA**

- (8)
- Yes, village chief/elders..... 1
 - Yes, others in village..... 2
 - Yes, commune/sangkat authorities 3
 - Yes, courts/police 4
 - No 5
 - Don't know 98 **Go to Q18a**
 - Refuse 99 **Go to Q18a**

Q 17 b Why was it impossible to solve the case/cases/ at that level?

_____ (9)

_____ (10)

_____ (11)

INTERVIEWER: IF Q1=3, GO TO Q 22

Q 18 a Do you think the local authorities have the legal competence to solve your case?

Q 18 b Does the ADR?

	Local authorities (12)	ADR (13)
Yes	1	1
No	2	2
Don't know	98	98
Refuse	99	99

Q 18 c What do you think you'll do/would have done if your case is not solved here in the ADR?

_____ (14)

_____ (15)

_____ (16)

Q 19 Do/did you understand the procedure of ADR?

- (17)
- Yes, easily 1
 - Yes, with some difficulties..... 2
 - No 3
 - Don't know 98
 - Refuse 99

Q 20 Let's talk about the ADR staff.
 I am going to read out some statements that describe certain functions and aspects of such system.
 Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" w with the statement,
 and 7 means "I strongly agree"
Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	The ADR staff easily understood my problem	1	2	3	4	5	6	7	(18)
[]	They facilitated conciliation to arrive at an agreement	1	2	3	4	5	6	7	(19)
[]	They are competent	1	2	3	4	5	6	7	(20)
[]	They are not biased	1	2	3	4	5	6	7	(21)
[]	They are better than the courts	1	2	3	4	5	6	7	(22)

Q 21 Let's now talk about your case.
 I am going to read out some statements related to it.
 Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" w with the statement,
 and 7 means "I strongly agree"
Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	I am happy with the solution of my case	1	2	3	4	5	6	7	(23)
[]	The solution of my case is/has been fair	1	2	3	4	5	6	7	(24)
[]	It is/has been cheaper than going to court	1	2	3	4	5	6	7	(25)
[]	It is less time-consuming than going to court	1	2	3	4	5	6	7	(26)
[]	My relationship with my former adversary is now better/ will improve.....	1	2	3	4	5	6	7	(27)
[]	I would recommend the ADR to my friends or relatives.....	1	2	3	4	5	6	7	(28)

Q 22 Do you think the law should give more competences to ADRs so they can solve more kinds of problems?
 (29) *Record SA*

Yes 1
 Yes, in some cases 2
 No 3
 Don't know 98
 Refuse 99

Q 23 Do you think the law should give more competences to local authorities so they can solve the kind of problems which now are brought to ADRs?
 (30) *Record SA*

Yes 1
 Yes, in some cases 2
 No 3
 Don't know 98
 Refuse 99

Demographics

Now a few final questions about yourself and your household to help us in our analysis.....

D 1 What is your marital status ? (5)

Single.....	1
Married with children.....	2
Married without children.....	3
Divorced.....	4
Widowed.....	5
Refused	98

D 2 How Old are You? (6)

(7)

Code Response	20 to 24 years	1
	25 - 29 years	2
	30 - 34 years	3
	35 - 39 years	4
	40 - 44 years	5
	Over 45 years	6

D 2 a Gender (8)

Male.....	1
Female.....	2

Q 6 What is your mother tongue? DEMOGRAPHICS

(9)

Khmer	1
Vietnamese	2
Other (specify).....	3

D 3 What is the last grade of formal education you completed ? (10)

No formal schooling.....	1
Some primary	2
Completed Primary School.....	3
Some Secondary School.....	4
Completed Secondary School.....	5
Technical / Vocational.....	6
Some/completed Pre-University (A-Level).....	7
Some/completed Diploma Degree	8
University.....	9
Post Graduate.....	10
Do not know	98
Refused	99

D 4 What is your occupation? (11)

Position : _____ Industry: _____

Skill/Qualification: _____

* If retired, previous occupation: _____

* If Self-Employed/Managerial. How many employees responsible for: _____

* If Civil Service/Armed forces. What grade, what rank? _____

D 4 a How many people live at your house? (Include all those sleeping in the dwelling for at least three of the last 12 months including children, adult relatives and domestic servants for whom you have a financial responsibility)

Record MA (11)

Give respondent "Age Group" showcard and ask:

D 4 b Please tell me how many males in females in each age group currently live full time in your household? Please include yourself other adults, children and babies. Do not include servants or guests visiting you.

Male			
0-4	(12)	40-44	(20)
5-9	(13)	45-49	(21)
10-14	(14)	50-54	(22)
15-19	(15)	55-59	(23)
20-24	(16)	60-64	(24)
25-29	(17)	65-69	(25)
30-34	(18)	70-74	(26)
35-39	(19)	75+	(27)
		Total	

Female			
0-4	(28)	40-44	(36)
5-9	(29)	45-49	(37)
10-14	(30)	50-54	(38)
15-19	(31)	55-59	(39)
20-24	(32)	60-64	(40)
25-29	(33)	65-69	(41)
30-34	(34)	70-74	(42)
35-39	(35)	75+	(43)
		Total	

Give respondent "HHOLD Income Contribution" Showcard as ask:

D 5 According to the choices on this card - How important is your income to the total household income?

- (44)
- It is the only income 1
- Largest part of the household income 2
- It make a substantial contribution (more or less as much as other HH income sources..... 3
- Helps to increase total household income as an add on to other income sources 4
- Refuse 99

Give respondent "HHOLD YSE" card as ask:

Q 7 Could you please tell me, which category on this card best describes your household in terms of:

a What would you think is the total amount that your HH spent on food consumption in the last month?

b What would you think is the total amount that your HH spent on non-food consumption in the last month? Clothing, cooling, domestic rents, education fee, health cost, leisure etc...?

	a) Food	b) Non Food
	(45)	(46)
Less than 50 USD (<200,000 R)	1	1
50 to 100 USD (200,001-400,000R)	2	2
101 to 150 USD (400,001-600,000R)	3	3
151 to 200 USD (600,001-800,000R)	4	4
201 to 250 USD (800,001-1,000,000R)	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8
More than 400 USD (>1,600,000R)	9	9
Don't Know	98	98
Refused	99	99

D 8 Give respondent "HHOLD YSE" card as ask:

Could you please tell me, which category on this card best describes your household in terms of:

	Monthly Income	Monthly Expenditure	Monthly Saving
	(47)	(48)	(49)
Less than 50 USD (<200,000 R)	1	1	1
50 to 100 USD (200,001-400,000R)	2	2	2
101 to 150 USD (400,001-600,000R)	3	3	3
151 to 200 USD (600,001-800,000R)	4	4	4
201 to 250 USD (800,001-1,000,000R)	5	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8	8
More than 400 USD (>1,600,000R)	9	9	9
Don't Know	98	98	98
Refused	99	99	99

D 9 Give respondent "DURABLES" card as ask:

For each of the items listed on this card can you please tell me how many of each item does your household own? Record the number of each item owned

Yes	How Many	Office Use Only	
		Points	Total

Colour television	1	(50)			(51)	x	4	=			
Black and white television	2	(52)			(53)	x	1	=			
Video cassette player	3	(54)			(55)	x	1	=			
Video CD player	4	(56)			(57)	x	1	=			
Stereo system (no CD)	5	(58)			(59)	x	1	=			
CD Stereo System	6	(60)			(61)	x	4	=			
Laser Disc Player	7	(62)			(63)	x	2	=			
Karaoke Machine	8	(64)			(65)	x	2	=			
Piano / Electric Organ	9	(66)			(67)	x	4	=			
Camera	10	(68)			(69)	x	1	=			
Handycam / Video camera	11	(70)			(71)	x	2	=			
Personal computer	12	(72)			(73)	x	8	=			
Air conditioner	13	(74)			(75)	x	5	=			
Fixed line Telephone	14	(76)			(77)	x	2	=			
Mobile phone	15	(78)			(79)	x	4	=			
Fridge and / or Freezer	16	(80)			(81)	x	3	=			
Microwave	17	(82)			(83)	x	3	=			
Washing Machine	18	(84)			(85)	x	3	=			
Dishwasher	19	(86)			(87)	x	3	=			
Motorcycle under 100 cc	20	(88)			(89)	x	10	=			
Motorcycle over 100 cc	21	(90)			(91)	x	20	=			
Boat	22	(92)			(93)	x	20	=			
Car (Year 1985 and before)	23	(94)			(95)	x	12	=			
Car (Year 1986 to 1993)	24	(96)			(97)	x	40	=			
Car (Year After 1994)	25	(98)			(99)	x	160	=			
Own home	26	(100)			(101)	x	50	=			
Fan	27	(102)			(103)	x	0.2	=			
Gas cooker	28	(104)			(105)	x	1.1	=			
Sewing machine	29	(106)			(107)	x	0.5	=			
Water pump	30	(108)			(109)	x	0.7	=			
Hot-cold water container	31	(110)			(111)	x	1.2	=			
Rice cooker	32	(112)			(113)	x	0.7	=			
Radio set	33	(114)			(115)	x	0.1	=			
Bicycle	34	(116)			(117)	x	0.4	=			
Fax	35	(118)			(119)	x	4.0	=			

TOTAL A

TOTAL B (D4a)

Total A div Total B

<<< SES CALCULATION

Thank Respondent For Co-operation & Close

SURVEY QUESTIONNAIRE FOR COMMUNAL AUTHORITIES (CAMBODIA)

Job No.	
	(1) (2) (3) (4) (5)
Interview No.	1 / / / / /
Interviewer Name	
Interviewer No.	
Date of Interview	/ / 2004
Interview Length	Fr: : To :

Respondent's Name: _____

Organisation Name: _____

Address: House: _____ Street: _____ Village/Sangkat: _____ Commune: _____
 District/Khan: _____ Province/City: _____ **Spot:** _____

Telephone. Number: _____ (10)

N 1 Sample Type

	(11)
Formal judicial system operators	1
Communal authorities	2
ADR clients, potential clients, operators	3
Women	4
Minorities/indigenous people	5

N 2 Survey Location

	(12)
Siem Reap	17
Kampong Chhnang	4
Kampong Speu	5
Monduliri	16

N 3 Respondent Classification

	(13)	
Judge	1	<i>Check Quotas</i>
Lawyer, legal professional	2	<i>Check Quotas</i>
Police (l'tenant & above)	3	<i>Check Quotas</i>
Police (below l'tenant)	4	<i>Check Quotas</i>
Communal/ district authority	5	<i>Check Quotas</i>
ADR client, potential client	6	<i>Check Quotas</i>
ADR operator	7	<i>Check Quotas</i>
Woman	8	<i>Check Quotas</i>
Minority	9	<i>Check Quotas</i>
Minority authority	10	<i>Check Quotas</i>

INTRODUCTION & PROFILING

Good morning/ afternoon, my name isI am an interviewer for Indochina Research an independent research company. We are conducting a study on access to justice in Cambodia. The Project is sponsored by the United Nations Development Program in Cambodia. Please be assured that any information you provide will be anonymous and no personal information collected will appear in any documents or reports based on this survey.

Profile of the community Firstly I would like to talk about the community you work in....

Q 1 a Which of the following best describes your community? **Record SA**

	(14)
Rural village	1
Rural commune/sangkat	2
Urban commune/sangkat	3
Minority village/commune/sangkat	4
Other (specify)_____	5

Q 1 b How many people make up your community? (15)

Q 1 c What are the main occupations of people in your community?
1 _____
2 _____
3 _____

Q 2 What is the mother tongue of most people in your community? **Record SA**
(19)
Khmer 1
Vietnamese 2
Other (specify)_____ 3

Q 3 a Are there any ethnic minority or indigenous people in your community? **Record SA**
(20)
Yes 1
No 2 **Go to Q4**
Don't know 98 **Go to Q4**

Q 3 b Which are they?

Position ...Next, I would like to talk about your current position....

Q 4 a Can you describe your main duties as a communal authority? Please begin from the one you think is most imp
1 _____
2 _____
3 _____
4 _____

Q 4 b Who nominated you to your present position? **Record SA**
(28)
The government, after the 1998 elections 1
The government, before the 1998 elections 2
Was elected/nominated by the community 3
Other (specify)_____ 4

Q 4 c How is your time shared between your duties as an authority and your other occupations?

Q 5 a How many years have you been in your present position? (32)

Q 5 b What is your salary, if any **Value (US\$ or Riels)** Riels
or US\$

Q 5 c How many other people work with you in the communal authority? (34)

"COMMON CORE" QUESTIONS (All TGs)

Use of formal & informal justice systems

Q 7 a In Cambodia, there are two ways of accessing justice. One is going to court (judges, police), the other is going to the informal justice system, which can be: arbitration councils, or cadastral courts or communal authorities. What in your opinion are the main differences between formal and informal justice systems?

Q 7 b Let's talk about both systems, formal and informal, and about the need for better access to justice. In your opinion, of the people who are in need of justice, how many actually use each system? *Recode*

	Formal		Informal
	(9)		(10)
few (less than 15%)	1	.....	1
some - up to 1/3 (16- 35 %)	2	.....	2
many - up to a half (36- 50%)	3	.....	3
a lot -more than a half (51/ 65%)	4	.....	4
most - 2/3 or more (above 66%)	5	.....	5
dk/da	98	.....	98

Q 7 c In your opinion, for which cases do people most use each system (max 3 answers)?

	Formal		Informal
land disputes	1	(11)	..... 1 (20)
labour disputes	2	(12)	..... 2 (21)
domestic violence	3	(13)	..... 3 (22)
inheritance disputes	4	(14)	..... 4 (23)
divorce, separation, alimony, custody	5	(15)	..... 5 (24)
criminal cases (other than dv)	6	(16)	..... 6 (25)
civil cases (debts, loans, commercial conflicts)	7	(17)	..... 7 (26)
other (specify) _____	8	(18)	_____ 8 (27)
dk/da	98	(19)	..... 98 (28)

Q 7 d In your experience, how do you think people rate both systems? *Record SA each*

	Formal	Informal
	(29)	(30)
Very satisfactory	1	1
Satisfactory	2	2
More satisfactory than unsatisfactory	3	3
Don't know	4	4
More unsatisfactory than satisfactory	5	5
Unsatisfactory	6	6
Very unsatisfactory	7	7
Refuse		99

Perceptions and knowledge - formal system

Q 8 Let's now talk about the formal system. I am going to read out some statements that describe certain functions and aspects of such system.

Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the state and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree
[] The formal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	6
[] It effectively controls the abuses of power	1	2	3	4	5	6
[] It effectively solves conflicts between citizens	1	2	3	4	5	6
[] For most people, courts are within reasonable distance from where they live	1	2	3	4	5	6
[] The language spoken in court is understood by most people	1	2	3	4	5	6
[] Most people understand how the formal justice system works	1	2	3	4	5	6
[] The staff (judges, police, clerks) treat people well	1	2	3	4	5	6
[] The staff (judges, police, clerks) understand people's problems	1	2	3	4	5	6
[] The staff rarely ask for money	1	2	3	4	5	6
[] In the Cambodian justice system, every person has the same rights	1	2	3	4	5	6
[] Victims usually receive some kind of reparation or compensation	1	2	3	4	5	6
[] Offenders usually are rehabilitated or reintegrated to the community	1	2	3	4	5	6
[] If one has to go to court, s/he roughly knows in advance how much it will cost	1	2	3	4	5	6
[] One can roughly predict a court case's outcome from the study of past cases	1	2	3	4	5	6
[] Most people trust the police	1	2	3	4	5	6
[] Most people trust judges and court clerks	1	2	3	4	5	6

Q 9 a What are, in your opinion, the main problems with the police?

Q 9 b And what are, in your opinion, the main problems with the judges?

Q 9 c Apart from what you've said above, what are the main problems of the formal justice system?

Perceived trends - formal system

Q 10 a Do you think the formal system is worse, better or the same than about ten years ago?

Q 10 b Why do you say that?

Q 10 c And, do you think that in ten years' time the formal system will be better, worse or the same as it is now?

Q 10 d Why do you say that?

	Ten years ago		In ten years
	(62)		(63)
Much worse	1	.....	1
Worse	2	.....	2
Slightly worse	3	.....	3
Same/ Don't know	4	.....	4
Slightly better	5	.....	5
Better	6	.....	6
Much better	7	.....	7
Refuse	99	.....	99

Q 11 a Have you heard there is a reform process underway to improve the justice? **Record SA**

	(64)
Yes	1
No	2
Don't know/Don't answer	98

Q 11 b What would you think should be done to improve the formal justice system in Cambodia?

Perceptions and knowledge - informal system

Q 12 Let's now talk about informal justice system (arbitration, cadastral commissions, communal authorities). I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the state" and 7 means "I strongly agree".

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree
[] The informal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	
[] It effectively controls the abuses of power	1	2	3	4	5	
[] It effectively solves conflicts between citizens	1	2	3	4	5	
[] For most people, informal justice is within reasonable distance from where they live	1	2	3	4	5	
[] The language spoken in informal justice is understood by most people	1	2	3	4	5	
[] Most people understand how the informal justice system works	1	2	3	4	5	
[] The people of ADRs and CSJs treat people well	1	2	3	4	5	
[] The people of ADRs and CSJs understand people's problems	1	2	3	4	5	
[] The people of ADRs and CSJs rarely ask for money	1	2	3	4	5	
[] In the informal justice system, every person has the same rights	1	2	3	4	5	
[] Victims usually receive some kind of reparation or compensation	1	2	3	4	5	
[] Offenders usually are rehabilitated or reintegrated to the community	1	2	3	4	5	
[] If one has to access informal justice, s/he roughly knows in advance how much it will cost	1	2	3	4	5	
[] One can roughly predict an informal case's outcome from the study of past cases	1	2	3	4	5	
[] Most people trust arbitration and cadastral commissions	1	2	3	4	5	
[] Most people trust communal authorities and elders	1	2	3	4	5	

Q 13 a What are, in your opinion, the main problems with arbitration and cadastral commissions?

Q 13 b And what are, in your opinion, the main problems with communal authorities?

Q 13 c Apart from what you've said above, what are the main problems of the informal justice system?

Perceived trends - informal system

Q 14 a Do you think the informal system is worse, better or the same than about ten years ago?

Q 14 b Why do you say that?

- Q 14 c** And, do you think that in ten years' time the informal system will be better, worse or the same as it is
Q 14 d Why do you say that?

	Ten years ago (99)	In ten years (100)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

- Q 15 a** What would you think should be done to improve the informal justice system in Cambodia?

- Q 15 b** Do you believe that ADR (arbitration council, cadastral commissions) should be given more authority?
Q 15 c Do you believe that CJS should be legally recognized?

	ADR (104)	CJS (105)
yes	1	1
no	2	2
dk	3	3
refuse	98	98

"GOOD LAW"

I now want to talk about what a good law should be....

Listed on this card are descriptions of several elements of a good law as described by people like you. I would like to get your opinion, based on your experience, of how well you think that the justice system in Cambodia presents the elements described on this card

Give Respondent "Justice" Showcard, Allow them time to read it then ask:

- Q 15 d** I am going to read out each of the 4 statements regarding what a good law should be

Please rate each statement on a scale from 1 to 7

Where 1 means "Strongly disagree that this element is present in the Cambodian Justice System"

Where 7 means "Strongly Agree that this element is present in the Cambodian Justice System"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree
[] The laws are written clearly and can be understood by people who need to use them	1	2	3	4	5
[] Information about laws that affect the people is available to those who need it	1	2	3	4	5
[] Equal access is granted to all people (regardless of age, gender, race, social status) and no-one is denied access	1	2	3	4	5

[]	There are formal / informal legal institutions close to my home where I can go to discuss legal problems	1	2	3	4	5
[]	Travelling distance is not a barrier to being able to access the legal system	1	2	3	4	5
[]	Similar cases are treated in the same way in terms of process and time taken	1	2	3	4	5
[]	The outcomes of similar cases are usually very similar	1	2	3	4	5
[]	I think the outcomes of most cases are generally fair	1	2	3	4	5
[]	Outcomes of cases are usually enforced in accordance with the decision	1	2	3	4	5
[]	Outcomes of cases are usually enforced within a reasonable timeframe	1	2	3	4	5
[]	Outcomes of cases are nearly always enforced	1	2	3	4	5

Indexes:

Clarity of Law = 1+2 (% of 14)

Accessibility = 3+4+5 (% of 21)

Equity / Predictability = 6+7+8 (% of 21)

Enforceability = 9+10+11 (% of 21)

Overall = (aCL + bA + cE/P + dE) /4

SPECIFIC TARGET GROUP QUESTIONS (TG2)

Q 16 What are the most important problems in your community? (multiple answers)

poverty	1	(5)
land disputes	2	(6)
companies taking land from villagers	3	(7)
housing	4	(8)
public health	5	(9)
crime	6	(10)
drugs	7	(11)
corruption	8	(12)
human rights abuses	9	(13)
debt	10	(14)
other (specify) _____	11	(15)

Q 17 How many cases/disputes does your communal authority approximately deal with every month?

Q 18 a In general - In your experience - What are the three most frequent kinds of cases/disputes you deal

Q 18 b In reference to women, what are the three most frequent kinds of cases brought to your authority by

Q 18 c In reference to minorities, what are the three most frequent kinds of cases brought to your authority by minority

In general	Most frequent (17)	2nd most frequent (18)	3rd most fr (19)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify) _____	8	8	8
dk/da	98	98	98

Women:	Most frequent (20)	2nd most frequent (21)	3rd most fr (22)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6

civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify) _____	8	8	8
dk/da	98	98	98

	Most frequent	2nd most frequent	3rd most fr
Minorities:	(23)	(24)	(25)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify) _____	8	8	8
dk/da	98	98	98

Q 19 What other kinds of authorities and organizations are present in your community? *Record MA*

Police	1	(26)
Wat, Monastery	2	(27)
Court	3	(28)
Other (specify) _____	4	(29)

Q 20 a In general, in your experience - What are the three most frequent kinds of cases people bring directly to other authorities, instead than to you?

Q 20 b In reference to women, what are the three most frequent kinds of cases brought to other authorities

Q 20 c In reference to minorities, what are the three most frequent kinds of cases brought to other authorities by mino

In general	Most frequent	2nd most frequent	3rd most fr
	(30)	(31)	(32)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify) _____	8	8	8
dk/da	98	98	98

	Most frequent	2nd most frequent	3rd most fr
Women:	(33)	(34)	(35)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify) _____	8	8	8
dk/da	98	98	98

	Most frequent	2nd most frequent	3rd most fr
Minorities:	(36)	(37)	(38)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3

inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify) _____	8	8	8
dk/da	98	98	98

INTERVIEWER: IF Q1a ≠ 4, go to Q 21

- Q 20 d** When your people go to these other authorities (courts, police, etc), are they allowed to speak in their own language? *Record SA*
- Q 20 e** Is there a translator? *Record SA*
- Q 20 f** Do these authorities understand your customs? *Record SA*
- Q 20 g** Do you think these authorities respect your people/group? *Record SA*

	Q20d Language (39)	Q20e Translator (40)	Q20f Customs (41)	Q20g Respect (42)
Yes	1	1	1	1
Yes, occasionally	2	2	2	2
Yes, rarely	3	3	3	3
No	4	4	4	4
Don't know	98	98	98	98
Refuse	99	99	99	99

- Q 21 a** In the following list of matters, which ones do you try to solve inside the community? *Record SA*
- Q 21 b** Which ones you mostly send to other authorities? *Record SA*

	Q21a Community (43)	Q21b Send to Other authorities (44)
Land disputes	1	1
Labour disputes	2	2
Domestic violence	3	3
Inheritance disputes	4	4
Divorce	5	5
Criminal cases (other than dv)	6	6
Other (specify) _____	7	7
Don't know/Don't answer	98	98

- Q 21 c** Can you explain the reasons for your choices?

- Q 22 a** Let's talk about problems/conflicts managed inside your community. On average, how long does it take to solve them, from when they come to you to the solution?

In General	<input type="text"/>	<input type="text"/>	weeks	(48)
For Women	<input type="text"/>	<input type="text"/>	weeks	(49)
For Minorities	<input type="text"/>	<input type="text"/>	weeks	(50)

Q 22 b Can you describe what you normally do to solve a problem?

Q 22 c Do you try to act as a conciliator between parties, and how?

Q 22 d In the course of this research, some interviewees told us cases brought by women are handled differently than analogous cases brought by men. What is your experience?

Q 23 a Now, can you give us some examples of how you work.
What do you generally do for problems/disputes concerning land and/or deeds?

Q 23 b And if a couple want to divorce?

Q 23 c And in cases of domestic violence?

Q 23 d And in cases of accidents or damages?

Q 23 e And in cases of robbery or homicide?

Q 24 a Are there things you often say to the people in your community to help solve their problems?

Q 25 Do you register a case and its outcome in a dossier/notebook? **Record SA**
 (78)
 Always/ most times 1
 Some times 2
 Occasionally 3
 Rarely/ never 4

Q 26 a Do you know about the cadastral commission of your province? **Record SA**
 (79)
 Yes 1 **Continue to Q 26b**
 No 2 **Go to Q 27**
 Don't know 98 **Go to Q 27**
 Refuse 99 **Go to Q 27**

Q 26 b Have you sent them any cases? **Record SA**
 (80)
 Yes 1 **Continue to Q 26c**
 No 2 **Go to Q 27**
 Don't know 98 **Go to Q 27**
 Refuse 99 **Go to Q 27**

Q 26 c What were the results in these cases?

Q 27 a Have you sent any cases to the formal justice system (police, courts)? **Record SA**
 (84)
 Yes 1 **Continue to Q 27b**
 No 2 **Go to Q 28**
 Don't know 98 **Go to Q 28**
 Refuse 99 **Go to Q 28**

Q 27 b What were the results in these cases?

Q 28 a Do you think the law should allow communal authorities to deal with the conflicts that come up in the

	(88)	Record SA
Yes	1	Continue to Q28b
Yes, in some cases	2	Continue to Q28b
No	3	Go to Q29
Don't know	98	Go to Q29
Refuse	99	Go to Q29

Q 28 b In what matters? **Record SA**

	(89)
Civil	1
Criminal	2
Both	3
Other (specify) _____	4

Q 28 c And to what extent?

Q 29 Over what kind of matters should the formal justice system (the courts) retain exclusive authority?

Q 30 Would you like somebody from UNDP to visit your community to talk about the administration of justice?

	(96)	Record SA
Yes definitely	1	
Probably yes	2	
Unsure	3	
Probably not	4	
Definitely not	5	
Refuse	99	

Demographics

Now a few final questions about yourself and your household to help us in our analysis....

D 1 What is your marital status ? (5)

Single.....	1
Married with children.....	2
Married without children.....	3
Divorced.....	4
Widowed.....	5
Refused	98

D 2 How Old are You? (6)

	(7)
Code Response 20 to 24 years	1
25 - 29 years	2

30 - 34 years	3
35 - 39 years	4
40 - 44 years	5
Over 45 years	6

D 2 a Gender (8)
 Male..... 1
 Female..... 2

Q 6 What is your mother tongue? DEMOGRAPHICS (9)
 Khmer 1
 Vietnamese 2
 Other (specify)_____ 3

D 3 What is the last grade of formal education you completed ? (10)
 No formal schooling..... 1
 Some primary 2
 Completed Primary School..... 3
 Some Secondary School..... 4
 Completed Secondary School..... 5
 Technical / Vocational..... 6
 Some/completed Pre-University (A-Level).... 7
 Some/completed Diploma Degree 8
 University..... 9
 Post Graduate..... 10
 Do not know 98
 Refused 99

D 4 What is your occupation?Position : _____ Industry: _____ (11)
 Skill/Qualification: _____
 * If retired, previous occupation: _____
 * If Self-Employed/Managerial. How many employees responsible for: _____
 * If Civil Service/Armed forces. What grade, what rank? _____

D 4 a How many people live at your house? (Include all those sleeping in the dwelling for at least three of 12 months including children, adult relatives and domestic servants for whom you have a financial r
 Record MA (11)

Give respondent "Age Group" showcard and ask:

D 4 b Please tell me how many males in females in each age group currently live full time in your househ
 Please include yourself other adults, children and babies. Do not include servants or guests visiting

Male					
0-4		(12)	40-44		(20)
5-9		(13)	45-49		(21)
10-14		(14)	50-54		(22)
15-19		(15)	55-59		(23)
20-24		(16)	60-64		(24)
25-29		(17)	65-69		(25)
30-34		(18)	70-74		(26)
35-39		(19)	75+		(27)
			Total		

Female					
0-4		(28)	40-44		(36)
5-9		(29)	45-49		(37)
10-14		(30)	50-54		(38)
15-19		(31)	55-59		(39)
20-24		(32)	60-64		(40)
25-29		(33)	65-69		(41)
30-34		(34)	70-74		(42)
35-39		(35)	75+		(43)
			Total		

Give respondent "HHOLD Income Contribution" Showcard as ask:

- D 5** According to the choices on this card - How important is your income to the total household income? (44)
- | | |
|--|----|
| It is the only income | 1 |
| Largest part of the household income | 2 |
| It make a substantial contribution (more or less as much as other HH income sources) | 3 |
| Helps to increase total household income as an add on to other income sources | 4 |
| Refuse | 99 |

Give respondent "HHOLD YSE" card as ask:

- Q 7** Could you please tell me, which category on this card best describes your household in terms of:
- a** What would you think is the total amount that your HH spent on food consumption in the last month?
- b** What would you think is the total amount that your HH spent on non-food consumption in the last month? Clothing, cooling, domestic rents, education fee, health cost, leisure etc...?

	a) Food (45)	b) Non Food (46)
Less than 50 USD (<200,000 R)	1	1
50 to 100 USD (200,001-400,000R)	2	2
101 to 150 USD (400,001-600,000R)	3	3
151 to 200 USD (600,001-800,000R)	4	4
201 to 250 USD (800,001-1,000,000R)	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8
More than 400 USD (>1,600,000R)	9	9
Don't Know	98	98
Refused	99	99

- D 8** **Give respondent "HHOLD YSE" card as ask:**
 Could you please tell me, which category on this card best describes your household in terms of:

	Monthly Income (47)	Monthly Expenditure (48)	Monthly Saving (49)
Less than 50 USD (<200,000 R)	1	1	1
50 to 100 USD (200,001-400,000R)	2	2	2
101 to 150 USD (400,001-600,000R)	3	3	3
151 to 200 USD (600,001-800,000R)	4	4	4
201 to 250 USD (800,001-1,000,000R)	5	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8	8
More than 400 USD (>1,600,000R)	9	9	9
Don't Know	98	98	98
Refused	99	99	99

D 9 Give respondent "DURABLES" card as ask:

For each of the items listed on this card can you please tell me how many of each item does your household own? **Record the number of each item owned**

			Office Use Only			
	Yes		How Many		Points	Total
Colour television	1 (50)			(51)	X 4 =	
Black and white television	2 (52)			(53)	X 1 =	
Video cassette player	3 (54)			(55)	X 1 =	
Video CD player	4 (56)			(57)	X 1 =	
Stereo system (no CD)	5 (58)			(59)	X 1 =	
CD Stereo System	6 (60)			(61)	X 4 =	
Laser Disc Player	7 (62)			(63)	X 2 =	
Karaoke Machine	8 (64)			(65)	X 2 =	
Piano / Electric Organ	9 (66)			(67)	X 4 =	
Camera	10 (68)			(69)	X 1 =	
Handycam / Video camera	11 (70)			(71)	X 2 =	
Personal computer	12 (72)			(73)	X 8 =	
Air conditioner	13 (74)			(75)	X 5 =	
Fixed line Telephone	14 (76)			(77)	X 2 =	
Mobile phone	15 (78)			(79)	X 4 =	
Fridge and / or Freezer	16 (80)			(81)	X 3 =	
Microwave	17 (82)			(83)	X 3 =	
Washing Machine	18 (84)			(85)	X 3 =	
Dishwasher	19 (86)			(87)	X 3 =	
Motorcycle under 100 cc	20 (88)			(89)	X 10 =	
Motorcycle over 100 cc	21 (90)			(91)	X 20 =	
Boat	22 (92)			(93)	X 20 =	
Car (Year 1985 and before)	23 (94)			(95)	X 12 =	
Car (Year 1986 to 1993)	24 (96)			(97)	X 40 =	
Car (Year After 1994)	25 (98)			(99)	X 160 =	
Own home	26 (100)			(101)	X 50 =	
Fan	27 (102)			(103)	X 0.2 =	
Gas cooker	28 (104)			(105)	X 1.1 =	
Sewing machine	29 (106)			(107)	X 0.5 =	
Water pump	30 (108)			(109)	X 0.7 =	
Hot-cold water container	31 (110)			(111)	X 1.2 =	
Rice cooker	32 (112)			(113)	X 0.7 =	
Radio set	33 (114)			(115)	X 0.1 =	
Bicycle	34 (116)			(117)	X 0.4 =	
Fax	35 (118)			(119)	X 4.0 =	
TOTAL A						
TOTAL B (D4a)						
Total A div Total B						
						<<< SES CALCUL

(120)	
A class (35.1 plus)	1
B class (from 25.1 to 35)	2
C class (from 17.1 to 25)	3
D class (from 11.1 to 17)	4
E&F class (11 below)	5

Thank Respondent For Co-operation & Close

SURVEY QUESTIONNAIRE FOR THE JUSTICE SECTOR (CAMBODIA)

Job No.		CH:
	(1) (2) (3) (4) (5) (6)	CO:
Interview No.	1 / / / / /	DC:
Interviewer Name		
Interviewer No.		
Date of Interview	/ / 2004	
Interview Length	Fr: : To :	

Respondent's Name: _____ (7)

Organisation Name: _____ (8)

Address: House: _____ Street: _____ Village/Sangkat: _____ Commune: _____
 District/Khan: _____ Province/City: _____ Spot: _____ (9)

Telephone. Number: _____ (10)

N 1 Sample Type

- (11)
- Formal judicial system operators 1
 Communal authorities 2
 ADR clients, potential clients, operators 3
 Women 4
 Minorities/indigenous people 5

N 2 Survey Location

- (12)
- Siem Reap 17
 Kampong Chhnang 4
 Kampong Speu 5
 Mondulkiri 16

N 3 Respondent Classification

- (13)
- Judge 1 *Check Quotas*
 Lawyer, legal professional 2 *Check Quotas*
 Police (l'tenant & above) 3 *Check Quotas*
 Police (below l'tenant) 4 *Check Quotas*
 Communal/ district authority 5 *Check Quotas*
 ADR client, potential client 6 *Check Quotas*
 ADR operator 7 *Check Quotas*
 Woman 8 *Check Quotas*
 Minority 9 *Check Quotas*
 Minority authority 10 *Check Quotas*

INTRODUCTION & PROFILING

Good morning/ afternoon, my name isI am an interviewer for Indochina Research an independent research company. We are conducting a study on access to justice in Cambodia.

The Project is sponsored by the United Nations Development Program in Cambodia.

Please be assured that any information you provide will be anonymous and no personal information collected will appear in any documents or reports based on this survey.

Profile of the institution

Firstly I would like to talk about the institution you work in....

Q 1 a Which is the judicial institution you mainly work with? **Record SA**

- (14)
- Provincial court 1
 Municipal court 2
 Other (eg. military, appeals) court (specify) 3

Q 1 b Where is it located? **Record SA**

(15)

- Provincial capital 1
- Elsewhere in the province 2
- Other (specify)_____ 3

Q 1 c Which territory is under its jurisdiction? (16)

_____ (17)

_____ (18)

Q 1 d What is the court's competence? **Record SA** (19)

- Civil 1
- Criminal 2
- Both 3

Q 1 e Has the court got any of the following? **Record MA**

- Law books 1 (20)
- Collection of legislation 2 (21)
- Photocopier 3 (22)
- Tape recorder 4 (23)
- Computers 5 (24)

Q 2 How many people are employed (full or part time) by the court? (25)

Q 3 a Are there any ethnic minority or indigenous people under the court's jurisdiction? **Record SA**

(26)

- Yes 1 **Go to Q3b**
- No 2 **Go to Q4**
- Don't know 98 **Go to Q4**

Q 3 b Which are they? (27)

_____ (28)

_____ (29)

Q 3 c Does the court have any translators for the minorities? **Record SA**

(30)

- Yes 1
- No 2
- Don't know 98

Occupation ...Next, I would like to talk about your current work....

Q 4 a How would you describe your main professional activity? **Record SA**

(31)

- Senior judge 1
- Junior judge 2
- Prosecutor 3
- Lawyer 4
- Police (lieutenant & above) 5
- Police (below lieutenant) 6
- Other (specify)_____ 7

Q 4 b Can you describe the kind of training you have received to qualify you for your present job? (32)

_____ (33)

_____ (34)

Q 4 c What were your last two jobs before your present one? (35)

_____ (36)

_____ (37)

- Q 5 a How many years have you been in your present position? (38)
- Q 5 b What is your salary? **Value (US\$ or Riels)** Riels (39)
- or** US\$
- Q 5 c How many employees do you have under you? (40)

"COMMON CORE" QUESTIONS (All TGs)

Use of formal & informal justice systems

- Q 7 a In Cambodia, there are two ways of accessing justice. One is going to court (judges, police), the other is going to the informal justice system, which can be: arbitration councils, or cadastral commissions, or communal authorities. What in your opinion are the main differences between formal and informal systems?

_____ (5)

_____ (6)

_____ (7)

_____ (8)

- Q 7 b Let's talk about both systems, formal and informal, and about the need for better access to justice. In your opinion, of the people who are in need of justice, how many actually use each system? **Record SA each**

	Formal	Informal
	(9)	(10)
few (less than 15%)	1	1
some - up to 1/3 (16- 35 %)	2	2
many - up to a half (36- 50%)	3	3
a lot -more than a half (51/ 65%)	4	4
most - 2/3 or more (above 66%)	5	5
dk/da	98	98

- Q 7 c In your opinion, for which cases do people most use each system (max 3 answers)?

	Formal	Informal
land disputes	1 (11)	1 (20)
labour disputes	2 (12)	2 (21)
domestic violence	3 (13)	3 (22)
inheritance disputes	4 (14)	4 (23)
divorce, separation, alimony, custody	5 (15)	5 (24)
criminal cases (other than dv)	6 (16)	6 (25)
civil cases (debts, loans, commercial conflicts)	7 (17)	7 (26)
other (specify) _____	8 (18)	8 (27)
dk/da	98 (19)	98 (28)

- Q 7 d In your experience, how do you think people rate both systems? **Record SA each**

	Formal	Informal
	(29)	(30)
Very satisfactory	1	1
Satisfactory	2	2
More satisfactory than unsatisfactory	3	3
Don't know	4	4
More unsatisfactory than satisfactory	5	5
Unsatisfactory	6	6
Very unsatisfactory	7	7
Refuse	99	99

Perceptions and knowledge - formal system

Q 8 Let's now talk about the formal system. I am going to read out some statements that describe certain functions and aspects of such system.
Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree	Strongly agree	
[]	The formal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	6	7	(31)
[]	It effectively controls the abuses of power	1	2	3	4	5	6	7	(32)
[]	It effectively solves conflicts between citizens	1	2	3	4	5	6	7	(33)
[]	For most people, courts are within reasonable distance from where they live	1	2	3	4	5	6	7	(34)
[]	The language spoken in court is understood by most people	1	2	3	4	5	6	7	(35)
[]	Most people understand how the formal justice system works	1	2	3	4	5	6	7	(36)
[]	The staff (judges, police, clerks) treat people well	1	2	3	4	5	6	7	(37)
[]	The staff (judges, police, clerks) understand people's problems	1	2	3	4	5	6	7	(38)
[]	The staff rarely ask for money	1	2	3	4	5	6	7	(39)
[]	In the Cambodian justice system, every person has the same rights	1	2	3	4	5	6	7	(40)
[]	Victims usually receive some kind of reparation or compensation	1	2	3	4	5	6	7	(41)
[]	Offenders usually are rehabilitated or reintegrated to the community	1	2	3	4	5	6	7	(42)
[]	If one has to go to court, s/he roughly knows in advance how much it will cost	1	2	3	4	5	6	7	(43)
[]	One can roughly predict a court case's outcome from the study of past cases	1	2	3	4	5	6	7	(44)
[]	Most people trust the police	1	2	3	4	5	6	7	(45)
[]	Most people trust judges and court clerks	1	2	3	4	5	6	7	(46)

Q 9 a What are, in your opinion, the main problems with the police? (47)
 _____ (48)
 _____ (49)

Q 9 b And what are, in your opinion, the main problems with the judges? (50)
 _____ (51)
 _____ (52)

Q 9 c Apart from what you've said above, what are the main problems of the formal justice system? (53)
 _____ (54)
 _____ (55)

Perceived trends - formal system

Q 10 a Do you think the formal system is worse, better or the same than about ten years ago? (56)
Q 10 b Why do you say that? (57)
 _____ (58)

Q 10 c And, do you think that in ten years' time the formal system will be better, worse or the same as it is now?

Q 10 d Why do you say that?

_____ (59)
 _____ (60)
 _____ (61)

	Ten years ago (62)	In ten years (63)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 11 a Have you heard there is a reform process underway to improve the justice? **Record SA**

	(64)
Yes	1
No	2
Don't know/Don't answer	98

Q 11 b What would you think should be done to improve the formal justice system in Cambodia?

_____ (65)
 _____ (66)
 _____ (67)

Perceptions and knowledge - informal system

Q 12 Let's now talk about informal justice system (arbitration, cadastral commissions, communal authorities, elders) I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat Agree	Agree	Strongly agree	
[] The informal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	6	7	(68)
[] It effectively controls the abuses of power	1	2	3	4	5	6	7	(69)
[] It effectively solves conflicts between citizens	1	2	3	4	5	6	7	(70)
[] For most people, informal justice is within reasonable distance from where they live	1	2	3	4	5	6	7	(71)
[] The language spoken in informal justice is understood by most people	1	2	3	4	5	6	7	(72)
[] Most people understand how the informal justice system works	1	2	3	4	5	6	7	(73)
[] The people of ADRs and CSJs treat people well	1	2	3	4	5	6	7	(74)
[] The people of ADRs and CSJs understand people's problems	1	2	3	4	5	6	7	(75)
[] The people of ADRs and CSJs rarely ask for money	1	2	3	4	5	6	7	(76)
[] In the informal justice system, every person has the same rights	1	2	3	4	5	6	7	(77)
[] Victims usually receive some kind of reparation or compensation	1	2	3	4	5	6	7	(78)
[] Offenders usually are rehabilitated or reintegrated to the community	1	2	3	4	5	6	7	(79)
[] If one has to access informal justice, s/he roughly knows in advance how much it will cost	1	2	3	4	5	6	7	(80)
[] One can roughly predict an informal case's outcome from the study of past cases	1	2	3	4	5	6	7	(81)
[] Most people trust arbitration and cadastral commissions	1	2	3	4	5	6	7	(82)
[] Most people trust communal authorities and elders	1	2	3	4	5	6	7	(83)

Q 13 a What are, in your opinion, the main problems with arbitration and cadastral commissions? (84)
 _____ (85)
 _____ (86)

Q 13 b And what are, in your opinion, the main problems with communal authorities? (87)
 _____ (88)
 _____ (89)

Q 13 c Apart from what you've said above, what are the main problems of the informal justice system? (90)
 _____ (91)
 _____ (92)

Perceived trends - informal system

Q 14 a Do you think the informal system is worse, better or the same than about ten years ago?

Q 14 b Why do you say that? (93)
 _____ (94)
 _____ (95)

Q 14 c And, do you think that in ten years' time the informal system will be better, worse or the same as it is now?

Q 14 d Why do you say that? (96)
 _____ (97)
 _____ (98)

	Ten years ago (99)	In ten years (100)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ Don't know	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 15 a What would you think should be done to improve the informal justice system in Cambodia? (101)
 _____ (102)
 _____ (103)

Q 15 b Do you believe that ADR (arbitration council, cadastral commissions) should be given more authority?

Q 15 c Do you believe that CJS should be legally recognized?

	ADR (104)	CJS (105)
yes	1	1
no	2	2
dk	3	3
refuse	98	98

"GOOD LAW"

I now want to talk about what a good law should be...

Listed on this card are descriptions of several elements of a good law as described by people like yourself I would like to get your opinion, based on your experience, of how well you think that the justice system in Cambodia presents the elements described on this card

Give Respondent "Justice" Showcard, Allow them time to read it then ask:

Q 15 d I am going to read out each of the 4 statements regarding what a good law should be

Please rate each statement on a scale from 1 to 7

Where 1 means "Strongly disagree that this element is present in the Cambodian Justice System"

Where 7 means "Strongly Agree that this element is present in the Cambodian Justice System"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[] The laws are written clearly and can be understood by people who need to use them	1	2	3	4	5	6	7	(5)
[] Information about laws that affect the people is available to those who need it	1	2	3	4	5	6	7	(6)
[] Equal access is granted to all people (regardless of age, gender, race, social status) and no-one is denied access	1	2	3	4	5	6	7	(7)
[] There are formal / informal legal institutions close to my home where I can go to discuss legal problems	1	2	3	4	5	6	7	(8)
[] Travelling distance is not a barrier to being able to access the legal system	1	2	3	4	5	6	7	(9)
[] Similar cases are treated in the same way in terms of process and time taken	1	2	3	4	5	6	7	(10)
[] The outcomes of similar cases are usually very similar	1	2	3	4	5	6	7	(11)
[] I think the outcomes of most cases are generally fair	1	2	3	4	5	6	7	(12)
[] Outcomes of cases are usually enforced in accordance with the decision	1	2	3	4	5	6	7	(13)
[] Outcomes of cases are usually enforced within a reasonable timeframe	1	2	3	4	5	6	7	(14)
[] Outcomes of cases are nearly always enforced	1	2	3	4	5	6	7	(15)

Indexes:

Clarity of Law = 1+2 (% of 14)

Accessibility = 3+4+5 (% of 21)

Equity / Predictability = 6+7+8 (% of 21)

Enforceability = 9+10+11 (% of 21)

Overall = (aCL + bA + cE/P + dE) /4

SPECIFIC TARGET GROUP QUESTIONS (TG1)

Q 16 What are the main social problems in the jurisdiction you work in? (multiple answers)

poverty	1	(5)
land disputes	2	(6)
companies taking land from villagers	3	(7)
housing	4	(8)
public health	5	(9)
crime	6	(10)
drugs	7	(11)
corruption	8	(12)
human rights abuses	9	(13)
debt	10	(14)
other (specify)	11	(15)

Q 17 How many cases does your office approximately receive every month?

--	--	--

(16)

- Q 18 a** In general - In your experience - What are the three most frequent kinds of cases your office receives? *Record SA*
Q 18 b In reference to women, what are the three most frequent kinds of cases brought by women? *Record SA*
Q 18 c In reference to minorities what are the three most frequent kinds of cases brought by minorities? *Record SA*

In general	Most frequent (17)	2nd most frequent (18)	3rd most frequent (19)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify)	8	8	8
dk/da	98	98	98

Women:	Most frequent (20)	2nd most frequent (21)	3rd most frequent (22)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify)	8	8	8
dk/da	98	98	98

Minorities:	Most frequent (23)	2nd most frequent (24)	3rd most frequent (25)
land disputes	1	1	1
labour disputes	2	2	2
domestic violence	3	3	3
inheritance disputes	4	4	4
divorce, separation, alimony, custody	5	5	5
criminal cases (other than dv)	6	6	6
civil cases (debts, loans, commercial conflicts)	7	7	7
other (specify)	8	8	8
dk/da	98	98	98

- Q 19** Considering the people you see in the course of your work, can you tell us whether, in their majority, they are:

Gender (26)	Residence (27)	Income (28)
Men	Urban	Well off
Women	Rural	Average
Don't know	Don't know	Poor
Refuse	Refuse	Very poor
		Don't know
		Refuse

- Q 20 a** You said your office receives approximately.... (read Q 17).... cases per month.

Which percentage are minority people? *Record SA*

	(29)
None	1 Go to Q21
<10%	2
11-20%	3
21-30%	4
>30%	5
Don't know	98

Q 20 b And how do you attend to these cases?

_____ (30)
 _____ (31)
 _____ (32)

Q 21 Do you know of any special right granted to indigenous or linguistic minorities in Cambodia?

_____ (33)
 _____ (34)
 _____ (35)

Q 22 a Let's talk about legal proceedings in your jurisdiction. On average, how long does a case take, from initial stages to judgment?

In General	<input type="text"/>	<input type="text"/>	months	(36)
For Women	<input type="text"/>	<input type="text"/>	months	(37)
For Minorities	<input type="text"/>	<input type="text"/>	months	(38)

Q 22 b In the course of this research, some interviewees told us cases brought by women are handled differently than analogous cases brought by men. What is your experience?

_____ (39)
 _____ (40)
 _____ (41)

Q 23 On average, how many cases get closed in one judiciary year?

(42)

Q 24 If a person is in prison, how long does it actually take, on average, for him to be sentenced?

	PRE TRIAL	TRIAL	SENTENCING
In General	<input type="text"/> <input type="text"/> months (43)	<input type="text"/> <input type="text"/> months (46)	<input type="text"/> <input type="text"/> months (49)
For Women	<input type="text"/> <input type="text"/> months (44)	<input type="text"/> <input type="text"/> months (47)	<input type="text"/> <input type="text"/> months (50)
For Minorities	<input type="text"/> <input type="text"/> months (45)	<input type="text"/> <input type="text"/> months (48)	<input type="text"/> <input type="text"/> months (51)

Q 25 Do you think the Cambodian legal system: **Record SA**
(52)

Belongs to the civil law	1
Belongs to the common law	2
Is a mixture of both	3
Other (specify)	4
Don't know/Don't answer	98

Q 26 a Is there still customary law in Cambodia? **Record SA**
(53)

Yes	1	Continue to Q26b
No	2	Go to Q 27a
Don't know	98	Go to Q 27a
Refuse	99	Go to Q 27a

Q 26 b Can you give me some examples?

_____ (54)
 _____ (55)
 _____ (56)

Q 27 a Is there any indigenous/ minority law in Cambodia? **Record SA**
(57)

Yes	1	Continue to Q27b
No	2	Go to Q 28
Don't know	98	Go to Q 28
Refuse	99	Go to Q 28

Q 27 b Can you give me some examples? (58)
 _____ (59)
 _____ (60)

Q 28 What kind of conflicts/ matters are currently solved by Alternative Dispute Mechanisms? (61)
 _____ (62)
 _____ (63)

Q 29 Do you think the law should allow ADRs to deal with a greater number of matters? **Record SA**
 (64)
 Yes 1
 No 2
 Don't know 98
 Refuse 99

Q 30 What kind of conflicts/ matters are currently solved at village level by traditional conciliatory mechanisms? (65)
 _____ (66)
 _____ (67)

Q 31 a Do you think the law should allow communal authorities to deal with local conflicts? **Record SA**
 (68)
 Yes 1 **Continue to Q31b**
 No 2 **Go to Q32**
 Don't know 98 **Go to Q32**
 Refuse 99 **Go to Q32**

Q 31 b In what matters? **Record SA** (69)
 Civil 1
 Criminal 2
 Both 3
 Other (specify) _____ 4

Q 31 c And to what extent? (70)
 _____ (71)
 _____ (72)

Q 32 Over what kind of matters should the judiciary retain exclusive authority? (73)
 _____ (74)
 _____ (75)

Q 33 How should the local authorities co-ordinate their work with that of the judiciary? (76)
 _____ (77)
 _____ (78)

Q 34 Finally, what are the most important changes that should be made to the way the judiciary works, in order to respond better to the Cambodian population's needs? (79)
 _____ (80)
 _____ (81)

Demographics

Now a few final questions about yourself and your household to help us in our analysis.....

- D 1** What is your marital status ? (5)
- | | |
|-------------------------------|----|
| Single..... | 1 |
| Married with children..... | 2 |
| Married without children..... | 3 |
| Divorced..... | 4 |
| Widowed..... | 5 |
| Refused | 99 |

- D 2** How Old are You? (6)
- | | |
|---|-----|
| | (7) |
| Code Response 20 to 24 years | 1 |
| 25 - 29 years | 2 |
| 30 - 34 years | 3 |
| 35 - 39 years | 4 |
| 40 - 44 years | 5 |
| Over 45 years | 6 |

- D 2 a** Gender (8)
- | | |
|-------------|---|
| Male..... | 1 |
| Female..... | 2 |

- Q 6** What is your mother tongue? DEMOGRAPHICS
- | | |
|----------------------|-----|
| | (9) |
| Khmer | 1 |
| Vietnamese | 2 |
| Other (specify)..... | 3 |

- D 3** What is the last grade of formal education you completed ? (10)
- | | |
|--|----|
| No formal schooling..... | 1 |
| Some primary | 2 |
| Completed Primary School..... | 3 |
| Some Secondary School..... | 4 |
| Completed Secondary School..... | 5 |
| Technical / Vocational..... | 6 |
| Some/completed Pre-University (A-Level)..... | 7 |
| Some/completed Diploma Degree | 8 |
| University..... | 9 |
| Post Graduate..... | 10 |
| Do not know | 98 |
| Refused | 99 |

- D 4** What is your occupation? (11)
- Position : _____ Industry: _____
- Skill/Qualification: _____
- * If retired, previous occupation: _____
- * If Self-Employed/Managerial. How many employees responsible for: _____
- * If Civil Service/Armed forces. What grade, what rank? _____

- D 4 a** How many people live at your house? (Include all those sleeping in the dwelling for at least three of the last 12 months including children, adult relatives and domestic servants for whom you have a financial responsibility)
- Record MA** (11)

Give respondent "Age Group" showcard and ask:

- D 4 b** Please tell me how many males in females in each age group currently live full time in your household?
Please include yourself other adults, children and babies. Do not include servants or guests visiting you.

Male				
0-4		(12)	40-44	(20)
5-9		(13)	45-49	(21)
10-14		(14)	50-54	(22)
15-19		(15)	55-59	(23)
20-24		(16)	60-64	(24)
25-29		(17)	65-69	(25)
30-34		(18)	70-74	(26)
35-39		(19)	75+	(27)
			Total	

Female				
0-4		(28)	40-44	(36)
5-9		(29)	45-49	(37)
10-14		(30)	50-54	(38)
15-19		(31)	55-59	(39)
20-24		(32)	60-64	(40)
25-29		(33)	65-69	(41)
30-34		(34)	70-74	(42)
35-39		(35)	75+	(43)
			Total	

Give respondent "HHOLD Income Contribution" Showcard as ask:

- D 5** According to the choices on this card - How important is your income to the total household income?

- (44)
- It is the only income 1
Largest part of the household income 2
It make a substantial contribution (more or less as much as other HH income sources 3
Helps to increase total household income as an add on to other income sources 4
Refuse 99

Give respondent "HHOLD YSE" card as ask:

- Q 7** Could you please tell me, which category on this card best describes your household in terms of:
- a** What would you think is the total amount that your HH spent on food consumption in the last month?
- b** What would you think is the total amount that your HH spent on non-food consumption in the last month?
Clothing, cooling, domestic rents, education fee, health cost, leisure etc...?

	a) Food	b) Non Food
	(45)	(46)
Less than 50 USD (<200,000 R)	1	1
50 to 100 USD (200,001-400,000R)	2	2
101 to 150 USD (400,001-600,000R)	3	3
151 to 200 USD (600,001-800,000R)	4	4
201 to 250 USD (800,001-1,000,000R)	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8
More than 400 USD (>1,600,000R)	9	9
Don't Know	98	98
Refused	99	99

D 8 Give respondent "HHOLD YSE" card as ask:

Could you please tell me, which category on this card best describes your household in terms of:

	Monthly Income	Monthly Expenditure	Monthly Saving
	(47)	(48)	(49)
Less than 50 USD (<200,000 R)	1	1	1
50 to 100 USD (200,001-400,000R)	2	2	2
101 to 150 USD (400,001-600,000R)	3	3	3
151 to 200 USD (600,001-800,000R)	4	4	4
201 to 250 USD (800,001-1,000,000R)	5	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8	8
More than 400 USD (>1,600,000R)	9	9	9
Don't Know	98	98	98
Refused	99	99	99

D 9 Give respondent "DURABLES" card as ask:

For each of the items listed on this card can you please tell me how many of each item does your household own? **Record the number of each item owned**

		Office Use Only	
Yes	How Many	Points	Total
Colour television	1 (50)	(51) X 4 =	
Black and white television	2 (52)	(53) X 1 =	
Video cassette player	3 (54)	(55) X 1 =	
Video CD player	4 (56)	(57) X 1 =	
Stereo system (no CD)	5 (58)	(59) X 1 =	
CD Stereo System	6 (60)	(61) X 4 =	
Laser Disc Player	7 (62)	(63) X 2 =	
Karaoke Machine	8 (64)	(65) X 2 =	
Piano / Electric Organ	9 (66)	(67) X 4 =	
Camera	10 (68)	(69) X 1 =	
Handycam / Video camera	11 (70)	(71) X 2 =	
Personal computer	12 (72)	(73) X 8 =	
Air conditioner	13 (74)	(75) X 5 =	
Fixed line Telephone	14 (76)	(77) X 2 =	
Mobile phone	15 (78)	(79) X 4 =	
Fridge and / or Freezer	16 (80)	(81) X 3 =	
Microwave	17 (82)	(83) X 3 =	
Washing Machine	18 (84)	(85) X 3 =	
Dishwasher	19 (86)	(87) X 3 =	
Motorcycle under 100 cc	20 (88)	(89) X 10 =	
Motorcycle over 100 cc	21 (90)	(91) X 20 =	
Boat	22 (92)	(93) X 20 =	
Car (Year 1985 and before)	23 (94)	(95) X 12 =	
Car (Year 1986 to 1993)	24 (96)	(97) X 40 =	
Car (Year After 1994)	25 (98)	(99) X 160 =	
Own home	26 (100)	(101) X 50 =	
Fan	27 (102)	(103) X 0.2 =	
Gas cooker	28 (104)	(105) X 1.1 =	
Sewing machine	29 (106)	(107) X 0.5 =	
Water pump	30 (108)	(109) X 0.7 =	
Hot-cold water container	31 (110)	(111) X 1.2 =	
Rice cooker	32 (112)	(113) X 0.7 =	
Radio set	33 (114)	(115) X 0.1 =	
Bicycle	34 (116)	(117) X 0.4 =	
Fax	35 (118)	(119) X 4.0 =	
		TOTAL A	
		TOTAL B (D4a)	
		Total A div Total B	
			<<< SES CALCULATION

(120)	
A class (35.1 plus)	1
B class (from 25.1 to 35)	2
C class (from 17.1 to 25)	3
D class (from 11.1 to 17)	4
E&F class (11 below)	5

Thank Respondent For Co-operation & Close

SURVEY QUESTIONNAIRE FOR WOMEN (CAMBODIA)

Job No.	MS420						CH:
	(1)	(2)	(3)	(4)	(5)	(6)	CO:
Interview No.	1	/	/	/	/	/	DC:
Interviewer Name							
Interviewer No.							
Date of Interview	/ / 2004						
Interview Length	Fr:	:	To	:			

Respondent's Name: _____ (7)

Organisation Name: _____ (8)

Address: House: _____ Street: _____ Village/Sangkat: _____ Commune: _____
 District/Khan: _____ Province/City: _____ **Spot:** _____ (9)

Telephone. Number: _____ (10)

N 1 Sample Type

- Formal judicial system operators (11) 1
- Communal authorities 2
- ADR clients, potential clients, operators 3
- Women 4
- Minorities/indigenous people 5

N 2 Survey Location

- Siem Reap (12) 17
- Kampong Chhnang 4
- Kampong Speu 5
- Mondulkiri 16

N 3 Respondent Classification

- Judge (13) 1 **Check Quotas**
- Lawyer, legal professional 2 **Check Quotas**
- Police (l'tenant & above) 3 **Check Quotas**
- Police (below l'tenant) 4 **Check Quotas**
- Communal/ district authority 5 **Check Quotas**
- ADR client, potential client 6 **Check Quotas**
- ADR operator 7 **Check Quotas**
- Woman 8 **Check Quotas**
- Minority 9 **Check Quotas**
- Minority authority 10 **Check Quotas**

INTRODUCTION & PROFILING

Good morning/ afternoon, my name isI am an interviewer for Indochina Research an independent research company. We are conducting a study on access to justice in Cambodia.

The project is sponsored by the United Nations Development Program in Cambodia.

Please be assured that any information you provide will be anonymous and no personal information collected will appear in any documents or reports based on this survey.

Profile of the respondent *Firstly I would like to find out a little bit about you and your family background....*

Q 1 a Where were you born?

Q 1 b And where do you live now?

a born in

- Province _____ (14)
- Commune/sangkhat _____ (15)
- Village _____ (16)

b live now

- Province _____ (17)
- Commune/sangkhat _____ (18)
- Village _____ (19)

Q 2 a If you are married, how old were you when you got married? **Record SA**

Not married	1	<i>Continue to 2b</i>
Married at age 10-14	2	
15-19	3	
20-24	4	
25-29	5	
30-34	6	
Other (specify)_____	7	

Q 2 b Are marriages still arranged in your community? **Record SA**

Q 2 c And was your own marriage arranged? **Record SA**

Q2c (21)	Q2b (22)
Yes	Yes
No	No
Refuse	Refuse

Q 3 a If you have children, how many children do you have?

Q 3 b And how old were you when you had your first child?

Q3a don't have children **go to Q3c**
have children of age and sex

Boys	Girls
0 to 4 <input type="checkbox"/> (23)	0 to 4 <input type="checkbox"/> (28)
5 to 9 <input type="checkbox"/> (24)	5 to 9 <input type="checkbox"/> (29)
10 to 14 <input type="checkbox"/> (25)	10 to 14 <input type="checkbox"/> (30)
15 to 19 <input type="checkbox"/> (26)	15 to 19 <input type="checkbox"/> (31)
20 and over <input type="checkbox"/> (27)	20 and over <input type="checkbox"/> (32)

Q3b
age at first child (33)

10-14	1
15-19	2
20-24	3
25-29	4
30-34	5

Q 3 c And are you pregnant at the moment? **Record SA**

Yes	1
No	2
Refuse	99

Q 3 d And what is your citizenship? **Record SA**

Cambodian	1
Vietnamese	2
Other (specify)_____	3
Don't know	98
Refuse	99

Q 4 a Who is the head of your family? **Record SA**

Father	1
Husband	2
Mother	3
I am	4
Grandfather	5
Grandmother	6
Other male relative (uncle, brother)	7
Other female relative (aunt, sister)	8

Q 4 b Do you, yourself, own any land that is separate from land your family owns? **Record SA**

Q 4 c Do you, yourself, own a house? **Record SA**

Q4b (37)	Q4c (38)
Yes	Yes
No	No
Refuse	Refuse

Group of reference ... Now I would like to ask you about your community

Q 5 a Which of the following best describes your community? **Record SA**

Rural village	1
---------------------	---

- Rural commune/sangkat 2
- Urban commune/sangkat 3
- Other (specify) _____ 4

Q 5 b How many people make up your community?

--	--	--	--

 (40)

Q 5 c What are the main occupations of people in your community?
 1 _____ (41)
 2 _____ (42)
 3 _____ (43)

Q 5 d What is the mother tongue of most people in your community?
 (44)
 Khmer 1
 Vietnamese 2
 Other (specify) _____ 3

Q 5 e And what is the distance between you and the next:

	City		District					
By car			hours/days	(45)			hours/days	(47)
On foot			hours/days	(46)			hours/days	(48)

Q 5 f What kinds of authorities or organisations are there in your community?
 _____ (49)
 _____ (50)
 _____ (51)

Q 5 g Are there any women's authorities or organisations in your village or commune?
 If so, what are they?
 _____ (52)
 _____ (53)
 _____ (54)

"COMMON CORE" QUESTIONS (All TGs)

Use of formal & informal justice systems

- Q 7 a** In Cambodia, there are two ways of accessing justice. One is going to court (judges, police), the other is going to the informal justice system, which can be: arbitration councils, or cadastral commissions, or communal authorities. What in your opinion are the main differences between formal and informal systems?

	(5)
	(6)
	(7)
	(8)

- Q 7 b** Let's talk about both systems, formal and informal, and about the need for better access to justice. In your opinion, of the people who are in need of justice, how many actually use each system?

	Formal (9)	Informal (10)
Few (less than 15%)	1	1
Some - up to 1/3 (16- 35 %)	2	2
Many - up to a half (36- 50%)	3	3
A lot -more than a half (51/ 65%)	4	4
Most - 2/3 or more (above 66%)	5	5
Don't know/Don't answer	98	98

- Q 7 c** In your opinion, for which cases do people most use each system (max 3 answers)?

	Formal	Informal
Land disputes	1 (11)	1 (20)
Labour disputes	2 (12)	2 (21)
Domestic violence	3 (13)	3 (22)
Inheritance disputes	4 (14)	4 (23)
Divorce, separation, alimony, custody	5 (15)	5 (24)
criminal cases (other than dv)	6 (16)	6 (25)
civil cases (debts, loans, commercial conflicts)	7 (17)	7 (26)
other (specify).....	8 (18)	8 (27)
Don't know/Don't answer	98 (19)	98 (28)

- Q 7 d** In your experience, how do you think people rate both systems? **Record SA**

	Formal (29)	Informal (30)
Very satisfactory	1	1
Satisfactory	2	2
More satisfactory than unsatisfactory	3	3
Don't know	4	4
More unsatisfactory than satisfactory	5	5
Unsatisfactory	6	6
Very unsatisfactory	7	7
Refuse	99	99

Perceptions and knowledge - formal system

Q 8 Let's now talk about the formal system. I am going to read out some statements that describe certain functions and aspects of such system.
Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	The formal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	6	7	(31)
[]	It effectively controls the abuses of power	1	2	3	4	5	6	7	(32)
[]	It effectively solves conflicts between citizens	1	2	3	4	5	6	7	(33)
[]	For most people, courts are within reasonable distance from where they live	1	2	3	4	5	6	7	(34)
[]	The language spoken in court is understood by most people	1	2	3	4	5	6	7	(35)
[]	Most people understand how the formal justice system works	1	2	3	4	5	6	7	(36)
[]	The staff (judges, police, clerks) treat people well	1	2	3	4	5	6	7	(37)
[]	The staff (judges, police, clerks) understand people's problems	1	2	3	4	5	6	7	(38)
[]	The staff rarely ask for money	1	2	3	4	5	6	7	(39)
[]	In the Cambodian justice system, every person has the same rights	1	2	3	4	5	6	7	(40)
[]	Victims usually receive some kind of reparation or compensation	1	2	3	4	5	6	7	(41)
[]	Offenders usually are rehabilitated or reintegrated to the community	1	2	3	4	5	6	7	(42)
[]	If one has to go to court, s/he roughly knows in advance how much it will cost	1	2	3	4	5	6	7	(43)
[]	One can roughly predict a court case's outcome from the study of past cases	1	2	3	4	5	6	7	(44)
	Most people trust the police	1	2	3	4	5	6	7	(45)
	Most people trust judges and court clerks	1	2	3	4	5	6	7	(46)

Q 9 a What are, in your opinion, the main problems with the police?
 _____ (47)
 _____ (48)
 _____ (49)

Q 9 b And what are, in your opinion, the main problems with the judges?
 _____ (50)
 _____ (51)
 _____ (52)

Q 9 c Apart from what you've said above, what are the main problems of the formal justice system?
 _____ (53)
 _____ (54)
 _____ (55)

Perceived trends - formal system

Q 10 a Do you think the formal system is worse, better or the same than about ten years ago?
Q 10 b Why do you say that?
 _____ (56)
 _____ (57)
 _____ (58)

Q 10 c And, do you think that in ten years' time the formal system will be better, worse or the same as it is now?

(59)

Q 10 d Why do you say that?

(60)

(61)

	Ten years ago		In ten years
	(62)		(63)
Much worse	1	.....	1
Worse	2	.....	2
Slightly worse	3	.....	3
Same/ DK	4	.....	4
Slightly better	5	.....	5
Better	6	.....	6
Much better	7	.....	7
Refuse	99	.....	99

Q 11 a Have you heard there is a reform process underway to improve the justice?

Record SA

(64)

Yes

1

No

2

Don't know/Don't answer

98

Q 11 b What would you think should be done to improve the formal justice system in Cambodia?

(65)

(66)

(67)

Perceptions and knowledge - informal system

Q 12 Let's now talk about the informal system of justice (arbitration, cadastral commissions, communal authorities, elders). I am going to read out some statements that describe certain functions and aspects of such system. Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

	Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[] The informal justice system effectively protects the rights of every citizen, regardless of age, gender, race, social status	1	2	3	4	5	6	7	(68)
[] It effectively controls the abuses of power	1	2	3	4	5	6	7	(69)
[] It effectively solves conflicts between citizens	1	2	3	4	5	6	7	(70)
[] For most people, informal justice is within reasonable distance from where they live	1	2	3	4	5	6	7	(71)
[] The language spoken in informal justice is understood by most people	1	2	3	4	5	6	7	(72)
[] Most people understand how the informal justice system works	1	2	3	4	5	6	7	(73)
[] The people of ADRs and CSJs treat people well	1	2	3	4	5	6	7	(74)
[] The people of ADRs and CSJs understand people's problems	1	2	3	4	5	6	7	(75)
[] The people of ADRs and CSJs rarely ask for money	1	2	3	4	5	6	7	(76)
[] In the informal justice system, every person has the same rights	1	2	3	4	5	6	7	(77)
[] Victims usually receive some kind of reparation or compensation	1	2	3	4	5	6	7	(78)
[] Offenders usually are rehabilitated or reintegrated to the community	1	2	3	4	5	6	7	(79)
[] If one has to access informal justice, s/he roughly knows in advance how much it will cost	1	2	3	4	5	6	7	(80)
[] One can roughly predict an informal case's outcome from the study of past cases	1	2	3	4	5	6	7	(81)
[] Most people trust arbitration and cadastral commissions	1	2	3	4	5	6	7	(82)
[] Most people trust communal authorities and elders	1	2	3	4	5	6	7	(83)

Q 13 a What are, in your opinion, the main problems with arbitration and cadastral commissions?

_____ (84)
 _____ (85)
 _____ (86)

Q 13 b And what are, in your opinion, the main problems with communal authorities?

_____ (87)
 _____ (88)
 _____ (89)

Q 13 c Apart from what you've said above, what are the main problems of the informal justice system?

_____ (90)
 _____ (91)
 _____ (92)

Perceived trends - informal system

Q 14 a Do you think the informal system is worse, better or the same than about ten years ago?

Q 14 b Why do you say that?

_____ (93)
 _____ (94)
 _____ (95)

Q 14 c And, do you think that in ten years' time the informal system will be better, worse or the same as it is now?

Q 14 d Why do you say that?

_____ (96)
 _____ (97)
 _____ (98)

	Ten years ago	In ten years
	(99)	(100)
Much worse	1	1
Worse	2	2
Slightly worse	3	3
Same/ DK	4	4
Slightly better	5	5
Better	6	6
Much better	7	7
Refuse	99	99

Q 15 a What would you think should be done to improve the informal justice system in Cambodia?

_____ (101)
 _____ (102)
 _____ (103)

Q 15 b Do you believe that ADR (arbitration council, cadastral commissions) should be given more authority?

Q 15 c Do you believe that CJS should be legally recognized?

	ADR	CJS
	(104)	(105)
Yes	1	1
No	2	2
don't know	98	98
refuse	99	99

"GOOD LAW"

I now want to talk about what a good law should be....

Listed on this card are descriptions of several elements of a good law as described by people like yourself. I would like to get your opinion, based on your experience, of how well you think that the justice system in Cambodia presents the elements described on this card

Give Respondent "Justice" Showcard, Allow them time to read it then ask:

Q 15 d I am going to read out each of the 4 statements regarding what a good law should be

Please rate each statement on a scale from 1 to 7

Where 1 means "Strongly disagree that this element is present in the Cambodian Justice System"

Where 7 means "Strongly Agree that this element is present in the Cambodian Justice System"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	The laws are written clearly and can be understood by people who need to use them	1	2	3	4	5	6	7	(5)
[]	Information about laws that affect the people is available to those who need it	1	2	3	4	5	6	7	(6)
[]	Equal access is granted to all people (regardless of age, gender, race, social status) and no-one is denied access	1	2	3	4	5	6	7	(7)
[]	There are formal / informal legal institutions close to my home where I can go to discuss legal problems	1	2	3	4	5	6	7	(8)
[]	Travelling distance is not a barrier to being able to access the legal system	1	2	3	4	5	6	7	(9)
[]	Similar cases are treated in the same way in terms of process and time taken	1	2	3	4	5	6	7	(10)
[]	The outcomes of similar cases are usually very similar	1	2	3	4	5	6	7	(11)
[]	I think the outcomes of most cases are generally fair	1	2	3	4	5	6	7	(12)
[]	Outcomes of cases are usually enforced in accordance with the decision	1	2	3	4	5	6	7	(13)
[]	Outcomes of cases are usually enforced within a reasonable timeframe	1	2	3	4	5	6	7	(14)
[]	Outcomes of cases are nearly always enforced	1	2	3	4	5	6	7	(15)

Indexes:

Clarity of Law = 1+2 (% of 14)

Accessibility = 3+4+5 (% of 21)

Equity / Predictability = 6+7+8 (% of 21)

Enforceability = 9+10+11 (% of 21)

Overall = (aCL + bA + cE/P + dE) /4

SPECIFIC TARGET GROUP QUESTIONS (TG4)

Problems in your community ... Now I would like to ask you about problems or difficulties in your community

Q 18 a What are the most important problems in your community? **Record MA**

- Poverty 1 (5)
- Land disputes 2 (6)
- Companies taking land from villagers 3 (7)
- Housing 4 (8)
- Public health 5 (9)
- Crime 6 (10)
- Drugs 7 (11)
- Corruption 8 (12)
- Human rights abuses 9 (13)
- Debt 10 (14)
- Other (specify)_____ 11 (15)

Q 18 b What are the most important problems that you experience as a woman? **Record SA**

- Poverty 1 (16)
- Ill-health of you and your family 2 (17)
- Domestic disputes or violence 3 (18)
- Divorce 4 (19)
- Land disputes 5 (20)
- Housing 6 (21)
- Crime 7 (22)
- Drugs 8 (23)
- Corruption 9 (24)
- Other (specify)_____ 10 (25)

Q 18 c What other kinds of problems do women of your community experience?

_____ (26)

_____ (27)

_____ (28)

Q 19 a If women in your community have a quarrel or conflict with men, what do they do?

Q 19 b And what about you, what do you do when you have a conflict with a man?

	Other women	You yourself
	(29)	(30)
Remain silent and don't say anything	1	1
Defend their rights	2	2
Give in and resign themselves to the situation	3	3
Negotiate to get a better outcome	4	4
Other (specify)_____	5	5
Refuse	99	99

Q 19 c And why do you think that is?

_____ (31)

_____ (32)

_____ (33)

Experience of justice - local or communal authorities

Q 20 a What kinds of conflicts do women commonly have in your community? *Record MA*

Q 20 b And of these conflicts which are most frequent? *Record SA*

Q 20 c And in which of these cases would a woman go to the local authorities? *Record MA*

	Q20a		Q20b		Q20c
	<i>common kinds of conflicts</i>		<i>Most frequent</i>		<i>go to authorities</i>
land disputes	1 (34)	.....	1 (43)	.....	1 (52)
labour disputes	2 (35)	.....	2 (44)	.....	2 (53)
domestic violence	3 (36)	.....	3 (45)	.....	3 (54)
inheritance disputes	4 (37)	.....	4 (46)	.....	4 (55)
divorce, separation, alimony, custody	5 (38)	.....	5 (47)	.....	5 (56)
criminal cases (other than dv)	6 (39)	.....	6 (48)	.....	6 (57)
civil cases (debts, loans, commercial conflicts)	7 (40)	.....	7 (49)	.....	7 (58)
other (specify)	98 (41)	.....	98 (50)	.....	98 (59)
dk/da	99 (42)	.....	99 (51)	.....	99 (60)

Q 20 d And what would happen when the woman went to the local authorities about this matter?

_____ (61)

_____ (62)

_____ (63)

Q 21 a And in the following cases, would a woman go to the local authorities?

Rotate

If a man frequently beats his wife, but does not draw blood

If a man seriously injures his wife

If a man beats his children

A woman wants to separate from her husband but he does not

A relative abuses a woman or her child

An employer fires a pregnant woman

A corporation arrives and takes communal lands from mostly illiterate women

A military abuse of a woman takes place

Yes No

1	2	(64)
1	2	(65)
1	2	(66)
1	2	(67)
1	2	(68)
1	2	(69)
1	2	(70)
1	2	(71)

Q 21 b And in the examples where she would go to the local authorities, what would happen? Ask for up to three examples

_____ **Case One** (72)

_____ **Case Two** (73)

_____ **Case Three** (74)

Q 22 a Did you ever have to go your local authorities for one or more of the following reasons?

[multiple answers in interval 1-7]

land disputes	1 (75)	
labour disputes	2 (76)	
domestic violence	3 (77)	
inheritance disputes	4 (78)	
divorce, separation, alimony, custody	5 (79)	
criminal cases (other than dv)	6 (80)	
civil cases (debts, loans, commercial conflicts)	7 (81)	
other (specify)	8 (82)	
no	9 (83)	Go to Q23
don't know/don't answer	98 (84)	Go to Q23

Q 22 b How was it managed and solved?

_____ (85)

_____ (86)

_____ (87)

- Q 22 c** Were you happy with the result? (88)
- | | | |
|---------------------|----|--|
| Yes | 1 | |
| Basically yes | 2 | |
| Not very much | 3 | |
| No | 4 | |
| Refuse | 99 | |

- Q 23 a** Do you feel your communal authorities are: (89)
- | | | |
|--|----|--|
| Fair to everybody | 1 | |
| Basically fair | 2 | |
| A little biased in favour of the rich & powerful | 3 | |
| Quite biased in favour of the rich & powerful | 4 | |
| Quite biased in favour of men | 5 | |
| Refuse | 99 | |

- Q 23 b** Apart from what you've said above, what are the main problems with the local justice system for women? (90)
- _____ (91)
- _____ (92)

- Q 23 c** What should be done to improve the local justice system for women in Cambodia? (93)
- _____ (94)
- _____ (95)

Experience of justice - formal system

- Q 24 a** Let's talk now about the district authorities (courts, police). Record MA
- Did you ever have to go to them for one or more of the following reasons? Record MA
- [multiple answers in interval 1-7]**

- | | | |
|--|----|------------------------|
| land disputes | 1 | (96) |
| labour disputes | 2 | (97) |
| domestic violence | 3 | (98) |
| inheritance disputes | 4 | (99) |
| divorce, separation, alimony, custody | 5 | (100) |
| criminal cases (other than dv) | 6 | (101) |
| civil cases (debts, loans, commercial conflicts) | 7 | (102) |
| other (specify) | 8 | (103) |
| dk/da | 9 | (104) |
| no | 10 | (105) Go to Q25 |
| Don't know/don't answer | 98 | (106) Go to Q25 |

- Q 24 b** And did you experience any of the following difficulties in getting to the court:

- | | | |
|--|---|-------|
| Time it took to get there | 1 | (107) |
| Cost of transport | 2 | (108) |
| No-one to look after the children | 3 | (109) |
| No-one to take care of domestic responsibilities | 4 | (110) |
| Other (specify)_____ | 5 | (111) |

- Q 24 c** How was your case managed and solved? (112)
- _____ (113)
- _____ (114)

Q 24 d Let's talk a little more about your case with the district authorities.

I am going to read out some statements regarding it.

Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" with the statement, and 7 means "I strongly agree"

Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	I understood the procedures of the district court	1	2	3	4	5	6	7	(115)
[]	Someone helped or explained things to me	1	2	3	4	5	6	7	(116)
[]	Judges and clerks understood my problem	1	2	3	4	5	6	7	(117)
[]	Judges and clerks treated me well	1	2	3	4	5	6	7	(118)
[]	I had to go back to the court more than two times	1	2	3	4	5	6	7	(119)
[]	I had to pay money to the clerks	1	2	3	4	5	6	7	(120)
[]	I trust the district court	1	2	3	4	5	6	7	(121)
[]	I was happy with the result of my case	1	2	3	4	5	6	7	(122)

Q 24 e How long did your case take, from when it was brought to the court to the solution? months (123)

Q 24 f And how much did it cost you, including official and unofficial payments?

Value (US\$ or Riels) Riels (124)
 or US\$

Q 24 g And did you receive any compensation as the victim or relative of the victim?

Value (US\$ or Riels) Riels (125)
 or US\$

Q 25 a Do you feel the district authorities are: *Record SA*

		(126)
Fair to everybody	1	
Basically fair	2	
A little biased in favour of the rich & powerful	3	
Quite biased in favour of the rich & powerful	4	
A little biased in favour of men	5	
Quite biased in favour of men	6	
Refuse	99	

Q 25 b Apart from what you've said above, what are the main problems with the formal justice system for women?

_____ (127)
 _____ (128)
 _____ (129)

Q 25 c What should be done to improve the formal justice system for women in Cambodia?

_____ (130)
 _____ (131)
 _____ (132)

Experience of justice - prison system

Q 26 a Have you or anyone you know ever been to prison? **Record SA**

- (133)
- Yes 1 **Continue to Q26b**
 No 2 **Go to Q27a**
 Don't know 98 **Go to Q27a**
 Refuse 99 **Go to Q27a**

Q 26 b What for?

_____ (134)
 _____ (135)
 _____ (136)

Q 26 c For how long? months (137)

Q 26 d What kind of problems did you/they have in prison?

_____ (138)
 _____ (139)
 _____ (140)

Q 26 e What kind of problems had relatives visiting you/them in prison?

_____ (141)
 _____ (142)
 _____ (143)

Experience of justice - ADR system

Q 27 a Let's talk about the ADR (arbitration, cadastral commissions).
 Did you ever have to go to them for one or more of the following reasons? **Record MA**
[multiple answers in interval 1-7]

- Land disputes 1 (144)
 Labour disputes 2 (145)
 Domestic violence 3 (146)
 Inheritance disputes 4 (147)
 Divorce 5 (148)
 Criminal cases (other than dv) 6 (149)
 Oother (specify)_____ 7 (150)
 No 8 (151) **Go to Q28**
 Don't know/don't answer 98 (152) **Go to Q28**

Q 27 b And did you experience any of the following difficulties in getting there:

- Time it took to get there 1 (153)
 Cost of transport 2 (154)
 No-one to look after the children 3 (155)
 No-one to take care of domestic responsibilities 4 (156)
 Other (specify)_____ 5 (157)

Q 27 c How was the case managed and solved?

_____ (158)
 _____ (159)
 _____ (160)

Q 27 d Let's talk a little more about your case with the ADR
 I am going to read out some statements regarding it.
 Please rate each statement on a scale from 1 to 7, where 1 means "I strongly disagree" with the statement, and 7 means "I strongly agree"
Read out Responses, Rotate beginning with one market "X". Record SA

		Strongly disagree	Disagree	Somewhat disagree	Neutral/unsure	Somewhat agree	Agree	Strongly agree	
[]	I understood the procedures of the ADR	1	2	3	4	5	6	7	(161)
[]	Someone helped or explained things to me	1	2	3	4	5	6	7	(162)
[]	ADR staff understood my problem	1	2	3	4	5	6	7	(163)
[]	ADR staff treated me well	1	2	3	4	5	6	7	(164)
[]	I had to go back to the ADR more than two times	1	2	3	4	5	6	7	(165)
[]	I had to pay money to ADR staff	1	2	3	4	5	6	7	(166)
[]	I trust the ADR staff	1	2	3	4	5	6	7	(167)
[]	I was happy with the result of my case	1	2	3	4	5	6	7	(168)

Q 27 e How long did your case take, from when it was brought to the ADR to the solution? months (169)

Q 27 f And how much did it cost you, including official and unofficial payments?

Value (US\$ or Riels) Riels (170)

or US\$

Q 28 a Do you know somebody who has gone to the ADR? *Record SA*

- (171)
- Yes 1 *Continue to Q28b*
 - No 2 *Go to Q29*
 - Don't know 98 *Go to Q29*
 - Refuse 99 *Go to Q29*

Q 28 b Were they happy with the result? *Record SA*

- (172)
- Yes 1
 - Basically yes 2
 - Not very much 3
 - No 4
 - Refuse 99

Q 29 a Do you feel the ADR staff are: *Record SA*

- (173)
- Fair to everybody 1
 - Basically fair 2
 - A little biased in favour of the rich & powerful 3
 - Quite biased in favour of the rich & powerful 4
 - A little biased in favour of men 3
 - Quite biased in favour of men 4
 - Refuse 99

Q 29 b Apart from what you've said above, what are the main problems with the ADR justice system for women?

_____ (174)

_____ (175)

_____ (176)

Q 29 c What should be done to improve the ADR justice system for women in Cambodia?

_____ (177)

_____ (178)

_____ (179)

Q 30 Finally, what do you think should be done to make it easier for women to get justice?

_____ (180)

_____ (181)

_____ (182)

Demographics

Now a few final questions about yourself and your household to help us in our analysis.....

- D 1 What is your marital status ?** (5)
- | | |
|-------------------------------|----|
| Single..... | 1 |
| Married with children..... | 2 |
| Married without children..... | 3 |
| Divorced..... | 4 |
| Widowed..... | 5 |
| Refused | 99 |

- D 2 How Old are You?** (6)
- (7)
- Code Response**
- | | |
|----------------------|---|
| 20 to 24 years | 1 |
| 25 - 29 years | 2 |
| 30 - 34 years | 3 |
| 35 - 39 years | 4 |
| 40 - 44 years | 5 |
| Over 45 years | 6 |

- D 2 a Gender** (8)
- | | |
|-------------|---|
| Male..... | 1 |
| Female..... | 2 |

- Q 6 What is your mother tongue?** DEMOGRAPHICS
- (9)
- | | |
|----------------------------|---|
| Khmer | 1 |
| Vietnamese | 2 |
| Other (specify)_____ | 3 |

- D 3 What is the last grade of formal education you completed ?**
- (10)
- | | |
|--|----|
| No formal schooling..... | 1 |
| Some primary | 2 |
| Completed Primary School..... | 3 |
| Some Secondary School..... | 4 |
| Completed Secondary School..... | 5 |
| Technical / Vocational..... | 6 |
| Some/completed Pre-University (A-Level)..... | 7 |
| Some/completed Diploma Degree | 8 |
| University..... | 9 |
| Post Graduate..... | 10 |
| Do not know | 98 |
| Refused | 99 |

- D 4 What is your occupation?Position :** _____ (11) **Industry:** _____
- Skill/Qualification:** _____
- * If retired, previous occupation: _____
 - * If Self-Employed/Managerial. How many employees responsible for: _____
 - * If Civil Service/Armed forces. What grade, what rank? _____

- D 4 a How many people live at your house? (Include all those sleeping in the dwelling for at least three of the last 12 months including children, adult relatives and domestic servants for whom you have a financial responsibility)**
- Record MA** (11)

Give respondent "Age Group" showcard and ask:

- D 4 b Please tell me how many males in females in each age group currently live full time in your household?
Please include yourself other adults, children and babies. Do not include servants or guests visiting you.

Male				
0-4		(12)	40-44	(20)
5-9		(13)	45-49	(21)
10-14		(14)	50-54	(22)
15-19		(15)	55-59	(23)
20-24		(16)	60-64	(24)
25-29		(17)	65-69	(25)
30-34		(18)	70-74	(26)
35-39		(19)	75+	(27)
			Total	

Female				
0-4		(28)	40-44	(36)
5-9		(29)	45-49	(37)
10-14		(30)	50-54	(38)
15-19		(31)	55-59	(39)
20-24		(32)	60-64	(40)
25-29		(33)	65-69	(41)
30-34		(34)	70-74	(42)
35-39		(35)	75+	(43)
			Total	

Give respondent "HHOLD Income Contribution" Showcard as ask:

- D 5 According to the choices on this card - How important is your income to the total household income? (44)

- It is the only income 1
- Largest part of the household income 2
- It make a substantial contribution (more or less as much as other HH income sources 3
- Helps to increase total household income as an add on to other income sources 4
- Refuse 99

- D 6a For how many people in your household is your income the main source of livelihood - by that I mean how many people are dependent on your income? (45)

- D 6b For how many people in your extended family (apart from your household) is your income the main source of livelihood? (46)

Give respondent "HHOLD YSE" card as ask:

- Q 7 Could you please tell me, which category on this card best describes your household in terms of:

a What would you think is the total amount that your HH spent on food consumption in the last month?

b What would you think is the total amount that your HH spent on non-food consumption in the last month?
Clothing, cooling, domestic rents, education fee, health cost, leisure etc...?

	a) Food (47)	b) Non Food (48)
Less than 50 USD (<200,000 R)	1	1
50 to 100 USD (200,001-400,000R)	2	2
101 to 150 USD (400,001-600,000R)	3	3
151 to 200 USD (600,001-800,000R)	4	4
201 to 250 USD (800,001-1,000,000R)	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8
More than 400 USD (>1,600,000R)	9	9
Don't Know	98	98
Refused	99	99

- D 8 Give respondent "HHOLD YSE" card as ask:

Could you please tell me, which category on this card best describes your household in terms of:

	Monthly Income (49)	Monthly Expenditure (50)	Monthly Saving (51)
Less than 50 USD (<200,000 R)	1	1	1
50 to 100 USD (200,001-400,000R)	2	2	2
101 to 150 USD (400,001-600,000R)	3	3	3
151 to 200 USD (600,001-800,000R)	4	4	4
201 to 250 USD (800,001-1,000,000R)	5	5	5
251 to 300 USD (1,000,001-1,200,000R)	6	6	6
301 to 350 USD (1,200,001-1,400,000R)	7	7	7
351 to 400 USD (1,400,001-1,600,000R)	8	8	8
More than 400 USD (>1,600,000R)	9	9	9
Don't Know	98	98	98
Refused	99	99	99

- D 9 Give respondent "DURABLES" card as ask:

For each of the items listed on this card can you please tell me how many of each item does your household own? Record the number of each item owned

Office Use Only

	Yes		How Many		Points		Total
Colour television	1	(52)			(53) x 4 =		
Black and white television	2	(54)			(55) x 1 =		
Video cassette player	3	(56)			(57) x 1 =		
Video CD player	4	(58)			(59) x 1 =		
Stereo system (no CD)	5	(60)			(61) x 1 =		
CD Stereo System	6	(62)			(63) x 4 =		
Laser Disc Player	7	(64)			(65) x 2 =		
Karaoke Machine	8	(66)			(67) x 2 =		
Piano / Electric Organ	9	(68)			(69) x 4 =		
Camera	10	(70)			(71) x 1 =		
Handycam / Video camera	11	(72)			(73) x 2 =		
Personal computer	12	(74)			(75) x 8 =		
Air conditioner	13	(76)			(77) x 5 =		
Fixed line Telephone	14	(78)			(79) x 2 =		
Mobile phone	15	(80)			(81) x 4 =		
Fridge and / or Freezer	16	(82)			(83) x 3 =		
Microwave	17	(84)			(85) x 3 =		
Washing Machine	18	(86)			(87) x 3 =		
Dishwasher	19	(88)			(89) x 3 =		
Motorcycle under 100 cc	20	(90)			(91) x 10 =		
Motorcycle over 100 cc	21	(92)			(93) x 20 =		
Boat	22	(94)			(95) x 20 =		
Car (Year 1985 and before)	23	(96)			(97) x 12 =		
Car (Year 1986 to 1993)	24	(98)			(99) x 40 =		
Car (Year After 1994)	25	(100)			(101) x 160 =		
Own home	26	(102)			(103) x 50 =		
Fan	27	(104)			(105) x 0.2 =		
Gas cooker	28	(106)			(107) x 1.1 =		
Sewing machine	29	(108)			(109) x 0.5 =		
Water pump	30	(110)			(111) x 0.7 =		
Hot-cold water container	31	(112)			(113) x 1.2 =		
Rice cooker	32	(114)			(115) x 0.7 =		
Radio set	33	(116)			(117) x 0.1 =		
Bicycle	34	(118)			(119) x 0.4 =		
Fax	35	(120)			(121) x 4.0 =		
TOTAL A							

(122)	
A class (35.1 plus)	1
B class (from 25.1 to 35)	2
C class (from 17.1 to 25)	3
D class (from 11.1 to 17)	4
E&F class (11 below)	5

TOTAL B (D4a)

Total A div Total B

<<< SES CALCULATION

Thank Respondent For Co-operation & Close

Court User Questionnaire (Maldives)

UNDP Access to Justice Survey – Maldives 2010 QUESTIONNAIRE FOR COURT USERS – QUESTIONNAIRE

Researcher no.:

Location code:

Enumerator: Mark 1- Yes; 2 – No; 0- Don't know

1.Gender: Male_1 Female_2

2.Education level – highest attained

- a) Incomplete primary education
- b) Completed primary education
- c) Completed secondary school (Grade 10)
- d) High school (A-level)
- e) Completed further education

3.	Since August 2008, you have been involved in:	Yes
	a) A civil proceeding (property, divorce, contract, salaries and employment rights)	
	b) A criminal proceeding	

Enumerator: If A, complete questions 4-21

If B, complete questions 4-9 and 22-41

YOUR EXPERIENCE IN COURT

Do you agree or disagree with the following statements (1- strongly agree, 2 –agree, 3- neither agree nor disagree, 4- disagree, 5- strongly disagree, 0-Don't know)

	In your experience:	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
4.	During the proceedings, both parties (the prosecutor/plaintiff and the defendant) were given equal opportunity to present their case	1	2	3	4	5	0
5.	The judge treated me with respect	1	2	3	4	5	0
6.	Court staff were/have been helpful and responsive to my questions	1	2	3	4	5	0
7.	I understood the court's procedures (as they apply to me)	1	2	3	4	5	0

7. a If *Disagree* or *Strongly disagree* with any of the statements from 4 to 7, please explain why?

8.	Do you speak Dhivehi fluently?	Yes	No
		1	2

If No

8a.	Were you provided with a translator throughout all stages of the court proceedings?	Yes	No
		1	2

9.	Was access to the court easy?	Yes	No
		1	2

If No

9a.	Why?(select all that apply)	Yes
	a) Because I have a physical disability	
	b) Because transport links are bad	
	d) Other (please specify)	

INTERACTION WITH THE CIVIL LAW

10.	Is the civil proceeding concluded?	Yes	No
		1	2

Enumerator: If No, skip to question 13

If Yes:

10.a	How long did your case take (from beginning to end)?	Yes
	a) Less than 6 months	
	b) 6 - 12 months	
	c) 12+ months	

10.b	How much did the proceedings cost you (Rufiyah)?	Yes
	a) 0	
	b) <1000	
	c) 1001 – 5000	
	d) 5001 - 10000	
	e) 10000-50000	
	f) 50001+	

Do you agree or disagree with the following statements (1- strongly agree, 2 –agree, 3- neither agree nor disagree, 4- disagree, 5- strongly disagree, 0-Don't know)

		Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
11.	I am satisfied with how long the proceedings took?	1	2	3	4	5	0
12.	The total costs of the proceedings were acceptable	1	2	3	4	5	0

If Disagree or Strongly disagree with statement 12

12.a	Why? (select all that apply)	Yes
	a) Because court costs were high	
	b) Because transport was costly	
	c) Because my lawyer was expensive	
	d) Other (please specify)	

Enumerator: Skip to question 16

13. If the civil proceedings are ongoing:

13.a	How long have the proceedings lasted to date?	Yes
	a) Less than 6 months	
	b) 6 - 12 months	
	c) 12+ months	

13.b	How much have the proceedings cost you to date (Rufiyah)?	Yes
	a) 0	
	b) do 1000	
	c) 1001 – 5000	
	d) 5001 – 10000	
	e) 10000-50000	
	f) 50001+	

Do you agree or disagree with the following statements (1-strongly agree, 2- agree, 3- neither agree nor disagree, 4- disagree, 5- strongly disagree, 0-Don't know)

		Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
14.	I am satisfied with the pace of the proceedings to date?	1	2	3	4	5	0
15.	The total costs of the proceedings to date have been acceptable	1	2	3	4	5	0

If Disagree or Strongly disagree with statement 15

15.a	Why? (select all that apply)	Yes
	a) Because court costs are high	
	b) Because transport is costly	
	c) Because my lawyer was expensive	
	d) Other (please specify)	

16.	Did the judge try to reconcile you with the other party before resolving the case by legal means?	Yes	No	Don't know
		1	2	0

If Yes,

16.a	Was he successful?	Yes	No
		1	2

17.	Were you represented by a Lawyer?	Yes	No
		1	2

If Yes

17. a	Was your Lawyer present for all hearings?	Yes	No
		1	2

17.b	Were you satisfied with your Lawyer?	Yes	No
		1	2

18.	Did you understand the final decision in your case?	Yes	No
		1	2

If No

18.a	Why not? – select all those that apply	Yes
	a) It was not in my native language/language I could understand	
	b) It was presented in written format and I do not read	
	c) Nobody explained it to me	
	d) Other (please specify)	

19.	Were you satisfied with the final decision?	Yes	No
		1	2

If No

19.a	Why not? – select all those that apply	Yes
	a) I was expecting a different decision on the basis of similar cases I am familiar with	
	b) I thought the judge was biased/corrupt	
	c) The final decision was not argued with reference to the facts	
	d) I lost the case	
	e) Other (please specify)	

19b.	Were you informed that you have the right to appeal the decision?	Yes	No
		1	2

If No to 19b, please skip to question 20

19c.	Who informed you?	Yes
	a) The Judge	
	b) Lawyer	
	c) Other – please specify	

19d.	Did you appeal the decision?	Yes	No
		1	2

If No to 19d,

19e.	Why didn't you appeal? Please select all that apply	Yes
	a) I thought it would be a waste of time	
	b) I thought it would be too expensive	
	c) I thought it would take too much time	

	d) I didn't know the procedure	
	e) Other – please specify	

20.	Was the court order implemented (did you receive/ pay out compensation or other damages as per the court's decision?)	Yes
	a) Yes	
	b) No; the decision was recently issued in the last three months, and I expect its implementation	
	c) No, despite the fact the court order was issued more than three months ago	

21.	If a similar problem occurred again, would you take it to court?	Yes	No	Don't Know

INTERACTION WITH THE CRIMINAL LAW

22.	Is the criminal proceeding concluded?	Yes	No

Enumerator: If No, skip to question 25.

If Yes

22.a	How long did the process last from arrest to decision (if found not guilty)/sentencing?	Yes
	a) Less than 6 months	
	b) 6 - 12 months	
	c) 12+ months	

22.b	How much did the process cost you (Rufiyah)?	Yes
	a) 0	
	b) <1000	
	c) 1001 – 5000	
	d) 5001 – 10000	
	e) 10000-50000	
	f) 50001+	

Do you agree or disagree with the following statements (1- strongly agree, 2-agree, 3- neither agree nor disagree, 4 - disagree, 5-strongly disagree, 0-Don't know)

		Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
23.	I am satisfied with how long the process took?	1	2	3	4	5	0
24.	The total costs of the process was acceptable	1	2	3	4	5	0

If Disagree or Strongly disagree with statement 24.

24.a	Why? (select all that apply)	Yes
	a) Because court costs were high	
	b) Because transport was costly	
	c) Because my lawyer was expensive	
	d) Other (please specify)	

Enumerator: Skip to question 28

25. If the proceedings are ongoing:

25.a	How long has the process lasted to date (from arrest)?	Yes
	a) Less than 6 months	
	b) 6 - 12 months	
	c) 12+ months	

25.b	How much did the process cost you to date (Rufiyah)?	Yes
	a) 0	
	b) <1000	
	c) 1001 – 5000	
	d) 5001 – 10000	
	e) 10000-50000	
	f) 50001+	

Do you agree or disagree with the following statements (1- strongly agree, 2-agree, 3- neither agree nor disagree, 4- disagree, 5-strongly disagree, 0-Don't know)

		Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
26.	I am satisfied with the pace of the process to date?	1	2	3	4	5	0
27.	The total costs of the process to date has been acceptable	1	2	3	4	5	0

If Disagree or Strongly disagree with statement 27,

27.a	Why? (select all that apply)	Yes
	a) Because court costs are high	
	b) Because transport is costly	
	c) Because my lawyer was expensive	
	d) Other (please specify)	

Enumerator (question 28): Do not read the responses to the respondent. Choose the response that best suits their answer.

28.	Which crime(s) were you arrested for?	Yes
	a) Drug offences – possession, distribution	
	b) Offence against the person – assault, battery, false imprisonment, kidnapping, sexual assault	
	c) Homicide crimes – murder, manslaughter, negligent homicide	
	d) Crimes against property – arson, blackmail, burglary, embezzlement, extortion, receiving stolen property, robbery, theft	
	e) Crimes against justice – perjury, perverting the course of justice, obstruction of justice	
	f) Inchoate offence – attempt, conspiracy, solicitation	
	g) Other – please specify	
	h) Don't know	

29.	How long were you in police detention before you were brought to court the first time? (Hours)	0-24h	25-48h	48h +

30.	How long were you in police detention before being charged? (Days)	0-30 d.	31-60 d.	61+ d.

31.	Were you charged with the same offence(s) that you were arrested for?	Yes	No	Don't know
		1	2	0

If No,

31.a	Please specify which offence you were charged with	Yes
	a) Drug offences – possession, distribution	
	b) Offence against the person – assault, battery, false imprisonment, kidnapping, sexual assault	
	c) Homicide crimes – murder, manslaughter, negligent homicide	
	d) Crimes against property – arson, blackmail, burglary, embezzlement, extortion, receiving stolen property, robbery, theft	
	e) Crimes against justice – perjury, perverting the course of justice, obstruction of justice	
	f) Inchoate offence – attempt, conspiracy, solicitation	
	g) Other – please specify	
	h) Don't know	

32.	Were you officially informed of the charges being brought against you?	Yes	No
		1	2

Enumerator: If No, skip to question 35

If Yes

32a.	When (where)?	Yes
	a) At the police station	
	b) Before going to court	
	c) In court	
	d) In jail/prison	

32b.	How? (Were you officially informed of the charges only orally, only in writing, or both?)	Yes
	a) Orally	
	b) In writing	
	c) Both	

32c.	Did you understand the charges brought against you?	Yes	No
		1	2

If No to 32.c

32d. Why not?	Yes
a) It was not in my native language/language I could understand	
b) The charges were too complicated for me to understand	
c) Other (please specify)	

33.	When you were arrested, did you know that you were entitled to representation by a Lawyer?	Yes	No
		1	2

34.	Were you informed at any point during the proceedings (until now) that you were entitled to representation by a Lawyer?	Yes	No
		1	2

Enumerator: If No, skip to question 35

If Yes

34a.	When were you first informed?	Yes
	a) When arrested	
	b) When brought into custody	
	c) When first questioned	
	d) When first brought before the Judge	
	e) When charged	
	f) At the first hearing	
	g) Other – please specify	

34.b	Who informed you?	Yes
	a) The arresting officer(s)	
	b) The Police station supervisor	
	c) The police investigator(s)	
	d) The Judge	
	e) The prosecutor general	
	f) Other – please specify	

35.	Did you confess during investigation?	Yes	No
		1	2

Enumerator: If No, please skip to question 36

35a. If Yes (to question 35), could you please tell us more about the circumstances of your confession? Was it coerced? Did you later retract it in court?

36.	Did you confess in court?	Yes	No
		1	2

Enumerator: If No, please skip to question 37

36a. If Yes (to question 36), could you please tell us more about the circumstances of your confession? Was it coerced?

37.	Could you afford to hire a lawyer?	Yes	No
		1	2

Enumerator: If No, please skip to question 38

If Yes,

37.a	Did you hire a lawyer?	Yes	No
		1	2

Enumerator: If Yes, please skip to question 39,

If No to question 37.a

37.b	Why didn't you hire a lawyer?	Yes
-------------	--------------------------------------	------------

	a) I was/am sure I would/will be acquitted	
	b) I thought the State would provide one	
	c) Other	

Enumerator: Please skip to question 41- if the proceedings are finished, or conclude the questionnaire - if the proceedings are ongoing.

38.	Did the State appoint a lawyer for you?	Yes	No
		1	2

Enumerator: If No, skip to question 41 if the proceedings are finished, or conclude the questionnaire if the proceedings are ongoing

If Yes (to question 37.a or 38),

39.	Was your lawyer present for all of the hearings?	Yes	No
		1	2

40.	Were you/are you satisfied with your lawyer?	Yes	No
		1	2

Enumerator: If the process is ongoing conclude the questionnaire

41.	Were you found guilty?	Yes	No
		1	2

If No, please conclude the questionnaire

42.	How long is your sentence? (Years/months)	<6 m	6-12m	1-5 years	5-10 years	10+ years

43.	Were you informed that you have the right to appeal your conviction?	Yes	No
		1	2

If Yes,

43a.	Who informed you?	Yes
	a) The arresting officer(s)	
	b) The Police station supervisor	
	c) The police investigator(s)	
	d) The Judge	

	e) The prosecutor	
	f) Lawyer	
	g) Other – please specify	

43b.	Did you appeal the decision?	Yes	No
		1	2

If No to 43b,

43c.	Why didn't you appeal? Please select all that apply	Yes
	a) I thought it would be a waste of time	
	b) I thought it would be too expensive	
	c) I thought it would take too much time	
	d) I didn't know the procedure	
	e) I couldn't get access to a lawyer from prison	
	f) Other – please specify	

Public Perception Questionnaire (Maldives)

UNDP Access to Justice Survey – Maldives 2010 PUBLIC PERCEPTION QUESTIONNAIRE – QUESTIONNAIRE A

Enumerator no.:

Household name

Location code: Island/atoll

Household Code

A. DEMOGRAPHICS

1.	Gender	Male	Female
		1	2

2. Age : a) 18-24 b) 25-29 c) 30-34 d) 35-39 e) 40-44
 f) 45-49 g) 50-54 h) 55-59 i) 60-64 j) Over 65

3. Education level – highest attained:
- a) Incomplete primary education
 - b) Completed primary education (Grade 7)
 - c) Completed secondary school (Grade 10)
 - d) High school (A-level)
 - e) Diplomas and certificates
 - f) First degree and above

4.	Have you been employed over the course of the past year?	Yes	No
		1	2

4.a	If Yes, specify where you were employed (if you had more than one job, please tell us your primary occupation in terms of income)	Yes
	a) Public sector	
	b) Private/self-employed	
	c)	
	d)	
	e)	
	f) Other (please specify) ...	

4. Current employment status:

- a) Employed (government, civil service, public sector and independent institutions)
- b) Employed (private sector)
- c) Self-employed
- d) Unemployed (looking for a job, but no job available)
- e) Not economically active (student, pensioner, housewife, carer)

B. GENERAL PERCEPTIONS OF JUSTICE/LAW/FAIRNESS

5.	Have you heard that the Maldives has a new Constitution, adopted in August 2008?	Yes	No
		1	2

		Yes	No	Don't know
6.	Do you think the Constitution of the Maldives protects the right to equality?	1	2	0
7.	Do you think the Constitution of the Maldives protects the right to strike?	1	2	0
8.	Do you think the Constitution of the Maldives guarantees you a lawyer if you can't afford one and are charged with a serious crime?	1	2	0

C. SPECIFIC PERCEPTIONS OF THE JUDICIAL SYSTEM

Do you agree or disagree with the following statements (1- agree, 2- neither agree nor disagree, 3- disagree, 0-Don't know)

		Agree	Neither a. nor d.	Disagree	Don't know
9.	Since August 2008, the Court(s) in your island/city have usually punished those who commit crimes.	1	2	3	0
10.	Since August 2008, the Court(s) in your island/city have usually provided justice for victims	1	2	3	0
11.	Since August 2008, the Court(s) in your island/city have treated:				
	a) Men and women equally	1	2	3	0
	b) Rich(er) and poor(er) equally	1	2	3	0
	c) Well-educated and less-educated equally	1	2	3	0
	d) Friends or relatives of judges (or court staff) and other people equally	1	2	3	0
	e) Members of different political parties equally	1	2	3	0

f) Persons from different islands (Male/atolls) equally	1	2	3	0
g) Maldivians and foreigners equally	1	2	3	0

12.	In general, are You satisfied with the way the Court(s) in your island/city has functioned since August 2008?	Yes	No	Don't know
		1	2	0

12.a	If No, select all that apply	Yes
	a) The Judge is incompetent	1
	b) The court staff are incompetent	1
	c) The Judge is corrupt	1
	d) The court staff are corrupt	1
	e) The Judge treats people unequally	1
	f) The court staff treat people unequally	1
	g) The Judge is slow/disinterested	1
	h) The court staff are slow/disinterested	1
	i) Other (please specify) ...	

13.	In general, are you satisfied with the way the Police in your island/atoll/city has functioned since August 2008?	Yes	No	Don't know
		1	2	0

13.a	If No, select all that apply	Yes
	a) The Police are incompetent	1
	b) The Police are corrupt	1
	c) The Police treat people unequally	1
	d) The Police are slow/disinterested	1
	e) Because there is no Police on my island	1
	f) Other (please specify) ...	

Do you agree or disagree with the following statement (1- agree, 2 - neither agree nor disagree, 3- disagree, 0-Don't know)

14.	Since August 2008:	Agree	Neither a. nor d.	Disagree	Don't know
	a) The courts in my island/city function better	1	2	3	0
	b) The police in my island/atoll/city function better	1	2	3	0

D. YOUR EXPERIENCES

15.	Have you had a legal problem since August 2008?	Yes	No
		1	2

Enumerator: If No, skip to question 19

16.	If Yes to the previous question (if you had a legal problem), did you seek help from your family or friends?	Yes	No
		1	2

Enumerator: If No, skip to question 18

17.	If Yes to the previous question (if you sought help from your family/friends), did this solve your problem?	Yes	No
		1	2

Enumerator: If Yes, skip to question 19

18.	If No (to question 16 or to question 17), did you seek help from any of the following: the Police, a lawyer or a Court?	Yes	No
		1	2

Enumerator: If Yes, please ask question 18a and then conclude the questionnaire; if No, please go to question 18.b and then conclude the questionnaire

18.a	If Yes to the previous question (if you sought help from police/lawyer/courts), did this solve your problem?	Yes	No
		1	2
18.b	If No to question 18 (if you did not seek help from police/lawyer/courts), why not? (select all that apply)	Yes	
	a) Didn't know how and who to address	1	
	b) The police/courts/lawyers are too slow and disinterested	1	
	c) The police/courts/lawyers are corrupt	1	
	d) The institution I needed (police, court in Male) is too far away	1	
	e) Access to the institution or person I needed (court in Male, lawyer) is too costly	1	
	f) Access to the institution or person I needed (court in Male, lawyer) is difficult (e.g. no lawyer on the island)		
	g) I thought that my level of education/lack of wealth/being a woman/being a person with disabilities would make it difficult for me to get fair treatment by police/lawyers/courts	1	
	h) Fear/shame/Family pressure	1	
	i) Other (please specify)...		

Enumerator: do not ask question 19

19.	If you had legal problem would you address any of the following: the Police, a lawyer or a Court?	Yes	No	Don't know
		1	2	0

19.a	If No, why not? (select all that apply)	Yes
	a) The Police/lawyers/courts are incompetent	1
	b) Don't know anything about the legal system	1
	c) I don't know who to address and/or how to contact them	
	d) The police/courts//lawyers are too slow and disinterested	1
	e) The police/courts/lawyers are corrupt	1
	f) I think the procedure would be too costly	1
	g) I think that my level of education/lack of wealth/being a woman/being a person with disabilities would make it difficult for me to get fair treatment by police/lawyers/courts	1
	h) Other (please specify)...	

Questionnaire to interview Prisoners (Maldives)

UNDP Access to Justice Survey – Maldives 2010 QUESTIONS FOR PRISONERS – QUESTIONNAIRE D

Researcher no.:

Location code: detention centre:

Enumerator: Mark 1- Yes; 2 – No; 0- Don't know

1. Gender:

a) Male_1 b) Female_2

2.	Do you speak Dhivehi fluently?	Yes	No
		1	2

If No,

2a.	Were you provided with a translator throughout all stages of the process – arrest, questioning, hearings etc	Yes	No
		1	2

*Enumerator (question 3): Do not read the responses to the respondent.
Choose the response that best suits their answer.*

3.	Which crime(s) were you arrested for?	Yes
	a) Drug offences – possession, distribution	
	b) Offence against the person – assault, battery, false imprisonment, kidnapping, sexual assault	
	c) Homicide crimes – murder, manslaughter, negligent homicide	
	d) Crimes against property – arson, blackmail, burglary, embezzlement, extortion, receiving stolen property, robbery, theft	
	e) Crimes against justice – perjury, perverting the course of justice, obstruction of justice	
	f) Inchoate offence – attempt, conspiracy, solicitation	
	g) Other – please specify	
	h) Don't know	

3a.	When were you arrested?	Before August 2008	During or after August 2008

If Before August 2008, end the questionnaire.

4.	How long were you in police detention before you were brought to court the first time? (Hours)	0-24h	25-48h	48h +

5.	How long were you in police detention before being charged? (Days)	0-30 days	31-60 days	61+ days

6.	Were you charged with the same offence(s) that you were arrested for?	Yes	No	Don't know
		1	2	0

If No (to question 6)

6.a	Please specify which offence you were charged with	Yes
	a) Drug offences – possession, distribution	
	b) Offence against the person – assault, battery, false imprisonment, kidnapping, sexual assault	
	c) Homicide crimes – murder, manslaughter, negligent homicide	
	d) Crimes against property – arson, blackmail, burglary, embezzlement, extortion, receiving stolen property, robbery, theft	
	e) Crimes against justice – perjury, perverting the course of justice, obstruction of justice	
	f) Inchoate offence – attempt, conspiracy, solicitation	
	g) Other – please specify	
	h) Don't know	

7.	Were you officially informed of the charges being brought against you?	Yes	No
		1	2

Enumerator: If No, skip to question 8

If Yes (to question 7)

7.a	When(where)?	Yes
	a) At the police station	
	b) Before going to court	
	c) In court	
	d) In prison	

7.b	How? (Were you officially informed of the charges only orally, only in writing, or both?)	Yes
	a) Orally	
	b) In writing	
	c) Both	

7.c	Did you understand the charges brought against you?	Yes	No
		1	2

Enumerator: If Yes, skip to question 8

If No (to question 7.c)

7.d Why not?	Yes
a) It was not in my native language/language I could understand	
b) The charges were too complicated for me to understand	
c) Other (please specify)	

8.	When you were arrested, did you know that you were entitled to representation by a Lawyer?	Yes	No
		1	2

9.	Were you informed at any point during the proceedings that you were entitled to representation by a Lawyer?	Yes	No
		1	2

Enumerator: If No, skip to question 10

If Yes (to question 9)

9.a	When were you first informed?	Yes
	a) When arrested	
	b) When brought into custody	
	c) When first questioned	
	d) When first brought before the Judge	
	e) When charged	
	f) At the first hearing	
	g) Other – please specify	

9.b	Who informed you?	Yes
	a) The arresting officer(s)	
	b) The Police station supervisor	
	c) The police investigator(s)	
	d) The Judge	
	e) The prosecutor general	
	f) Other – please specify	

10.	Did you confess during investigation?	Yes	No
		1	2

Enumerator: If No, please skip to question 11

10a. If Yes (to question 10), could you please tell us more about the circumstances of your confession? Was it coerced? Did you later retract it in court

11.	Did you confess in court?	Yes	No
		1	2

Enumerator: If No, please skip to question 12

11a. If Yes (to question 11), could you please tell us more about the circumstances of your confession? Was it coerced?

12.	Could you afford to hire a lawyer?	Yes	No
		1	2

If Yes,

12a.	Did you hire a lawyer?	Yes	No
		1	2

Enumerator: If Yes, please skip to question 14

If No

12b.	Why didn't you hire a lawyer?	Yes
	a) I was sure I would be acquitted	
	b) I thought the State would provide one	
	c) Other.....	

13.	Did the State appoint a lawyer for you?	Yes	No
		1	2

Enumerator: If No, skip to question 16

If Yes (to question 12a or 13)

14.	Was your lawyer present for all of the hearings?	Yes	No
		1	2

15.	Were you/are you satisfied with your lawyer?	Yes	No
		1	2

16.	How long did the process take from arrest to sentencing?(In Months)	<6m	6-12m	12+

16.a	How much did the process cost you (Rufiyah)?	Yes
	a) 0	
	b) <1000	
	c) 1001 – 5000	
	d) 5001 - 10000	
	e) 10000- 50000	
	f) 50001+	

17.	Were you in remand all of the time from arrest to sentencing?	Yes	No
		1	2

If No

17.a	Were you (please select all that apply)	Yes
	a) Under house arrest?	
	b) Released on bail?	
	c) Released without bail?	
	d) Other – please specify	

18.	How long is your sentence? (Years/months)	<6 m	6-12m	1-5 years	5-10 years	10+ years

19.	Were you informed that you have the right to appeal your conviction?	Yes	No
		1	2

If yes,

19a.	Who informed you?	Yes
	a) The arresting officer(s)	
	b) The Police station supervisor	
	c) The police investigator(s)	
	d) The Judge	
	e) The prosecutor	
	f) Lawyer	
	g) Other – please specify	

19b.	Did you appeal the decision?	Yes	No
		1	2

If No to 19b,

19c.	Why didn't you appeal? Please select all that apply	Yes
	a) I thought it would be a waste of time	
	b) I thought it would be too expensive	
	c) I thought it would take too much time	
	d) I didn't know the procedure	
	e) I couldn't get access to a lawyer from prison	
	f) Other – please specify	

Do you agree or disagree with the following statements (1- agree, 2- neither agree nor disagree, 3 - disagree, 0-Don't know)

	In your experience:	Agree	Neither agree nor disagree	Disagree	Don't know
20.	The Police treated me with respect	1	2	3	0
21.	During the proceedings, both parties (the prosecutor and the defendant) were given equal opportunity to present their case	1	2	3	0

22.	The judge treated me with respect	1	2	3	0
23.	Court staff were helpful and responsive to my questions	1	2	3	0
24.	I understood the court's procedures (as they apply to me)	1	2	3	0
25.	I am satisfied with how long the process took?	1	2	3	0
26.	The total costs of the process was acceptable	1	2	3	0

Questionnaire to interview Professionals (Maldives)

UNDP Access to Justice Survey – Maldives 2010

PROFESSIONALS QUESTIONNAIRE – QUESTIONNAIRE C

Instructions for respondents: please mark 'Yes' answers by writing/markings '1' in the corresponding box; please mark 'No' answers by writing '2' in the corresponding box; please mark 'Don't know' answers by writing '0' in the corresponding box

A. PROFILE

1. Profession (please circle the correct answer):

- a) Judge
- b) Prosecutor General's office
- c) Attorney General's office
- d) Private lawyer
- e) Court staff
- f) Police

2. Education level– please circle just one (the highest attained):

- a) Incomplete primary education
- b) Completed primary education
- c) Completed secondary school (Grade 10)
- d) High school (A-level)
- e) University degree in subject other than law
- f) Diploma or certificate in law from a recognized institution
- g) LLB

3.	Do you have a degree in Islamic Sharia'h law?	Yes	No
		1	2

B. APPLICATION OF THE CONSTITUTION

4.	In your experience since 7/8/2008, in what order do judges usually apply the following sources of law (please rank in	Rank – put number (from	Don't know
-----------	--	--------------------------------	-------------------

	order from 1 (the first source of law judges apply) to 5 (the last))?	1-5) next to each source	0
	Statutes and regulations		
	Islamic Sharia'h law		
	International treaties		
	The Constitution		
	Judgments of the Supreme Court		
	Judgments of the High Court		

5.	Do you stay regularly informed about the judgments of the High Court?	Yes	No
		1	2

If Yes

5.a	How do you inform yourself (please select all that apply by marking '1' in the corresponding boxes)	Yes
	a) I work at the High Court	
	b) Through my contacts with judges and staff from the High Court	
	c) Other (please specify)	

If No

5.b	Select all the reasons that apply for not staying regularly informed about the judgments of the High Court (please select all that apply by marking '1' in the corresponding boxes)	Yes
	a) This information is not made available	
	b) This information is not available in a user-friendly way	
	c) I don't think these judgments are very important to my work	
	d) Other (please specify)	

6.	Do you stay regularly informed about the judgments of the Supreme Court?	Yes	No
		1	2

If Yes

6.a	How do you inform yourself (please select all that apply)	Yes
------------	--	------------

	by marking '1' in the corresponding boxes)	
	a) I work at the Supreme Court	
	b) Through my contacts with judges and staff from the Supreme Court	
	c) Other (please specify)	

If No

6.b	Select all the reasons that apply for not staying regularly informed about the judgments of the Supreme Court (please select all that apply by marking '1' in the corresponding boxes)	Yes
	a) This information is not made available	
	b) This information is not available in a user-friendly way	
	c) I don't think these judgments are very important to my work	
	d) Other (please specify)	

Do you agree or disagree with the following statements (1- agree, 2- neither agree nor disagree, 3 - disagree, 0-Don't know)

7.	In your experience since 7/8/2008, the Court(s) in the Maldives have treated:	Agree	Neither agree nor disagree	Disagree	Don't know
	a) Men and women equally	1	2	3	0
	b) Rich(er) and poor(er) equally	1	2	3	0
	c) Well-educated and less-educated equally	1	2	3	0
	d) Friends or relatives of judges (and court staff) and other people equally	1	2	3	0
	e) Members of different political parties equally	1	2	3	0
	f) People from different islands (Male/atolls) equally	1	2	3	0
	g) Maldivians and foreigners equally	1	2	3	0

8.	In your experience since 7/8/2008, have detainees and/or the accused always been informed that they are entitled to a Lawyer?	Yes	No	Don't know
		1	2	0

Instruction: If No or Don't know, please skip to question 9

If Yes

8.a	When are they usually first informed? (select one by marking '1' in the corresponding box)	Yes
	a) When arrested	
	b) When brought into custody	
	c) When first questioned	
	d) When first brought before the Judge	
	e) When charged	
	f) At the first hearing	
	g) Other – please specify	

8.b	Who are they usually informed by? (select one by marking '1' in the corresponding box)	Yes
	a) The arresting officer(s)	
	b) The Police station supervisor	
	c) The police investigator(s)	
	d) The Judge	
	e) The prosecutor general	
	f) Court staff	
	g) Other – please specify	

Instruction: If Yes or Don't know, please skip to question 10

If No

9.	In your experience since 7/8/2008, has the State always provided a lawyer to those accused of serious crimes (if they can't afford one)?	Yes	No	Don't know
		1	2	0

9.a	Select all the reasons that apply by marking ‘1’ in the corresponding boxes	Yes
	a) Judges do not insist on those accused of serious crimes having a lawyer during trial	
	b) The current mechanism for providing lawyers is not managed well by the Attorney General’s office	
	c) Lawyers do not accept state-appointed cases because fees for such cases are too low	
	d) There is an insufficient number of lawyers to meet the needs of clients accused of serious crimes	
	e) Other (please specify) ...	

10.	In cases where the State provides a lawyer to defendants who cannot afford one, is the lawyer always present for all hearings?	Yes	No	Don’t know
		1	2	0

Instruction: If Yes or Don’t know, please skip to question 11

If No

10.a	Select all the reasons that apply by marking ‘1’ in the corresponding boxes	Yes
	a) State appointed lawyers’ fees are low, so lawyers actively work on cases from the State only if they do not have sufficient other work	
	b) The lawyers’ workload is too great	
	c) They do not face any sanctions for not showing up	
	d) Other (please specify) ...	

11.	Since 7/8/2008, have you been professionally engaged in a case where a person has been found guilty of a serious crime without a lawyer representing him/her throughout the process?	Yes	No	Don’t know
		1	2	0

12.	In your experience since 7/8/2008, are parties (in civil and criminal proceedings) always informed of their right to appeal?	Yes	No	Don't know
		1	2	0

Instruction: If No or Don't know, please skip to question 13

If Yes

12.a	Who usually informed them first? Please mark '1' in the corresponding box	Yes
	a) The Judge	
	b) The prosecutor	
	c) Lawyer	
	d) Other – please specify	

13.	In your experience since 7/8/2008, does the State always provide an interpreter at all stages of criminal proceedings to parties who do not speak Dhivehi?	Yes	No	Don't know
		1	2	0

C. PERCEPTIONS OF THE JUDICIAL SYSTEM

14.	In your opinion, is there a sufficient number of qualified lawyers in the Maldives to meet the needs of court users?	Yes	No	Don't know
		1	2	0

15.	In your opinion, does the Prosecutor General's office meet the needs of island communities?	Yes	No	Don't know
		1	2	0

Instruction: If Yes or Don't know, please skip to question 16

If No

15.a	Please select all the reasons that apply by marking '1' in the corresponding boxes	Yes
	a) The Prosecutor General's office cannot afford more frequent trips of prosecutors to atolls/islands	
	b) Prosecutors are overburdened with their caseload in Male causing them to go to atolls/islands less frequently than they should	
	c) Prosecutors' per diem is too low to motivate them to travel to atolls/islands more frequently	
	d) Other (please specify)	

15.b	Please specify and select the most serious consequences of the Prosecutor General’s office failing to meet the needs of island communities (by marking ‘1’ in the corresponding boxes)	Yes
	a) Insufficient presence makes it more difficult to prosecute cases in atolls/islands successfully (witnesses’ memories and reliability diminished over time, evidence may get tainted, etc.)	
	b) Causes undue delays in prosecuting cases in atolls/islands	
	c) Other (please specify)	

D. EXPERIENCES OF THE JUDICIAL SYSTEM

16.	Would you say that cases are usually resolved within a "reasonable" timeframe?	Yes	No	Don’t know
		1	2	0

17.	In your experience, are civil judgments usually enforced?	Yes	No	Don’t know
		1	2	0

Instruction: If Yes or Don’t know, please skip to question 18

If No

17.a	Select all the reasons that apply by marking ‘1’ in the corresponding boxes	Yes
	a) The sanctions for not respecting civil judgments are inadequate	
	b) The lack of an institution responsible for enforcing judgments	
	c) Other (please specify)	

18.	In your experience, are criminal sanctions usually enforced?	Yes	No	Don’t know
		1	2	0

Instruction: If Yes or Don’t know, please skip to question 19

If No

18.a	Select all the reasons that apply by marking ‘1’ in the corresponding boxes	Yes
	a) Lack of information-sharing between institutions responsible for enforcing judgments, including DPRS, Police, Courts and the Prosecutor General’s Office	

	b) Corruption	
	c) Political influence	
	d) Other (please specify)	

Do you agree or disagree with the following statements (1- agree, 2- neither agree nor disagree, 3- disagree, 0-Don't know)

		Agree	Neither a. nor d.	Disagree	Don't know
19.	Since 7/8/2008, the Court(s) in the Maldives have usually punished those who have committed crimes.	1	2	3	0
20.	Since 7/8/2008, the Court(s) in the Maldives have usually provided justice for victims	1	2	3	0

21.	In your experience, do judges usually carry out their duties without external influence?	Yes	No	Don't know
		1	2	0

Instruction: If Yes or Don't know, please skip to question 22

If No

21.a	Select all the reasons that apply by marking '1' in the corresponding boxes	Yes
	a) Government pressure	
	b) Pressure from parties to the case	
	c) Police and Prosecution influence	
	d) Lack of institutional independence (the judiciary is not fully independent of the government in the election, disciplining and transfer of judges)	
	e) Pressure from other judges	
	f) Lack of security for judges	
	g) Other (please specify)	

Do you agree or disagree with the following statement (1- agree, 2- neither agree nor disagree, 3- disagree, 0-Don't know)

22.	Since 7/8/2008:	Agree	Neither a. nor d.	Disagree	Don't know
	a) The courts in the Maldives are functioning better	1	2	3	0
	b) The Police is functioning better	1	2	3	0

23.	Please assess the effectiveness of each institution or group in ensuring access to justice in Maldives	Effective	Neither effective nor ineffective	Ineffecti ve	Don't know
	a) Courts	1	2	3	0
	b) Police	1	2	3	0
	c) Lawyers	1	2	3	0
	d) Prosecutors	1	2	3	0

24.	What would you say are the five major challenges for ensuring access to justice in the Maldives? Please select them by marking '1' in the corresponding boxes	Yes
	a) Access to a lawyer	
	b) Lack of a legal aid system	
	c) Difficulty of accessing courts in Male	
	d) Cost of legal proceedings	
	e) The outcome of similar cases is unpredictable due to a lack of uniform interpretation of the law by the courts	
	f) Insufficient number of judges/court staff/lawyers/prosecutors/police	
	g) Incompetence of judges/court staff/lawyers/prosecutors/police	
	h) The public's lack of awareness of their rights, the law and of the way the courts function	
	i) Corruption	
	j) Inadequate legislative framework	
	k) Lack of adequate infrastructure	
	l) Lack of security for judges/court staff/lawyers	
	m) Other – please specify	

25.	In your opinion, is there a lack of uniform interpretation of the law by the courts?	Yes	No	Don't know
		1	2	0

If No or Don't know, please end the questionnaire

If Yes

25.a	What would you say is the main obstacle to ensuring a more uniform interpretation of the law? Please select one by marking '1' in the corresponding box	Yes
	a) Lack of clear court procedures for each court	
	b) Lack of civil and criminal procedure codes	
	c) Lack of uniform interpretation of Sharia'h law	
	d) Lack of understanding of the substantive law	
	e) Other (please specify)...	

Legal Knowledge, Attitudes and Perceptions Survey (Sierra Leon)¹

Legal Knowledge, Attitudes and Perceptions Survey (2010)²

Enumerator's name:..... Date: __/__/__ Organisation name:
.....

Introduction

(Interviewers: Clearly read out the following to the respondent and take his/her consent before taking interview)

- I am from..... – an NGO.
- Our office is at (*location*), but we work all over the chiefdom/ area. We will be working in..... (*this community*).
- The NGO works on justice issues. I am a paralegal, and I will be working together with this community to solve justice problems.
- We are conducting a survey in your community and would like to talk with you so we can improve our services to people here.
- We are choosing every (Xth) house. We have to interview the first adult we meet who lives at the house.
- The questions are mostly about justice issues, and some questions about your household.
- Your participation is completely voluntary. No money will be provided nor do we require any money from you.
- The information you give will be used for research purposes only and will not be shown to anyone in the community.
- It will take about 45 minutes. Is this a good time for you? If not, what time would be good? (*if they can meet you later the same day, arrange a time*)

Do you agree to participate?

 √ X

[Take the interview after having obtained the consent]

¹ Presented at the Access to Justice Week Regional Consultation on Access to Justice Assessments by OSJI (October 2010)

² Developed by Brac and the Open Society Justice Initiative for the scale-up of justice services in Sierra Leone, 2010.

Preferred language of the
interview:.....

Respondent's name:

.....
.....

Address (Street, no. village, Section):

.....

Name of head of

Household:.....Mal

e/ female (*circle*)

Name of immediate Chief/ Councillor.....

.....

Section I: Socio-Demographic Profile

1.1 Respondent

Religion:..... Ethnicity:..... Marital
status:..... Occupation:.....

Sex:.....Age:.....Education level:..... Is the
household head? Yes/ No

1.2 Household Members

No. males in household:.....No. females in household:..... How many of these are
children under 18?.....

How many are over 60?..... How many can read and write?.....

1.3 Leadership positions

Does anyone in the household hold a leadership position in the community? Yes/No

If yes, please state position.....

Section II: Housing, Assets, Income

I'm now going to ask you some questions about your household's financial security and housing. *Please circle answers as appropriate.*

2.1 Income

1	What are all the sources of income in your household? (<i>circle all as appropriate</i>)	Farming [0] Field Labourer [1] Nurse or Doctor [2] Police or Military [3] Village Head [4] Community Representative [5]	Other Government employee [6] Religious Leader [7] Self-employed [8] Petty trading [9] NGO worker [10] Other(<i>specify</i>) [11]
---	--	--	--

2	Could your household afford two meals per day most of the time in the last year? (<i>includes meals without rice</i>)	Yes [0]	No [1]	
3	Do you think your economic status in the community has moved up or down since this time last year?	Improved [0]	same[1]	deteriorated [2]
4	Can you afford to buy shoes when you need to?	Yes, always [0] Yes, most of the time [1]	Not normally [2] Hardly ever able [3]	

2.2 Property Ownership and Conditions

1	What is the ownership status of your house (<i>please tell respondent options</i>)?	Owned, built [0] Owned, purchased [1] Owned, inherited [2]	Given as a favour [3] Rented [4] Don't know [5]	Other(<i>specify</i>) [6]
a.	If owned, do you have written title showing ownership?	Yes [0]	No [1]	Don't know [2]
2	What is the main material of the walls?	Mud [0] Concrete [1]	Wood [2] Stone [3]	Other(<i>specify</i>) [4]
3	What toilets are used?	Indoor toilet [0] Outdoor toilet [1]	Bush [2] Other(<i>specify</i>) [3]	

2.3 Assets in household

	Items	Number		Items	Number
1	Radio		4	Livestock (Cows, goats)	
2	Generator		5	Livestock (chickens, ducks)	
3	Cellular Phone		6	Other (<i>most valuable - specify</i>)	

Section III: Law and justice sector

3.1 Opinion of Justice System

1	Are magistrates trustworthy and fair?	Yes [0]	No [1]	Sometimes [2]	No response [3]
2	Are magistrates courts speedy?	Yes [0]	No [1]	Sometimes [2]	No response [3]
3	Are magistrates courts affordable?	Yes [0]	No [1]	Sometimes [2]	No response [3]
4	Are police trustworthy and fair?	Yes [0]	No [1]	Sometimes [2]	No response [3]
5	Are police speedy?	Yes [0]	No [1]	Sometimes [2]	No response [3]
6	Are police affordable?	Yes [0]	No [1]	Sometimes [2]	No response [3]
7	Are chiefs trustworthy and fair?	Yes [0]	No [1]	Sometimes [2]	No response [3]
8	Are chiefs speedy?	Yes [0]	No [1]	Sometimes [2]	No response [3]
9	Are chiefs affordable?	Yes [0]	No [1]	Sometimes [2]	No response [3]
10	Are Local Courts trustworthy and fair?	Yes [0]	No [1]	Sometimes [2]	No response [3]
11	Are Local Courts speedy?	Yes [0]	No [1]	Sometimes [2]	No response [3]
12	Are Local Courts affordable?	Yes [0]	No [1]	Sometimes [2]	No response [3]
13	How confident are you that if you have a justice problem, you will be able to get adequate help to resolve it?	Very confident [0]		Fairly confident [1]	Not confident [2]

3.2 Legal information

1	Which of the following have you ever got useful knowledge about the law from? (<i>please read out answers and tick all those appropriate</i>)	NGOs [0] Leaflets [1] Radio programs[2] Newspapers [3]	Community meetings [4] Chief [5] Elders [6] Don't know [7]	Other (<i>specify</i>) [8]
2	Do you know of any NGOs who help find solutions to justice problems in your community?	Yes [0]	No [1]	
	a. If yes, please name NGO (<i>other than us</i>)			

3.3 Human Rights and Political Awareness

1	How familiar are you with your rights under the law of Sierra Leone?	Very Familiar [0]	Somewhat Familiar [1]	Not Familiar [2]
2	Do you have a government-issued ID card (<i>other than NEC</i>)?	Yes [0]	No [1]	No response [2]
3	Do you know where to go to obtain a government-issued ID?	Yes [0]	No [1]	
4	Does anyone in the household have a birth certificate?	Yes [0]	No [1]	No response [2]

3.4 Domestic Violence

1	Are you aware of domestic violence in your community?	Yes [0]	No [1]	No response [2]
2	Do you think violence in the home is ok if it is reasonable?	Yes [0]	No [1]	
3	If a husband does not let his wife out of the house to visit her family is that his right or not?	His right [0]	Not his right [1]	
4	If a husband takes money from his wife when she doesn't want to give it to him, is this his right or unacceptable?	His right [0]	Unacceptable [1]	
5	In the last year, have you intervened to stop domestic violence?	Yes [0]	No [1]	No response [2]
6	If a husband is beating his wife, and she has tried to get support from her family but the violence continues, what should she do?	Should endure [0] Go back to family [1]	Should seek outside support [2]	Other (<i>specify</i>)[3]
7	If a victim of domestic violence goes to the police, do you think she will get justice?	Yes [0]	No [1]	No response [2]
8	Do you think it is ok for a wife to refuse sex with her husband if she knows he has a sexually transmitted	Yes [0] No [1]	Sometimes [2]	No response [3]

	disease?			
9	Do you think it is ok for a wife refuse sex with her husband if she is tired?	Yes [0] No [1]	Sometimes [2]	No response [3]
10	If an unmarried woman is raped do you think she should she generally marry the offender?	Yes [0]	No [1]	

3.5 Inheritance

1	Does a woman have the right to stay in her late husband's home after the husband is dead without marrying any other family member?	Yes [0] No [1]	Don't know [2]	If the relatives allow [3]
2	If a woman thinks she has a right to inheritance, but the chief says she has no right, then should she pursue it?	Yes [0]	No [1]	It depends [2]
3	If a woman has property of her own before marriage, does she have a right to keep it after her husband dies?	Yes [0]	No [1]	Don't know [2]

3.6 Children

1	Fathers must provide for their children even if they never married the mother and are separated from the mother	Agree [0]	Disagree [1]	Don't know [2]
2	If someone in your community refused to support their children, do you have confidence that they could be made to pay maintenance?	Yes, confident [0] Not confident [1]	Sometimes [2]	Don't know [3]

3.7 Rights as Employees

1	Does somebody who works for a company have the right to paid sick leave?	Yes [0]	No [1]	Don't know [2]
2	Is an employer allowed to pay a different wage to a woman and a man for doing the same job?	Yes [0]	No [1]	Don't know [2]
3	If an employee wants to join a union he/she needs permission from his/her company	True [0]	False [1]	Don't know [2]

3.8 Experience with Government authorities

1	Have you ever approached a government authority asking for help with a problem? (if no, go to 4.1)	Yes [0]	No [1]	Multiple times [2]	
	a. If yes, which agency	District council [0]	Police [1]	Medical officer [2]	Other (specify) [3]
	b. The most recent time, how did officials act when you approached them? (circle as many as appropriate)	They explained the issue is beyond their competence, and refused to register my application [0] They tried to persuade me that I should not do anything [1] They registered my case [2] They took some actions after my insistent requests [3] They were doing everything needed to help me [4] I don't know if they did anything [5] They asked for money [6] Other (specify) [7]			
	c. Were you supported by the officials? (circle as many as appropriate)	I was hinted more than once that I, with my problem, prevent them from doing their job [0] My problem was treated in a purely formal way, they did not care [1] They were compassionate, and helped me [2] Other (specify) [3]			
	d. To what extent were you able to control the progress of getting your problem solved by the officials? (please read options)	All processes were completely beyond my control [0] I was able to influence the progress sometimes [1] I was almost always able to influence the progress [2] I was able to control the process at every stage [3] Other (specify) [4]			

Section IV: Justice Problems

I'm now going to ask you about crisis events and justice problems which your household has been involved in the last year.

4.1 Crisis events and disputes within the last three years (please ask whether they have experienced any of the below)

Inheritance dispute [0]

Yes/ No

Land dispute [1]

Yes/ No

Livestock (poisoning/ damage by others)

[2] Yes/ No

Money (debt, contracts, loans etc) [3]

Yes/ No

Theft [4]

Yes/ No

Fight [5]

Yes/ No

Employment dispute [6]

Yes/ No

Domestic violence [7]

Problem with the police [9]

Yes/ No

Health services (unable to get medical assistance, providers lacking professional skills etc) [10]

Yes/ No

Natural resource problems (access to water, forestry, fishing etc)[11] Yes/ No

Agriculture (access to subsidies etc) [12]

Yes/ No

Education (problems with teachers etc) [13]

Yes/ No

Development project disputes [14]

Yes/ No

Other (specify) [15]

Yes/ No

Yes/ No
 Child support dispute [8]
 Yes/ No

Of these, which were the three which had the greatest impact on your everyday life? (please write number beside greatest problems they select as 1, 2, 3)

Problem no. 1

How many times in the last three years?.....

Please describe problem
 briefly.....

.....

.....

.....

.....

1	How significant is the impact of the problem on your everyday life?	No impact [0] Close to no impact [1] Impact in some aspects, no impact in others [2]	Significant impact [3] Very strong impact [4]
2	How important is it (or was it) for you to find a solution to this problem?	Not at all important [0] Important in some aspects, while not important in other aspects [1]	Rather important [2] Very important [3]
3	Has your problem been solved by now?	Yes, completely [0] Yes, partially [1]	No, there is the same situation [2] It is difficult to answer [3]
	a. If solved, how long did your problem remain without a solution?	It was solved almost immediately [0] Remained for one week [1] For one month [2]	For 1 - 6 months [3] For 6 months - 1 year [4] For more than one year [5]
4	Did you take any action to solve the problem?	Yes [0] No [1]	
	a. If no, why have you not taken any action? (circle all those appropriate) (go to question 13)	I believed the other party is right [0] It was not important [1] The problem disappeared on its own [2] It would take too much time [3] It would be too expensive [4] The process of solving the problem would make me too anxious [5]	I was afraid [6] I did not believe it would produce any change [7] I was advised not to take action [8] I did not know whom to approach [9] Other (specify) [10]
5	What action did you first take?	I tried to reach an agreement with the other party [0] I looked for information on my own [1] I consulted family [2]	Went to Magistrates Court [6] Went to village elders [7] Went to village chief [8] Went to Town or Section Went to Private Lawyer [13] Went to NGO [14] Went to paralegal [15] Went to other

		I consulted a friend [3] I took it to the Police [4] Went to Local Court [5]	Chief [9] Went to Paramount Chief [10] Went to District council [11] No action taken [12]	government agency [16] (name)..... Other (specify) [17]
6	Why did you choose this action?	I thought it would be quick [0] I knew it was not far to travel [1] I thought it would be cheap [2] I thought it would be fair [3] It was a private matter [4] I have respect for them [5] I knew they would support me [6]	I had used this solution before or knew someone who had used it [7] Such problems are always solved this way in my community [8] I had no choice [9] I didn't know where else to go [10] Other (specify) [11]	
7	Did this bring about a solution?	Yes [0]	No [1]	In part [2]
8	Were you satisfied with the solution?	Yes [0]	No [1]	It is ok, but it could have been better [2]
9	If not, did you appeal or seek more help?	Yes[0] No[1]		
10	Where did you go to appeal the solution or seek more help?	I took it to the Police [1] Went to Local Court [2] Went to Magistrates Court [3] Went to village elders [4] Went to village chief [5] Went to Town or Section Chief [6] Went to Paramount Chief [7]	Went to District council [8] Went to Private Lawyer [9] Went to NGO [10] Went to paralegal [11] Went to other government agency [12] (name)..... Other (specify) [13]	
11	Were you satisfied with the outcome?	Yes [0]	No [1]	It is ok, but it could have been better [2]
	a. Please explain why satisfied or why not satisfied			

Problem no. 2

How many times in the last three years?.....

Please describe problem

briefly.....
.....
.....
.....
.....

1	What is the impact of the problem on your everyday life?	No impact [0] Close to no impact [1] Impact in some aspects, no impact in others [2]	Significant impact [3] Very strong impact [4]
2	How important is it (or was it) for you to find a solution to this problem?	Not at all important [0] Important in some aspects, while not important in other aspects [2]	Rather important [3] Very important [4]
3	Has your problem been solved by now?	Yes, completely [0] Yes, partially [1]	No, there is the same situation [2] It is difficult to answer [4]
	a. If solved, how long did your problem remain without a solution?	It was solved almost immediately [0] Remained for one week [1] For one month [2]	For 1 - 6 months [3] For 6 months - 1 year [4] For more than one year [5]
4	Did you take any action to solve the problem?	Yes [0] No [1]	
	a. If no, why have you not taken any action? (<i>circle all those appropriate</i>) (go to question 13)	I believed the other party is right [0] It was not important [1] The problem disappeared on its own [2] It would take too much time [3] It would be too expensive [4] The process of solving the problem would make me too anxious [5]	I was afraid [6] I did not believe it would produce any change [7] I was advised not to take action [8] I did not know whom to approach [9] Other (<i>specify</i>) [10]
5	What action did you first take? (<i>circle all those appropriate</i>)	I tried to reach an agreement with the other party [0] I looked for information on my own [1] I consulted family [2] I consulted a friend [3] I took it to the Police [4] Went to Local Court [5]	Went to Magistrates Court [6] Went to village elders [7] Went to village chief [8] Went to Town or Section Chief [9] Went to Paramount Chief [10] Went to District council [11] Went to Private Lawyer [12] Went to NGO [13] Went to paralegal [14] Went to other government agency [15] (<i>name</i>)..... Other (<i>specify</i>) [16]
6	Why did you choose this action?	I thought it would be quick [0] I knew it was not far to travel [1] I thought it would be cheap [2] I thought it would be fair [3] It was a private matter [4]	I had used this solution before or knew someone who had used it [7] Such problems are always solved this way in my community [8] I had no choice [9] I didn't know where else to go [10] Other (<i>specify</i>) [10]

		I have respect for them [5] I knew they would support me [6]		
7	Did this bring about a solution?	Yes [0]	No [1]	
8	Were you satisfied with the solution?	Yes [0]	No [1]	
9	If not, did you appeal or seek more help?	Yes[0]	No[1]	
10	Where did you go to appeal the solution or seek more help?	I took it to the Police [1] Went to Local Court [2] Went to Magistrates Court [3] Went to village elders [4] Went to village chief [5]	Went to Town or Section Chief [6] Went to Paramount Chief [7] Went to District council [8] Went to Private Lawyer [9] Went to NGO [10]	Went to paralegal [11] Went to other government agency [12] (<i>name</i>)..... Other (<i>specify</i>) [13]
11	Were you satisfied with the outcome?	Yes [0]	No [1]	
	a. Please explain why satisfied or why not satisfied			

Problem no. 3

How many times in the last three years?.....

Please describe problem

briefly.....

.....

.....

.....

.....

1	What is the impact of the problem on your everyday life?	No impact [0] Close to no impact [1] Impact in some aspects, no impact in others [2]	Significant impact [3] Very strong impact [4]
2	How important is it (or was it) for you to find a solution to this problem?	Not at all important [0] Important in some aspects, while not important in other aspects [2]	Rather important [3] Very important [4]
3	Has your problem been solved by now?	Yes, completely [0] Yes, partially [1]	No, there is the same situation [2] It is difficult to answer [4]
	a. If solved, how long did your problem remain without a solution?	It was solved almost immediately [0] Remained for one week [1] For one month [2]	For 1 - 6 months [3] For 6 months - 1 year [4] For more than one year [5]

4	Did you take any action to solve the problem?	Yes [0] No [1]		
	a. If no, why have you not taken any action? (<i>circle all those appropriate</i>) (go to question 13)	I believed the other party is right [0] It was not important [1] The problem disappeared on its own [2] It would take too much time [3] It would be too expensive [4] The process of solving the problem would make me too anxious [5]	I was afraid [6] I did not believe it would produce any change [7] I was advised not to take action [8] I did not know whom to approach [9] Other (<i>specify</i>) [10]	
5	What action did you first take? (<i>circle all those appropriate</i>)	I tried to reach an agreement with the other party [0] I looked for information on my own [1] I consulted family [2]	I consulted a friend [3] I took it to the Police [4] Went to Local Court [5] Went to Magistrates Court [6] Went to village elders [7]	Went to village chief [8] Went to Town or Section Chief [9] Went to Paramount Chief [10] Went to District council [11] Went to Private Lawyer [12] Went to NGO [13] Went to paralegal [14] Went to other government agency [15] (<i>name</i>)..... Other (<i>specify</i>) [16]
6	Why did you choose this action?	I thought it would be quick [0] I knew it was not far to travel [1] I thought it would be cheap [2] I thought it would be fair [3] It was a private matter [4] I have respect for them [5]	I knew they would support me [6] I had used this solution before or knew someone who had used it [7] Such problems are always solved this way in my community [8]	I had no choice [9] I didn't know where else to go [10] Other (<i>specify</i>) [10]
7	Did this bring about a solution?	Yes [0]	No [1]	
8	Were you satisfied with the solution?	Yes [0]	No [1]	
9	If not, did you appeal or seek more help?	Yes[0]	No[1]	
10	Where did you go to appeal the solution or seek more help?	I took it to the Police [1] Went to Local Court [2] Went to Magistrates Court [3] Went to village elders [4] Went to village chief [5]	Went to Town or Section Chief [6] Went to Paramount Chief [7] Went to District council [8] Went to Private Lawyer [9] Went to NGO [10]	Went to paralegal [11] Went to other government agency [12] (<i>name</i>)..... Other (<i>specify</i>) [13]
11	Were you	Yes [0]	No [1]	

	satisfied with the outcome?			
	a. Please explain why satisfied or why not satisfied			

Section VI: Requests for assistance on justice issues

Before we leave, do you want us to come back to help with any of your current justice problems? Yes/ No

If yes, please explain the case (*continue overleaf if necessary*)

.....

.....

.....

If yes, please write down: a contact telephone number if available.....

Tell all respondents about the location of the office and any mobile clinics that will be available locally. If they have a problem, advise the interviewee to come to the office. If the case sounds urgent, please consult with a seconded paralegal.

Thank you for participating in our survey!

Brief description of house (colour etc)/ landmarks

(interviewer):.....

.....

.....

.....

.....

.....

Please attach all extra sheets to this document.

Cross-checked by: Date: __/__/__

Data Entry:..... Date: __/__/__

Annex 2.k. Justice Survey Questionnaire (Sri Lanka)¹

0. SOURCE INFORMATION	
1. Interviewee code (Level 1)	
2. Questionnaire start time (Level 1)	

1. WARM UP		
3. What language would you prefer to speak in for this interview? (Tick only one) (Level 1)		
<i>Tamil</i>	Yes	No
<i>Sinhala</i>	Yes	No
<i>English</i>	Yes	No
4. How long have you lived in this village/town? (yrs) (Level 1)		
5. How did you happen to come and live here? (Tick all that apply) (Level 1)		
<i>It is my native place</i>	Yes	No
<i>Came here after marrying</i>	Yes	No
<i>All my relations live here</i>	Yes	No
<i>Displaced by the tsunami</i>	Yes	No
<i>Displaced by the conflict</i>	Yes	No
<i>For the purposes of work / employment</i>	Yes	No
<i>For the purposes of educating my children</i>	Yes	No
<i>Security situation here is better</i>	Yes	No
<i>Other</i>	Yes	No
6. If other please specify (Level 2)		
7. Is this the district where you were born? (Level 1)		
Yes (Q9)	Yes	No (Q8)
8. If no, how many years have you lived in this district? (Level 2)		
9. I am now going to say a word, and after I say this word, I would like you to tell me the first ideas that come to your mind. Justice (Level 1)		
<i>Everyone is treated the same way</i>	Yes	No
<i>Every person's rights are respected</i>	Yes	No
<i>Being able to claim your rights as a citizen</i>	Yes	No
<i>What justice? Do you see how we live? What are people doing for us?</i>	Yes	No
<i>Who knows?</i>	Yes	No
<i>Living in peace / living peacefully</i>	Yes	No
<i>Doing good</i>	Yes	No
<i>Nallum - "it is good"</i>	Yes	No
<i>Doing one's duty</i>	Yes	No
<i>Making sure that everyone has their basic needs satisfied</i>	Yes	No

<i>No Idea / Don't know</i>	Yes	No
10. If other please specify (Level 2)		
11. I am now going to mention a particular kind of incident that could happen in a place like this, and after I mention the incident, I would like to discuss with you how someone would find a just solution to it. <i>A known person frequently comes and takes fruit from a tree growing in the neighbour's garden.</i> If the parties cannot work it out between themselves, who would they go to help resolve the situation? (Tick only one) (Level 1)		
<i>The neighbour would do nothing</i>	Yes	No
<i>Undertake some form of retaliation against the neighbour</i>	Yes	No
<i>Would verbally warn the neighbour (non violent)</i>	Yes	No
<i>Ask for third party assistance</i>	Yes	No
<i>Other</i>	Yes	No
12. If other specify		
13. If 'ask for third party assistance', in your opinion , who WOULD BE the best person to intervene on behalf of the neighbour to get 'justice' for the incident? (Tick only one) (Level 2)		
<i>GN</i>	Yes	No
<i>A relation of the person who takes the fruit</i>	Yes	No
<i>Another family member</i>	Yes	No
<i>DS Office / official</i>	Yes	No
<i>GA / Kachcheri official</i>	Yes	No
<i>Religious leader</i>	Yes	No
<i>Police</i>	Yes	No
<i>Army</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>Thalaivar</i>	Yes	No
<i>Other Union member</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>Mediation/ Conciliation Board</i>	Yes	No
<i>JP</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>Private Lawyer</i>	Yes	No
<i>NGO</i>	Yes	No

<i>Legal Aid Office</i>	Yes	No
<i>Human Rights Commission</i>	Yes	No
<i>Other</i>	Yes	No
14. <i>If other please specify.</i>		
15. I am now going to mention another kind of incident that could happen in a place like this, and after I mention the incident, I would like to discuss with you how someone would find a just solution it. <i>A motorbike and bicycle have an accident and the bicycle is so much damaged that it cannot be used.</i> If this incident occurred in this area, what would the bicycle owner most likely try to do to work it out? (Tick only one) (Level 1)		
<i>Nothing, leave the scene</i>	Yes	No
<i>They would try to work it out themselves</i>	Yes	No
<i>Ask for third party assistance</i>	Yes	No
<i>Other</i>	Yes	No
16. <i>If other specify</i>		
17. <i>If 'ask for third party assistance', in your opinion, who WOULD BE the best person to intervene on behalf of the damaged party to get 'justice' for the incident? (Tick only one) (Level 2)</i>		
<i>GN</i>	Yes	No
<i>Respected village elder/ community leader</i>	Yes	No
<i>Another family member</i>	Yes	No
<i>DS Office / official</i>	Yes	No
<i>GA / Kachcheri official</i>	Yes	No
<i>Religious leader</i>	Yes	No
<i>Police</i>	Yes	No
<i>Army</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>Thalivar</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>Other Union member</i>	Yes	No
<i>Mediation/Conciliation Board</i>	Yes	No
<i>JP</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>Private Lawyer</i>	Yes	No
<i>NGO</i>	Yes	No
<i>Legal Aid</i>	Yes	No
<i>Human Rights Commission</i>	Yes	No
<i>Other</i>	Yes	No

18. <i>If other please specify (Level 3)</i>		
19. I am now going to mention another kind of incident that could happen in a place like this, and after I mention the incident, I would like to discuss with you how someone would find a just solution it. <i>A woman who is working abroad sends money home to her husband for children's school fees. Her husband uses the money to buy jewellery for his mistress. On return she cannot work it out with her husband.</i> If this incident occurred in this area, in your opinion , what WOULD she most likely do? (Tick only one) (Level 1)		
<i>Do nothing</i>	Yes	No
<i>Take some form of retaliation on the mistress</i>	Yes	No
<i>Take some form of retaliation on the husband</i>	Yes	No
<i>Ask for third party assistance</i>	Yes	No
<i>Other</i>	Yes	No
20. <i>If other specify (Level 2)</i>		
21. <i>If ask for third party assistance, in your opinion who WOULD BE the best person to intervene on her behalf to get 'justice' for the incident? (Tick only one) (Level 2)</i>		
<i>GN</i>	Yes	No
<i>A person who is known and respected by the other woman</i>	Yes	No
<i>A person who is known and respected by the husband</i>	Yes	No
<i>Another family member</i>	Yes	No
<i>DS Office / official</i>	Yes	No
<i>GA / Kachcheri official</i>	Yes	No
<i>Religious leader</i>	Yes	No
<i>Police</i>	Yes	No
<i>Army</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>QADI / QALI COURT</i>	Yes	No
<i>Thalaivar</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>Other Union member</i>	Yes	No
<i>Mediation/Conciliation Board</i>	Yes	No
<i>JP</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>Private Lawyer</i>	Yes	No
<i>NGO</i>	Yes	No
<i>Legal Aid</i>	Yes	No
<i>Human Rights Commission</i>	Yes	No
<i>Other</i>	Yes	No

22. If other please specify.		
23. Are you on an estate? (DON'T ASK JUST ANSWER)	Yes (Q26)	No (Q24)
24. I am now going to mention another kind of incident that could happen in a place like this. There is a child domestic worker in your area In your opinion who WOULD BE the best person to intervene on this child's behalf? (Level 2)		
GN	Yes	No
No need to intervene	Yes	No
Respected village elder/ community leader	Yes	No
Another family member of the child	Yes	No
GA / Kachcheri official	Yes	No
Religious leader	Yes	No
Police	Yes	No
Women's and Children's desk	Yes	No
Women's bureau	Yes	No
Child Rights Promotion Officer (CRPO) at the DS Office	Yes	No
National Child Protection Authority (NCPA)	Yes	No
Probation officer	Yes	No
Army	Yes	No
Paramilitary group	Yes	No
Mediation/Conciliation Board	Yes	No
JP	Yes	No
MP	Yes	No
Other elected official	Yes	No
Private Lawyer	Yes	No
NGO	Yes	No
Legal Aid	Yes	No
Human Rights Commission	Yes	No
Other	Yes	No
25. If other please specify. (Level 3)		
26. If you were asked for a bribe from the land registry officer to get a copy of the deed/permit to your land, what WOULD you do about this? (Tick only one) (Level 1)		
Do nothing	Yes	No
Pay the bribe	Yes	No
Go to the GN	Yes	No
Go to go a respected village elder/ community leader	Yes	No
Tell another family member	Yes	No

Go to the DS Office / official	Yes	No
Go to GA / Kachcheri official	Yes	No
Go to a religious leader/committee	Yes	No
Go to the Police	Yes	No
Go to the Army	Yes	No
See Paramilitary group	Yes	No
Thalaivar	Yes	No
Sinnadurai / Asst Superintendent	Yes	No
Go to the Mediation/Conciliation Board	Yes	No
Go to a JP	Yes	No
Tell an MP	Yes	No
Tell another elected official	Yes	No
Tell a Private Lawyer	Yes	No
Tell someone at an NGO	Yes	No
Go to a Legal Aid office	Yes	No
Go to the Human Rights Commission	Yes	No
Other	Yes	No
27. If other please specify.		
28. What would you say are the 3 main legal issues for the people in this area? (Tick three only) (Level 1)		
Land disputes	Yes	No
Property disputes	Yes	No
Dowry disputes	Yes	No
Minimum wage	Yes	No
Extra marital affairs / Secret relationships between neighbours	Yes	No
Children bullying/fighting other children / bad relationships between children in the neighbourhood	Yes	No
Drug use	Yes	No
Alcohol use	Yes	No
Thuggary	Yes	No
Waste/public services	Yes	No
Restrictions on movement	Yes	No
Family disputes such as custody, divorce and maintenance	Yes	No
Petty crimes (theft, small accidents, small property damage)	Yes	No
Work related disputes	Yes	No
Competition over fishing grounds	Yes	No
Commercial disputes, debt and money lending	Yes	No
Domestic violence	Yes	No
Extortion	Yes	No

<i>Rape</i>	Yes	No
<i>Torture</i>	Yes	No
<i>Inability to speak about issues / lack of freedom of expression</i>	Yes	No
<i>Harassment by paramilitary groups</i>	Yes	No
<i>Not having legal documents</i>	Yes	No
<i>Registration</i>	Yes	No
<i>Abductions and disappearances</i>	Yes	No
<i>Lack of basic necessities</i>	Yes	No
<i>Illegal arrests</i>	Yes	No
<i>Forced eviction and land grabbing</i>	Yes	No
<i>Child recruitment (Conflict)</i>	Yes	No
<i>Child recruitment (trafficking)</i>	Yes	No
<i>Child Abuse</i>	Yes	No
29. Some people say illegal liquor is freely available in this area. Do you agree or disagree with this statement? (Tick only one) (Level 1)		
<i>Agree</i>	Yes	No
<i>Disagree</i>	Yes	No
<i>Don't know</i>	Yes	No

2. DOCUMENTATION			
30. Have you recently lost your NIC?/ (Level 1)	Yes (Q31)	No (Q31)	Never had one (Q31)
31. Has anyone else in this family recently lost their NIC? (Level 1)	Yes (Q32)	No only mine (Q32)	No to Q30 & 31 (Go to Q41)
32. If yes, how many people living in this house are missing the NIC? (Level 2)			
33. If yes, has / was an application been made for at least one of the persons missing the NIC? (Level 2)	Yes (Q34,36)	No (Q39)	
34. If yes, through whom was the application made? (Level 3)			
<i>GN</i>	Yes	No	
<i>DS Office</i>	Yes	No	
<i>Mobile Clinic</i>	Yes	No	
<i>Estate superintendent</i>	Yes	No	
<i>Registrar</i>	Yes	No	
<i>Other</i>	Yes	No	
35. If other, please specify. (Level 4)			
36. If yes, has NIC been received? (Level 3)	Yes (Q37,41)	No (Q38,41)	

37. If yes, how long did it take from application to receiving it? (months) (Level 4)			
38. How long has the person been waiting to receive the document (approx months)? (see if they have a receipt with them) (Level 4)			
39. If no, why not applied? (Tick all that apply) (Level 3)			
<i>Don't know how / from where to get a replacement</i>	Yes	No	
<i>Need help filling out the paperwork for a replacement</i>	Yes	No	
<i>Transportation costs to go and fill out paperwork too high</i>	Yes	No	
<i>Need child care to go and fill out paperwork</i>	Yes	No	
<i>Never had one</i>	Yes	No	
<i>Recently Lost it</i>	Yes	No	
<i>Indian birth certificate not yet converted</i>	Yes	No	
<i>This document is not important</i>	Yes	No	
<i>Other</i>	Yes	No	
40. If other please specify (Level 4)			
41. Have you recently lost your marriage certificate? (Level 1)	Yes (Q42)	No (Q50)	NA (Q50) Never had one (Q42)
42. If yes, has / was an application been made to replace it? (Level 2)	Yes (Q43,45)	No (Q48)	
43. If yes, through whom was the application made? (Level 3)			
<i>GN</i>	Yes	No	
<i>DS Office</i>	Yes	No	
<i>Mobile Clinic</i>	Yes	No	
<i>Registrar</i>	Yes	No	
<i>Other</i>	Yes	No	
44. If other, please specify. (Level 4)			
45. If yes, has the marriage certificate been received? (Level 3)	Yes (Q46,50)	No (Q47,50)	
46. If yes, how long did it take from application to receiving it? (months) (Level 4)			
47. How long have you been waiting to receive the document (approx months)? (see if they have a receipt with them) (Level 4)			
48. If no, why not applied? (Tick all that apply) (Level 3)			
<i>Don't know how / from where to get a replacement</i>	Yes	No	
<i>Need help filling out the paperwork for a replacement</i>	Yes	No	
<i>Transportation costs to go and fill out paperwork too high</i>	Yes	No	
<i>Need child care to go and fill out paperwork</i>	Yes	No	

<i>Never had one</i>	Yes	No
<i>Recently Lost it</i>	Yes	No
<i>This document is not important</i>	Yes	No
<i>Other</i>	Yes	No
49. <i>If other please specify (Level 4)</i>		
50. Have you recently lost your birth certificate? (Level 1)	Yes (Q51)	No (Q51) Never had one (Q51)
51. Has anyone else in this family recently lost a birth certificate? (Level 1) <i>If yes or never had one in either 50 or 51 must answer all questions about if applied</i>	Yes / Never had one to lose (Q52)	No only mine (Q52) No to both (Q50 & 51) (Go to 61)
52. <i>If yes, how many people living in this house are missing their birth certificates? (Level 2)</i>		
53. <i>If no, has / was an application been made for at least one of the persons missing their birth certificate? (Level 2)</i>	Yes (Q54,56)	No (Q59)
54. <i>If yes, through whom was the application made? (Level 3)</i>		
<i>GN</i>	Yes	No
<i>DS Office</i>	Yes	No
<i>Mobile Clinic</i>	Yes	No
<i>Registrar</i>	Yes	No
<i>Other</i>	Yes	No
55. <i>If other, please specify. (Level 4)</i>		
56. <i>If yes, has the birth certificate been received? (Level 3)</i>	Yes (Q57,61)	No (Q58,61)
57. <i>If yes, how long did it take from application to receiving the birth certificate? (months) (Level 4)</i>		
58. <i>How long has the person been waiting to receive the document (approx months)? (see if they have a receipt with them) (Level 4)</i>		
59. <i>If no, why not applied? (Tick all that apply) (Level 3)</i>		
<i>Don't know how / from where to get a replacement</i>	Yes	No
<i>Need help filling out the paperwork for a replacement</i>	Yes	No
<i>Transportation costs to go and fill out paperwork too high</i>	Yes	No
<i>Need child care to go and fill out paperwork</i>	Yes	No
<i>Never had one</i>	Yes	No
<i>Recently Lost it</i>	Yes	No
<i>Indian birth certificate not yet converted</i>	Yes	No
<i>This document is not important</i>	Yes	No
<i>Other</i>	Yes	No

60. <i>If other please specify (Level 4)</i>			
61. Has a death certificate recently gone missing in this household? (Level 1)	Yes (Q62)	No (Q70)	NA (Q70)
62. <i>If yes, has / was an application been made for at least one of the death certificates? (Level 2)</i>	Yes (Q63,65)		No (Q68)
63. <i>If yes, through whom was the application made? (Level 3)</i>			
<i>GN</i>	Yes	No	
<i>DS Office</i>	Yes	No	
<i>Mobile Clinic</i>	Yes	No	
<i>Registrar</i>	Yes	No	
<i>Other</i>	Yes	No	
64. <i>If other, please specify. (Level 4)</i>			
65. <i>If yes, has the death certificate been received? (Level 3)</i>	Yes (Q66,70)	No (Q67,70)	
66. <i>If yes, how long did it take from application to receiving the death certificate? (months) (Level 4)</i>			
67. <i>How long has the family been waiting to receive the document (approx months)? (see if they have a receipt with them) (Level 4)</i>			
68. <i>If no, why not applied? (Tick all that apply) (Level 3)</i>			
<i>Don't know how / from where to get a replacement</i>	Yes	No	
<i>Need help filling out the paperwork for a replacement</i>	Yes	No	
<i>Transportation costs to go and fill out paperwork too high</i>	Yes	No	
<i>Need child care to go and fill out paperwork</i>	Yes	No	
<i>Never had one</i>	Yes	No	
<i>Recently Lost it</i>	Yes	No	
<i>This document is not important</i>	Yes	No	
<i>Other</i>	Yes	No	
69. <i>If other please specify (Level 4)</i>			
70. Has this family recently lost deeds or other land permit? (Level 1)	Yes (Q71)	No (Q79)	NA (Q79)
71. <i>If yes, has / was an application been made for at least one of the deeds/permits? (Level 2)</i>	Yes (Q72,74)		No (Q77,79)
72. <i>If yes, through whom was the application made? (Level 3)</i>			
<i>GN</i>	Yes	No	
<i>DS Office</i>	Yes	No	
<i>Mobile Clinic</i>	Yes	No	
<i>Other</i>	Yes	No	
73. <i>If other, please specify. (Level 4)</i>			

74. If yes, has the deed/permit been received? (Level 3)	Yes (Q75,79)	No (Q76,79)
75. If yes, how long did it take from application to receiving the deed/permit? (months) (Level 4)		
76. How long has the family been waiting to receive the document (approx months)? (see if they have a receipt with them) (Level 4)		
77. If no, why not applied? (Tick all that apply) (Level 3)		
Don't know how / from where to get a replacement	Yes	No
Need help filling out the paperwork for a replacement	Yes	No
Transportation costs to go and fill out paperwork too high	Yes	No
Need child care to go and fill out paperwork	Yes	No
Never had one	Yes	No
Recently Lost it	Yes	No
This document is not important	Yes	No
Other	Yes	No
78. If other please specify (Level 4)		
79. Does anyone in the household hold a passport? (Level 1)	Yes (Q80,81)	No (Q81)
80. If yes, how many persons have a passport? (Level 2)		
81. Are any of the persons in this family of Indian Tamil origin? (Level 1)	Yes (Q82)	No (Q85)
82. If yes, does everyone in this family have her/his Sri Lankan citizenship certificate? (Level 2)	Yes (Q85)	No (Q83,85)
83. If no, why not? (Tick all that apply) (Level 3)		
Doesn't know what the citizenship certificate is	Yes	No
Don't know how/from where to get it	Yes	No
Need help filling out the paperwork	Yes	No
Transportation costs to go and fill out paperwork too high	Yes	No
Need child care to go and fill out paperwork	Yes	No
Never had one	Yes	No
Recently Lost it	Yes	No
This document is not important	Yes	No
Other	Yes	No
84. If other please specify (Level 4)		
85. Did you vote in the last presidential election (November 2005)? (Level 1)	Yes (Q88)	No (Q86,88)
86. If no, why not? (Tick all that apply) (Level 2)		
No place to vote in current location	Yes	No
Can only vote in place of origin and could not go there to vote	Yes	No

Did not have an NIC	Yes	No
Do not have my citizenship papers	Yes	No
Was threatened and/or too frightened to vote	Yes	No
Name not included in voting list	Yes	No
Voting card missing/not received	Yes	No
Someone already voted on my behalf	Yes	No
Not interested in voting / not interested in politics	Yes	No
Other	Yes	No
87. If other please specify (Level 4)		

3. WOMEN

88. Is the respondent a woman? (Level 1)	Yes (Q89,91,93,98,103,105,107,109,111,117,118,119,120,121,122)	No (Q128)
89. What kind of disputes/legal issues do women commonly find themselves engaged with in this area? (Tick all that apply) (Level 2)		
Property disputes	Yes	No
Land disputes	Yes	No
Dowry disputes	Yes	No
Minimum Wage	Yes	No
Minor crimes (petty theft, small accidents)	Yes	No
Inheritance disputes	Yes	No
Divorce, alimony, custody of children	Yes	No
Child abuse	Yes	No
Not being taken seriously by/ lack of respect of government officials	Yes	No
Conflicts between mother in law and daughter in law	Yes	No
Rape	Yes	No
Sexual harassment	Yes	No
Domestic violence	Yes	No
Sexual Violence	Yes	No
Desertion after a love affair	Yes	No
Being abandon by husband / husband takes second wife	Yes	No

<i>Debts, loans, commercial conflicts</i>	Yes	No	
<i>Other</i>	Yes	No	
90. <i>If other please specify (Level 3)</i>			
91. <i>Which two issues are the most frequent? (Choose only two. Select '1' for one answer and '2' for the other answer) (Level 2)</i>			
<i>Property disputes</i>	0	1	2
<i>Land disputes</i>	0	1	2
<i>Dowry Disputes</i>	0	1	2
<i>Minimum wage</i>	0	1	2
<i>Minor crimes (petty theft, small accidents)</i>	0	1	2
<i>Inheritance disputes</i>	0	1	2
<i>Divorce, alimony, custody of children</i>	0	1	2
<i>Child abuse</i>	0	1	2
<i>Not being taken seriously by/ lack of respect of government officials</i>	0	1	2
<i>Conflicts between mother in law and daughter in law</i>	0	1	2
<i>Rape</i>	0	1	2
<i>Sexual harassment</i>	0	1	2
<i>Domestic Violence</i>	0	1	2
<i>Sexual Violence</i>	0	1	2
<i>Desertion after a love affair</i>	0	1	2
<i>Being abandon by husband / husband takes second wife</i>	0	1	2
<i>Debts, loans, commercial conflicts</i>	0	1	2
<i>Other</i>	0	1	2
92. <i>If other please specify (Level 3)</i>			
93. Issue number one: <i>When this issue occurs do women seek advice outside of their family about how to address it? (Level 2)</i>			
Yes (Q94,98)	No (Q96,98)	Sometimes (Q94,98)	
94. <i>If yes or sometimes, who do women normally speak to outside their family about these issues? (Tick only one) (Level 3)</i>			
<i>GN</i>	Yes	No	
<i>Neighbours</i>	Yes	No	
<i>Village elder/ respected village leader</i>	Yes	No	
<i>DS/DS office</i>	Yes	No	
<i>GA/Kachcheri</i>	Yes	No	
<i>Police</i>	Yes	No	
<i>Army</i>	Yes	No	

<i>Paramilitary group</i>	Yes	No
<i>QADI / QALI COURT</i>	Yes	No
<i>Thalaivar</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>JP</i>	Yes	No
<i>Religious leader/committee</i>	Yes	No
<i>Mediation/Conciliation board</i>	Yes	No
<i>Local NGO</i>	Yes	No
<i>Private lawyer</i>	Yes	No
<i>Legal aid centre</i>	Yes	No
<i>Human rights commission</i>	Yes	No
<i>Other</i>	Yes	No
95. <i>If other please specify (Level 4)</i>		
96. <i>If women do not seek advice outside of their family, why not? (Tick all that apply) (Level 3)</i>		
<i>Fear</i>	Yes	No
<i>Shame</i>	Yes	No
<i>Prevented by the family</i>	Yes	No
<i>Don't know where else to go for advice</i>	Yes	No
<i>Other</i>	Yes	No
97. <i>If other please specify (Level 4)</i>		
98. Issue number two: <i>When this issue occurs do women seek advice outside of their family about how to address it? (Level 2)</i>		
Yes (Q99,103)	No (Q101,103)	Sometimes (Q99,103)
99. <i>If yes or sometimes, who do women normally speak to outside their family about these issues? (Tick only one) (Level 3)</i>		
<i>GN</i>	Yes	No
<i>Neighbours</i>	Yes	No
<i>Village elder/ respected village leader</i>	Yes	No
<i>DS/DS office</i>	Yes	No
<i>GA/Kachcheri</i>	Yes	No
<i>Police</i>	Yes	No
<i>Army</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>QADI / QALI COURT</i>	Yes	No

<i>Thalivar</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>JP</i>	Yes	No
<i>Religious leader/committee</i>	Yes	No
<i>Mediation/Conciliation board</i>	Yes	No
<i>Local NGO</i>	Yes	No
<i>Private lawyer</i>	Yes	No
<i>Legal aid centre</i>	Yes	No
<i>Human rights commission</i>	Yes	No
<i>Other</i>	Yes	No
100. <i>If other please specify (Level 3)</i>		
101. <i>If women do not seek advice outside of their family, why not? (Tick all that apply) (Level 3)</i>		
<i>Fear</i>	Yes	No
<i>Shame</i>	Yes	No
<i>Prevented by the family</i>	Yes	No
<i>Don't know where else to go for advice</i>	Yes	No
<i>Other</i>	Yes	No
<i>Other</i>	Yes	No
102. <i>If other please specify (Level 4)</i>		
103. <i>If a woman your age in this area was harassed on the road by the son of a powerful person, who would she go to in order to address this situation? (Tick only one) (Level 2)</i>		
<i>She would not address the situation/keep quiet</i>	Yes	No
<i>Address the son of the powerful person on the road (there and then)</i>	Yes	No
<i>Speak to the boy's father</i>	Yes	No
<i>A relation</i>	Yes	No
<i>GN</i>	Yes	No
<i>Village elder/respected village leader</i>	Yes	No
<i>DS/DS office</i>	Yes	No
<i>GA/Kachcheri</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>JP</i>	Yes	No
<i>Police</i>	Yes	No

<i>Women's and Children's desk</i>	Yes	No
<i>Women's bureau</i>	Yes	No
<i>Child Rights Promotion Officer (CRPO) at the DS Office</i>	Yes	No
<i>National Child Protection Authority (NCPA)</i>	Yes	No
<i>Probation officer</i>	Yes	No
<i>Army</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>Religious leader/committee</i>	Yes	No
<i>Mediation/Conciliation board</i>	Yes	No
<i>Local NGO</i>	Yes	No
<i>Private lawyer</i>	Yes	No
<i>Legal aid clinic</i>	Yes	No
<i>Human rights commission</i>	Yes	No
<i>Other</i>	Yes	No
104. <i>If other please specify (Level 3)</i>		
105. <i>If a woman your age in this area was harassed at the market by a vendor, who would she go to in order to address this situation? (Tick only one) (Level 2)</i>		
<i>She would not address the situation/keep quiet</i>	Yes	No
<i>Address the vendor (there and then)</i>	Yes	No
<i>Speak to another vendor at the market place</i>	Yes	No
<i>A relation / family member</i>	Yes	No
<i>GN</i>	Yes	No
<i>Village elder/respected village leader</i>	Yes	No
<i>DS/DS office</i>	Yes	No
<i>GA/Kachcheri</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>JP</i>	Yes	No
<i>Police</i>	Yes	No
<i>Women's and Children's desk</i>	Yes	No
<i>Women's bureau</i>	Yes	No
<i>Child Rights Promotion Officer (CRPO) at the DS Office</i>	Yes	No
<i>National Child Protection Authority (NCPA)</i>	Yes	No
<i>Probation officer</i>	Yes	No

<i>Army</i>	Yes	No	
<i>Paramilitary group</i>	Yes	No	
<i>Religious leader/committee</i>	Yes	No	
<i>Mediation board</i>	Yes	No	
<i>Local NGO</i>	Yes	No	
<i>Private lawyer</i>	Yes	No	
<i>Legal aid clinic</i>	Yes	No	
<i>Human rights commission</i>	Yes	No	
<i>Other</i>	Yes	No	
106. <i>If other please specify (Level 3)</i>			
107. <i>Are there any laws that protect a women's right to her job? (Level 2)</i>			
Yes	No	Don't know	
108. <i>Do you have children? (Level 2)</i>	Yes (Q109,110,111)	No (Q111)	
109. <i>If yes, how many children do you have? (Level 3)</i>			
110. <i>How old were you when you had your first child? (Level 3)</i>			
111. <i>Is this woman living with her husband (Level 2)</i>	Yes (Q114)	No (Q112,113,114))	NA (Q129)
112. <i>If not living with her husband, how is she separated from her husband? (Level 3)</i>			
<i>Widowed</i>	Yes	No	
<i>Divorced</i>	Yes	No	
<i>Physically separated and no contact</i>	Yes	No	
<i>Physically separated and some contact</i>	Yes	No	
113. <i>At what age did she become separated from her husband? (Level 3)</i>			
114. <i>Do you feel that a woman your age without a husband faces social pressures that woman with husbands does not face? (Level 2)</i>	Yes (Q115,117)	No (Q117)	
115. <i>If yes, what are these pressures? (Tick all that apply) (Level 3)</i>			
<i>Pressure not to work outside the home</i>	Yes	No	
<i>Pressure to live in with other family members and not live alone</i>	Yes	No	
<i>Pressure to get married</i>	Yes	No	
<i>Pressure NOT to get married because of the age of my children</i>	Yes	No	
<i>Lack of respect from government officials / Government officials don't take seriously</i>	Yes	No	
<i>Increased harassment in a public places</i>	Yes	No	

<i>Ill treatment by other family members</i>	Yes	No	
<i>Less respect from others in the community</i>	Yes	No	
<i>Other</i>	Yes	No	
116. <i>If other pressures, please specify (Level 4)</i>			
117. <i>Are you the sole income earner for your family? (Level 2)</i>	Yes (Q118,119,120)	No (Q119)	
118. <i>If yes, are you working for income inside or outside the home? (Tick only one) (Level 3)</i>			
<i>Inside</i>	Yes	No	
<i>Outside</i>	Yes	No	
<i>Both</i>	Yes	No	
119. <i>Have you stopped the education of any of your school-going children? (Level 2)</i>	Yes	No	NA
120. <i>Do you feel safe in your home at night? (Level 2)</i>	Yes	No	
121. <i>Do you think that Government officials treat women WITH husbands differently than they treat women without husbands? (EXPLAIN OPTIONS) (Tick only one) (Level 2)</i>			
<i>Yes</i>	Yes	No	
<i>No</i>	Yes	No	
<i>Sometimes</i>	Yes	No	
<i>Don't know</i>	Yes	No	
122. <i>Do you think that a woman without a husband is harassed more on the road than a woman with a husband? (Tick only one) (Level 2)</i>			
<i>Yes</i>	Yes	No	
<i>No</i>	Yes	No	
<i>Sometimes</i>	Yes	No	
<i>Don't know</i>	Yes	No	
123. <i>Is this woman a widow? (Level 2)</i>	Yes (Q124,125)	No (Q129)	
124. <i>If yes, do you have a copy of your husband's death certificate? (Level 3)</i>	Yes	No	
125. <i>If yes, was your husband in the military or a government servant (occupation that has a guaranteed pension)? (Level 3)</i>	Yes (Q126)	No (Q129)	
126. <i>If yes, do you receive his pension? (Level 4)</i>	Yes (Q129)	No (Q127,129)	
127. <i>If no, why not? (Level 5)</i>			
<i>Still waiting to receive it</i>	Yes	No	
<i>Refused to give to me</i>	Yes	No	
<i>Don't know how to get it</i>	Yes	No	
<i>Was told that in order to get the certificate I would have to sign a form saying that my</i>	Yes	No	

husband was LTTE		
Other	Yes	No
128. If other specify (Level 5)		
129. When you travel in a vehicle (bicycle, bus, car, three-wheeler), have you ever been stopped at a checkpoint? (Level 2)	Yes (Q130,131,132)	No (Q132)
130. If yes, has a female officer always conducted it body searches? (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Never had a body search	Yes	No
131. If yes, when you have your belongings searched does a female officer always conduct the search? (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Never had belongings searched	Yes	No

4. ESTATE WORKERS

132. Is the respondent living or working in the estate sector? (tea or rubber/up or low country) (Level 1)	Yes (Q133, 134,135)	No (Q165)
133. If yes, how many generations has your family been working on THIS estate? (Level 2)		
134. If yes, how many working-age adults (over the age of 14yrs) in this household are employed in the estate? (Level 2)		
135. Is this all the working-age adults (over the age of 14 yrs) in the family? (Level 2)	Yes (Q138)	No (Q136, 138)
136. If no, what are the other working-ages family members doing (Tick all that apply)? (Level 3)		
Nothing	Yes	No
Engaged in higher studies	Yes	No
Childcare/working in the house only	Yes	No
Working outside the estate and in Sri Lanka	Yes	No
Working abroad	Yes	No
Other	Yes	No
137. If other specify (Level 4)		
138. Are there children under the age of 16 in this family? (Level 2)	Yes (Q139, 140)	No (Q140)
139. If yes, how many children under the age of 16 ARE working off the estate? (Level 3)		

140. If there was a personal dispute between two families on the estate, who would the parties turn to for assistance in settling in? (Tick only one) (Level 2)		
Neighbours	Yes	No
Respected community leader	Yes	No
Kangany	Yes	No
Estate Welfare Officer	Yes	No
GN	Yes	No
Police	Yes	No
Paramilitary group	Yes	No
Religious leader/committee	Yes	No
Mediation/Conciliation board	Yes	No
Local NGO	Yes	No
Private lawyer	Yes	No
Legal aid clinic	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Sinnadurai / Asst Superintendent	Yes	No
Superintendent	Yes	No
MP	Yes	No
Other elected official	Yes	No
JP	Yes	No
Employer	Yes	No
Don't know	Yes	No
Other	Yes	No
141. If other, specify (Level 3)		
142. If there was a personal dispute between a male worker and a kangany, who will usually intervene in this dispute? (Tick only one) (Level 2)		
Another kangany	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Sinnadurai / Asst Superintendent	Yes	No
Estate Welfare Officer	Yes	No
Superintendent	Yes	No
Don't know	Yes	No
Other	Yes	No
143. If other, specify (Level 3)		

144. If a woman your age felt she was being unfairly treated by someone at work (garden or factory), who is senior to her, who would she normally complain to? (Tick only one) (Level 2)		
Would not complain/keep silent	Yes	No
Her husband or another male family member	Yes	No
Kangany	Yes	No
Estate Welfare Officer	Yes	No
Respected person on the estate	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Superintendent	Yes	No
Don't know	Yes	No
Other	Yes	No
145. If other, specify (Level 3)		
146. If a man felt he was being unfairly treated by someone at work (garden or factory), who is senior to him, who would he normally complain to? (Tick only one) (Level 2)		
Would not complain/keep silent	Yes	No
Kangany	Yes	No
Estate Welfare Officer	Yes	No
Respected person on the estate	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Sinnadurai / Asst Superintendent	Yes	No
Superintendent	Yes	No
Don't know	Yes	No
Other	Yes	No
147. If other, specify (Level 3)		
148. If a woman your age felt she was being unfairly treated by someone at work (garden or factory), who is at the same level as her , who would she normally complain to? (Tick only one) (Level 2)		
Would not complain/keep silent	Yes	No
Her husband or another male family member	Yes	No
Kangany	Yes	No
Estate Welfare Officer	Yes	No
Respected person on the estate	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Sinnadurai / Asst Superintendent	Yes	No

Superintendent	Yes	No
Don't know	Yes	No
Other	Yes	No
149. If other, specify (Level 3)		
150. If a man felt he was being unfairly treated by someone at work (garden or factory), who is at the same level as him , who would he normally complain to? (Tick only one) (Level 2)		
Would not complain/keep silent	Yes	No
Kangany	Yes	No
Estate Welfare Officer	Yes	No
Respected person on the estate	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Sinnadurai / Asst Superintendent	Yes	No
Superintendent	Yes	No
Don't know	Yes	No
Other	Yes	No
151. If other, specify (Level 3)		
152. Is this interviewee a woman? (Level 2)	Yes (Q153,154,157,165)	No (Q165)
153. If you had a problem with your kangany, where would you go for assistance to address the problem? (Tick only one) (Level 3)		
Would keep quiet	Yes	No
Her husband or another male family member	Yes	No
Respected person on the estate	Yes	No
Trade union member	Yes	No
Thalaivar	Yes	No
Estate Welfare Officer	Yes	No
Plantation management	Yes	No
Immediate supervisor in the workplace	Yes	No
Sinnadurai / Asst Superintendent	Yes	No
Superintendent	Yes	No
Don't know	Yes	No
Other	Yes	No
154. If other, specify (Level 4)		
155. If you had a problem with plantation management, where would you go for assistance to address the problem? (Tick only one) (Level 3)		

<i>Kangany</i>	Yes	No
<i>Her husband or another male family member</i>	Yes	No
<i>Respected person on the estate</i>	Yes	No
<i>Estate Welfare Officer</i>	Yes	No
<i>Trade union member</i>	Yes	No
<i>Thalaivar</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>Superintendent</i>	Yes	No
<i>JP</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Other</i>	Yes	No
156. If other, specify (Level 4)		
157. Do you collect your salary yourself? (Level 3)	Yes (Q165)	No (Q158)
158. If no, does your husband collect it for you? (Level 4)	Yes (Q161)	No (Q159,163,165)
159. If no, who collects your salary for you? (Level 5)		
<i>Son</i>	Yes	No
<i>Another male relative</i>	Yes	No
<i>Female relative</i>	Yes	No
<i>Other</i>	Yes	No
160. If other, specify (Level 6)		
161. If your husband collects your salary for you, does he hand over the entire salary payment to you? (Level 5)	Yes (Q165)	No (Q162)
162. If no, how much does your husband generally hand over to you? (%) (Level 6)		
163. If someone else (other than your husband) collects your salary for you, does that person hand over the entire salary payment to you? (Level 5)	Yes (Q165)	No (Q164,165)
164. If some else collects for you, how much does this person generally hand over to you? (%) (Level 6)		

5. DEBT

165. If you are currently repaying a loan, who are you repaying it to? (Level 1) (Tick all that apply)		
<i>Not repaying a loan</i>	Yes	No
<i>To a state bank (like People's Bank)</i>	Yes	No

<i>To a private bank (like HNB, Seylan Bank, Sampath Bank, DFCC)</i>	Yes	No
<i>To an individual pawn broker (not connected with a bank)</i>	Yes	No
<i>To a village-level society</i>	Yes	No
<i>To a private individual who IS a relation</i>	Yes	No
<i>To a private individual who IS NOT a relation</i>	Yes	No
<i>To a poli mudalalai/Vati Kadai Karar</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Other</i>	Yes	
166. If other please specify (Level 2)		
167. In this area, if someone was unable to repay a loan to a private individual, village society or poli mudalalai/Vati Kadai Karar, what would the person who IS OWED THE MONEY do to that person? (Tick only one) (Level 1)		
<i>Sends police to the person's house</i>	Yes	No
<i>Verbally threaten him/her</i>	Yes	No
<i>Sends thugs to threaten him/her</i>	Yes	No
<i>Damages personal property</i>	Yes	No
<i>Increases the interest rate</i>	Yes	No
<i>Takes some of their private property</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Other</i>	Yes	No
168. If other, specify (Level 2)		
169. In general, if the above happens to someone in this area, what WOULD that person do? (Tick only one)(Level 1)		
<i>Nothing</i>	Yes	No
<i>Negotiate for more time</i>	Yes	No
<i>Borrow money from someone else to repay</i>	Yes	No
<i>Sell off assets in order to repay</i>	Yes	No
<i>Go to the debt conciliation board (Colombo)</i>	Yes	No
<i>Commit suicide</i>	Yes	No
<i>Go to the police</i>	Yes	No
<i>Go to the GN</i>	Yes	No
<i>Go to the Mediation/ Conciliation board</i>	Yes	No
<i>Go to the DS/DS office</i>	Yes	No
<i>Go to the MP</i>	Yes	No
<i>Go to another elected official</i>	Yes	No
<i>Go to a JP</i>	Yes	No

<i>Go to a religious leader</i>	Yes	No
<i>Go to respected village leader</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Seek legal aid provider (LAC, Legal Aid Foundation, HRC etc)</i>	Yes	No
<i>Other</i>	Yes	No
170. Specify other (Level 2)		

6. OPINIONS ABOUT THE ALLOCATION OF JUSTICE/FAIRNESS

171. Do you think that a **rich person** is more likely to receive a solution to a legal problem than a **poor one**? (Tick only one) (Level 1)

<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No

172. Do you think that a person who is related to a government official is more likely to get a just solution to a legal problem than a person who does not have a relative in government service? (Tick only one) (Level 1)

<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No

173. Do you think school teachers in this area treat all children in his/her classes equally? (Tick only one) (Level 1)

<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No

174. Do you think that the GN in this area treats people equally? (Tick only one) (Level 1)

<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No

175. Do you think that a person who lives closer to an urban area is more likely to get a just solution to a legal problem than a person who lives in a more remote area? (Tick only one) (Level 1)

<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No

<i>Don't know</i>	Yes	No
176. Do you think that a person's political party affiliation is taken into consideration when trying to get a just solution to a legal problem? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
177. Do you think that a person's education level is taken into consideration when trying to get a just solution to a legal problem? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
178. Do you think that in general , husbands or other male members of the family speak on behalf of women in this area? (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
179. Do you think that the police in this area treat everyone equally? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
180. What problems do you think <u>the people in the X (i.e. your) community</u> face in getting a just solution to legal problems? (choose appropriate group) (Tick all that apply) (Level 1)		
<i>No problems</i>	Yes	No
<i>Language of the system is not my native language</i>	Yes	No
<i>Lack of respect by authorities</i>	Yes	No
<i>Police are in effective</i>	Yes	No
<i>I'm a minority</i>	Yes	No
<i>Police are all Sinhalese</i>	Yes	No
<i>Poverty</i>	Yes	No
<i>Lack of knowledge</i>	Yes	No
<i>Culture to keep quiet</i>	Yes	No
<i>Fear/shame of coming out and being a victim</i>	Yes	No
<i>Fear of persecution or consequences if we use legal system</i>	Yes	No

<i>Do not trust justice providers to give a fair solution</i>	Yes	No
<i>Other</i>	Yes	No
181. <i>Specify other (Level 2)</i>		
182. How far is the nearest police station? (mins) <i>(Level 1)</i>		
Mode of transport	Mins	
Walking/push bike/bus		
183. When you go to the police station is there an officer there who can speak to you in your language? <i>(Level 1)</i>	Yes	No
184. Have you ever signed a police statement in a language that you could not read? <i>(Level 1)</i>	Yes	No
		Don't know
		NA, never had to sign

7. PERCEPTIONS AND USE OF MEDIATION BOARD

185. I would now to discuss some general aspects about the Mediation Board system. What is your knowledge about the mediation board? (Tick only one) <i>(Level 1)</i>		
<i>I know nothing about it</i>	Yes (Q215)	No
<i>There is no mediation board in this area</i>	Yes (Q215)	No
<i>I have heard about it only</i>	Yes	No
<i>I have heard about and know a little bit about it</i>	Yes	No
<i>I know people who have used it</i>	Yes	No
<i>I have used it myself</i>	Yes	No
186. <i>Do you think that the mediation board successfully protects the right of every citizen regardless of age, gender, ethnicity and social status? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
187. <i>Is a mediation board within a reasonable distance from where most people live? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
188. <i>Do you think that the mediation board effectively solves disputes between people? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No

<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
189. <i>Do you think that the mediation board effectively controls the misuse of power? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
190. <i>Do you think that there are a lot of checkpoints to pass through to get to a mediation board? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
191. <i>Do you think that the language spoken in the mediation board is understood by most people? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
192. <i>Do you think that most people understand how the mediation board works? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
193. <i>Do you think that the members of the mediation board treat people well? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
194. <i>Do the members of the mediation board ask for money? (Tick only one) (Level 2)</i>		
<i>Yes (always)</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
195. <i>Do you think that everyone who uses the mediation board is treated equally? (Tick only one) (Level 2)</i>		
<i>Yes</i>	Yes	No

	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
196. As a result of mediation, does someone usually receives some kind of compensation? (Tick only one) (Level 2)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
197. Can people expect a just solution if they go to the mediation board? (Tick only one) (Level 2)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
198. Are the decisions made by the mediation board on similar cases consistent? (Tick only one) (Level 2)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
199. Do you think that most people trust the persons who sit on the mediation board? (Tick only one) (Level 2)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
200. Do you think that most people trust the mediation board system? (Tick only one) (Level 2)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
201. Have you ever used a mediation board? (Level 2)			
	Yes (Q204,205)	No (Q202,217)	
202. If no, why not? (Tick only one) (Level 3)			
Never had an issue to take to mediation board		Yes	No
Do not think I will get a good result if use mediation board		Yes	No
Didn't want to use mediation board as it would take too long to get a result		Yes	No

	Other	Yes	No
203. If other, specify (Level 4)			
204. If yes, what have you used it for most recently/last time? (Tick and discuss only one) (Level 3)			
	Land dispute	Yes	No
	Labour dispute	Yes	No
	Property dispute	Yes	No
	Inheritance issues	Yes	No
	Divorce and support	Yes	No
	Domestic violence	Yes	No
	Minor petty crime (theft)	Yes	No
	Debt or money lending	Yes	No
	Other	Yes	No
205. I would now like to discuss some aspects of using the mediation board with you. Was someone available to explain the process to you? (Tick only one) (Level 3)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
206. Do you understand the procedures of the mediation board? (Tick only one) (Level 3)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
207. Did the mediation board make you feel like you had to pay something? (Tick only one) (Level 3)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
208. Did the mediation board understand the dispute? (Tick only one) (Level 3)			
	Yes	Yes	No
	No	Yes	No
	Sometimes	Yes	No
	Don't know	Yes	No
209. Did the mediation board treat you with respect? (Tick only one) (Level 3)			
	Yes	Yes	No

No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
210. Did you feel like the mediation board staff listened to each party equally? (Tick only one) (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
211. Did you pay money to mediation board staff? (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
212. Would you use the mediation board again? (Tick only one) (Level 3)		
Yes	Yes	No
No	Yes	No
Maybe	Yes	No
Don't know	Yes	No
213. How many times did you have to go to the Mediation Board? (Tick only one) ((Level 3)		
1-5 times	Yes	No
6-10 times	Yes	No
More than 10 times	Yes	No
214. If you knew someone who faced a similar situation to you would you recommend that they use to mediation board or not? (Level 3)		
Recommend they use this method	Yes	No
Recommend that they pursue another way to get a resolution	Yes	No

8. USE OF LEGAL AID		
215. I would now like to discuss some general aspects about using legal aid services. Have you ever used legal aid services? (Level 1)	Yes (Q218)	No (Q216,231)
216. If no, why not? (Level 2)		
Never heard of legal aid	Yes	No
Never had an issue where I needed to seek legal aid	Yes	No
Did not know that legal aid was available in this area	Yes	No

Didn't take issue to legal aid	Yes	No
Legal aid centres are too far away	Yes	No
Do not think will get a good result if use legal aid	Yes	No
Didn't want to use legal aid as it would take too long	Yes	No
Other	Yes	No
217. If other, specify (Level 3)		
218. If yes, what did you use it for most recently/last time? (Level 2)		
Land dispute	Yes	No
Labour dispute	Yes	No
Property dispute	Yes	No
Inheritance issues	Yes	No
Divorce and maintenance	Yes	No
Domestic violence	Yes	No
Debt or money lending	Yes	No
Fundamental rights violations	Yes	No
Other	Yes	No
219. If other, specify (Level 3)		
220. If yes, when was that? (month/year) (Level 2)		
221. If yes, what services did you use/receive at legal aid? (Tick all that apply) (Level 2)		
Assistance in filling out forms	Yes	No
Legal advice	Yes	No
Referral to other legal providers	Yes	No
Referral to non-legal mechanisms e.g. DS	Yes	No
Court representation	Yes	No
Mediation/counselling	Yes	No
Other	Yes	No
222. If other, specify (Level 3)		
223. Did the people who worked at legal aid treat you with respect? (Tick only one) (Level 2)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
224. Did the people at legal aid make you feel like you had to pay something? (Tick only one) (Level 2)		
Yes (always)	Yes	No
No	Yes	No

<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
225. Were legal aid services provided in a language you understood? (Tick only one) (Level 2)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
226. Was someone available to explain the process to you? (Tick only one) (Level 2)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
227. If you had a problem or dispute would you use legal aid services again? (Level 2)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Maybe</i>	Yes	No
<i>Don't know</i>	Yes	No
228. If you knew someone who faced a similar situation to you would you recommend to them to use legal aid? (Level 2)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Maybe</i>	Yes	No
<i>Don't know</i>	Yes	No
229. How long did it take from when you first took your case to legal aid to the solution? (Level 2)		
<i>Less than a week</i>	Yes	No
<i>One week to one month</i>	Yes	No
<i>1-6 months</i>	Yes	No
<i>6 months to 1 year</i>	Yes	No
<i>1-3 years</i>	Yes	No
<i>More than 3 years</i>	Yes	No
230. How much did this legal aid service cost you (include official and unofficial payments)? (Rs) (Level 2)		

9. EXPERIENCE WITH REMAND PRISON

231. Have you or a close family member ever been held in remand prison? (Level 1)	Yes (Q232)	No (Q238)
232. If yes, is this person still in remand? (Level 2)	Yes	No

233. How long was the person in remand before the charge sheet was filed? (Level 2)		
<i>Less than 1 week</i>	Yes	No
<i>1 week to one month</i>	Yes	No
<i>1-6 months</i>	Yes	No
<i>6 months to 1 year</i>	Yes	No
<i>1-3 years</i>	Yes	No
<i>More than 3 years</i>	Yes	No
<i>Still not charged</i>	Yes	No
<i>Don't know</i>	Yes	No
234. How long was the person in remand before they could file a case? (Level 2)		
<i>Less than 1 week</i>	Yes	No
<i>1 week to one month</i>	Yes	No
<i>1-6 months</i>	Yes	No
<i>6 months to 1 year</i>	Yes	No
<i>1-3 years</i>	Yes	No
<i>More than 3 years</i>	Yes	No
<i>Let go without filing a case</i>	Yes	No
<i>Still not filed a case</i>	Yes	No
<i>Don't know</i>	Yes	No
235. How long was the person in remand before they got legal assistance? (Level 2)		
<i>Less than 1 week</i>	Yes	No
<i>1 week to one month</i>	Yes	No
<i>1-6 months</i>	Yes	No
<i>6 months to 1 year</i>	Yes	No
<i>1-3 years</i>	Yes	No
<i>More than 3 years</i>	Yes	No
<i>Still not got legal aid</i>	Yes	No
<i>Never got legal aid</i>	Yes	No
<i>Don't know</i>	Yes	No
236. Which authorities/institutions did you approach to get assistance for this person in remand? (Tick all that apply) (Level 2)		
<i>A relation / family member</i>	Yes	No
<i>The news media</i>	Yes	No
<i>GN</i>	Yes	No
<i>Village elder / respected village leader</i>	Yes	No

<i>DS / DS Office</i>	Yes	No
<i>GA / Kachcheri</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>JP</i>	Yes	No
<i>Police</i>	Yes	No
<i>Army</i>	Yes	No
<i>Thalivar</i>	Yes	No
<i>Sinnurai / Asst Superintendent</i>	Yes	No
<i>Superintendent</i>	Yes	No
<i>Religious leader(s) / religious committee (priest, mosque, bishop etc.)</i>	Yes	No
<i>Meditation Board</i>	Yes	No
<i>Local NGO</i>	Yes	No
<i>A UN organization</i>	Yes	No
<i>Private Lawyer</i>	Yes	No
<i>Legal Aid Clinic</i>	Yes	No
<i>Human Rights Commission</i>	Yes	No
<i>Other (specify)</i>	Yes	No
237. <i>If other, specify (Level 3)</i>		

10. PERCEPTIONS AND USE OF THE COURT SYSTEM

238. I would now like to discuss some general aspects about the court system in Sri Lanka.

What is your knowledge about the court system? (Tick only one)(Level 1)

<i>I know nothing about it</i>	Yes (Q 270)	No
<i>I have heard about it only</i>	Yes	No
<i>I have heard about it and know a little bit about it</i>	Yes	No
<i>I know people who have used it</i>	Yes	No
<i>I have used it myself</i>	Yes	No

239. Do you think that the court justice system effectively protects the rights of all people regardless of age, gender, ethnicity, social status? (Tick only one) (Level 1)

<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No

<i>Don't know</i>	Yes	No
240. Do you think it effectively controls the misuse of power? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
241. Do you think it effectively solves disputes between parties? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
242. Do you think that for most people, courts are within reasonable distance from where they live? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
243. Is the language spoken in court understood by most people? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
244. Do you think that most people understand how the court justice system works? (Tick only one) (Level 1)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
245. Do the staff (judges, police, clerks) treat people with respect? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
246. Do the staff usually ask for money? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No

<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
247. Does every person has the same rights in the Sri Lankan court system? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
248. If one has to go to court, does s/he roughly know in advance how much it will cost? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
249. Do you think that the decisions made by the court on similar cases are consistent? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
250. Do you think that most people trust the court clerks? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
251. Do you think that most people trust judges? (Tick only one) (Level 1).		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
252. Have you ever been involved in a court case? (Level 1)		
<i>Yes, as a witness</i>	Yes (Q254-266, 270)	No
<i>Yes, I filed the case</i>	Yes (Q254)	No
<i>Yes, the case was filed against me</i>	Yes (Q254)	No
<i>No</i>	Yes (Q253, 270)	No
253. If no, why not? (Tick all that apply) (Level 2)		

<i>Never had an issue to take to the court/never been called as a witness</i>	Yes	No
<i>Always settled disputes outside of court</i>	Yes	No
<i>Do not think will get a good result if use the court system</i>	Yes	No
<i>Didn't want to use court as it would take too long to get a result</i>	Yes	No
<i>Too expensive</i>	Yes	No
<i>Other</i>	Yes	No
254. Were you involved in a criminal proceeding or a civil case? (Choose only one) (Level 2)		
<i>Criminal case</i>	Yes	No
<i>Civil case</i>	Yes	No
255. Is this an active case or a closed case (Choose only one) (Level 2)		
<i>Active / on going case</i>	Yes	No
<i>Closed case</i>	Yes	No
256. I would now like to discuss some of the aspects of the case with you. Was someone available to explain the process to you? (Tick only one)(Level 2)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Don't wish to discuss the case</i>	Yes (Q270)	No
257. Were the court proceedings conducted in a language you could understand? (Tick only one) (Level 3)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
258. Did you understand the procedures of the court? (Tick only one) (Level 3)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No
259. Did the judge listen to both parties equally? (Tick only one) (Level 3)		
<i>Yes</i>	Yes	No
<i>No</i>	Yes	No
<i>Sometimes</i>	Yes	No
<i>Don't know</i>	Yes	No

260. Did the clerks treat you with respect? (Tick only one) (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
261. Do you believe that the judge was unbiased? (Tick only one) (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
262. Did the clerks made you feel as though you had to pay something? (Tick only one) (Level 3)		
Yes (always)	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
263. Were you satisfied with your lawyer? (Tick only one) (Level 3)		
Yes	Yes	No
No	Yes	No
Sometimes	Yes	No
N/A	Yes	No
Don't know	Yes	No
264. Did you pay money to the clerks? (Level 3)		
Yes (always)	Yes	No
No	Yes	No
Sometimes	Yes	No
Don't know	Yes	No
Not applicable, case ongoing	Yes	No
265. How many times did you have to go to the courts? (Level 3)		
1-5 times	Yes	No
6 – 10 times	Yes	No
More than 10 times	Yes	No
266. How long did it take from when the case was taken to court to the solution? (Level 3)		
Less than 1 week	Yes	No
1 week to 1 month	Yes	No

1-6 months	Yes	No	
6 months to 1 year	Yes	No	
1-3 years	Yes	No	
More than 3 years	Yes	No	
Case on-going / active	Yes (Q269)	No	
Don't know/eye witness	Yes (Q270)	No	
267. How much did this case cost you (include official and unofficial payments) (Rs) (Level 3)			
268. Did you receive a settlement as a result of the case? (Level 3)	Yes	No	NA
269. If you knew someone who faced a similar situation to you would you recommend they use a district court? (Level 3)			
Recommend they use the court system	Yes	No	
Recommend they pursue another way to get resolution	Yes	No	
Not applicable as this was a criminal case	Yes	No	

11. CHILD PROTECTION			
270. What do you consider to be child abuse? (Tick ONE) (Level 1)			
Beating a child	Yes	No	
Sending a child away from home to work	Yes	No	
Stopping a child's education and sending them out to work	Yes	No	
Putting a child in an institution	Yes	No	
Having sex with a child	Yes	No	
Making a child feel unwanted	Yes	No	
Sending a child out to beg	Yes	No	
Don't know	Yes (Q272)	No	
Don't wish to answer	Yes (Q272)	No	
Other	Yes	No	
271. If other, specify (Level 2)			
272. Are there any laws prohibiting child abuse? (Level 2)	Yes (Q273, 275)	No (Q275)	Don't know (Q275)
273. If yes, how did you get to hear about it? (Tick all that apply) (Level 3)			
Media campaign (TV, radio, newspaper)	Yes	No	
Flyer, pamphlet, poster in a public place	Yes	No	
GN	Yes	No	
I/NGO	Yes	No	
Police	Yes	No	
Seminar / workshop	Yes	No	

<i>Other</i>	Yes	No	
274. If other, specify (Level 4)			
275. How often would you say the following types of incidents happen in your village? (Level 1)			
Incident	Frequency	Is this legally (by law) a crime?	Who do you think the best person is to intervene?
<i>A child is beaten at school by a teacher</i>		Yes/No	
<i>A child is sent to an institution because of abuse in the family</i>		Yes/No	
<i>A man has sexual relations with his neighbour's daughter who is under 16</i>		Yes/No	
<i>A child is told by an adult family member that s/he is no good and the family would be better off without him or her.</i>		Yes/No	

12. VIOLENCE (Oral introduction needed)

276. What do you consider to be domestic violence? (Tick ONE) (Level 1)

<i>Man beating his wife</i>	Yes	No	
<i>Man beating his children</i>	Yes	No	
<i>Women beating her husband</i>	Yes	No	
<i>Women beating her children</i>	Yes	No	
<i>Throwing a kerosene lamp at someone in the family</i>	Yes	No	
<i>Throwing hot water at someone in the family</i>	Yes	No	
<i>Aggressive arguments between husband and wife</i>	Yes	No	
<i>Husband throwing wife out of the house/ sending her back to her parents</i>	Yes	No	
<i>Aggressive arguments between other family members</i>	Yes	No	
<i>Don't know</i>	Yes (Q278)	No	
<i>Don't wish to answer</i>	Yes (Q278)	No	
<i>Other</i>	Yes	No	
277. If other, specify (Level 2)			
278. Are there any laws prohibiting domestic violence? (Level 2)	Yes (Q279, 281)	No (Q281)	Don't know (Q281)
279. If yes, how did you get to hear about it? (Tick all that apply) (Level 3)			
<i>Media campaign (TV, radio, newspaper)</i>	Yes	No	
<i>Flyer, pamphlet, poster in a public place</i>	Yes	No	
<i>GN</i>	Yes	No	

<i>Police</i>	Yes	No	
<i>Workshop / Seminar</i>	Yes	No	
<i>I/NGO</i>	Yes	No	
<i>Other</i>	Yes	No	
280. If other, specify (Level 4)			
281. How often would you say the following types of incidents happen in your village? (Level 1)			
Incident	Frequency	Is this legally (by law) a crime?	Who do you think WOULD BE the best person is to intervene?
<i>A man beats his wife with his hands at home, but does not draw blood</i>		Yes/No	
<i>A man throws the food his wife cooks on the floor because it is not to his taste</i>		Yes/No	
<i>A man verbally shames his wife at the market in front of a large number of people</i>		Yes/No	
<i>Someone throws a kerosene lamp at a family member who has to be sent to hospital for burns</i>		Yes/No	
<i>A married man forces his wife to have sexual relations with him</i>		Yes/No	
<i>A man rapes a woman he knows or is related to</i>		Yes/No	
282. If an unmarried girl living with her parents in this area is raped by a known person, who WOULD the parents go to for advice about how to handle the situation? (Tick only one) (Level 1)			
<i>They would do nothing about the situation/keep quiet</i>	Yes	No	
<i>The GN</i>	Yes	No	
<i>A relation / family member</i>	Yes	No	
<i>A neighbour</i>	Yes	No	
<i>A religious leader</i>	Yes	No	
<i>Qadi / Qali court</i>	Yes	No	
<i>A respected elder/community leader</i>	Yes	No	
<i>The police</i>	Yes	No	
<i>Mediation/Conciliation board</i>	Yes	No	
<i>The army</i>	Yes	No	
<i>Paramilitary group</i>	Yes	No	
<i>MP</i>	Yes	No	
<i>Other elected official</i>	Yes	No	
<i>JP</i>	Yes	No	
<i>Someone who works at an NGO</i>	Yes	No	

<i>Legal aid centre</i>	Yes	No
<i>Other</i>	Yes	No
283. <i>If other, specify (Level 2)</i>		
284. If an unmarried girl living with her parents in this area was raped by police/ security forces, who WOULD the parents go to for advice about how to handle the situation? (Tick only one) (Level 1)		
<i>They would do nothing about the situation/keep quiet</i>	Yes	No
<i>The GN</i>	Yes	No
<i>A relation / family member</i>	Yes	No
<i>A neighbour</i>	Yes	No
<i>GA</i>	Yes	No
<i>MP</i>	Yes	No
<i>Other elected official</i>	Yes	No
<i>JP</i>	Yes	No
<i>Paramilitary group</i>	Yes	No
<i>Go to the Army / Area Commander</i>	Yes	No
<i>Mediation / Conciliation board</i>	Yes	No
<i>A religious leader</i>	Yes	No
<i>Qadi / Qali court</i>	Yes	No
<i>Thalivar</i>	Yes	No
<i>Sinnadurai / Asst Superintendent</i>	Yes	No
<i>Superintendent</i>	Yes	No
<i>A respected community elder/village elder</i>	Yes	No
<i>The police</i>	Yes	No
<i>Someone who works at an NGO</i>	Yes	No
<i>Legal aid centre</i>	Yes	No
<i>Area commander</i>	Yes	No
<i>Human Rights Commission</i>	Yes	No
<i>Other</i>	Yes	No
285. <i>If other, specify (Level 2)</i>		

13. LANDOWNERS

286. Does this family have any rights over any land at this location? (Level 1)	Yes	No (Q299)
287. <i>If yes, is this private land or state land? (Level 2)</i>		
<i>Private</i>	Yes (Q290)	No
<i>State</i>	Yes (Q288, 290)	No

288. <i>If state land, when the deed holder/ permit holder are no more (i.e. deceased) who do you think will inherit this land? (Tick only one) (Level 3)</i>		
<i>Eldest son</i>	Yes	No
<i>Eldest daughter</i>	Yes	No
<i>Another male child</i>	Yes	No
<i>Another female child</i>	Yes	No
<i>Son-in-law</i>	Yes	No
<i>Daughter-in-law</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Other</i>	Yes	No
289. <i>If other, specify (Level 3)</i>		
290. <i>If yes, is the deed/permit only in your name or joint with your spouse? (Level 2)</i>		
<i>My name/father/mothers</i>	Yes	No
<i>Joint with spouse/parents</i>	Yes	No
<i>Daughter/son's name</i>	Yes	No
<i>My spouses name only</i>	Yes	No
<i>No legal documents</i>	Yes	No
<i>Other</i>	Yes	No
291. <i>Is there an original copy of your deed/permit available? (Level 2)</i>		
<i>Yes, ,original</i>	Yes (Q295)	No
<i>No, copy</i>	Yes (Q295)	No
<i>Yes, an official letter from the DS / Kachcheri to occupy this land</i>	Yes (Q295)	No
<i>Neither</i>	Yes (Q292)	No
292. <i>If neither, have you tried to get a copy of the deed? (Level 3)</i>	Yes (Q295)	No (Q293, 295)
293. <i>If no, why not? (Tick all that apply) (Level 4)</i>		
<i>Don't know how / from where to get a replacement</i>	Yes	No
<i>Need help filling out the paperwork for a replacement</i>	Yes	No
<i>Transportation costs to go fill out paperwork too high</i>	Yes	No
<i>Need child care to go and fill out paperwork</i>	Yes	No
<i>Not important</i>	Yes	No
<i>Need to pass through too many checkpoints to get there</i>	Yes	No
<i>Other</i>	Yes	No
294. <i>If other, specify (Level 5)</i>		
295. <i>Have you fenced in your land? (Level 2)</i>	Yes (Q299)	No (Q296, 398)
296. <i>If no, why not? (Level 3)</i>		

<i>Don't want a fence</i>	Yes	No
<i>Can't afford to build a fence</i>	Yes	No
<i>No survey plan so don't know where the boundaries are</i>	Yes	No
<i>Other</i>	Yes	No
297. <i>If other, specify (Level 4)</i>		
298. <i>Have you ever had a boundary dispute with one of your neighbours? (Level 2)</i>	Yes	No

14. IDPS		
299. <i>Is this family an IDP family (living in displacement)? (Level 1)</i>	Yes	No (Q320)
300. <i>If yes, what is your place of origin/home district? (Level 2)</i>		
301. <i>If yes, when was the last time you returned to your place of origin? (year) (Level 2)</i>		
302. <i>What is the current living situation of this displaced family? (Tick only one) (Level 2)</i>		
<i>Living in a camp or other transitional site</i>	Yes	No
<i>Living with a host family in their compound</i>	Yes	No
<i>Living with a host family in their house</i>	Yes	No
<i>Living in rented accommodation</i>	Yes	No
<i>Living in a structure on their own land (Northern Muslims might answer this way)</i>	Yes	No
<i>Living in a structure on private land owned by someone else</i>	Yes	No
<i>Living in a structure on government land</i>	Yes	No
<i>Other</i>	Yes	No
303. <i>Were you ever registered as an IDP? (Level 2)</i>	Yes (Q307)	No (Q304)
304. <i>If no, why not? (Tick only one) (Level 3)</i>		
<i>GN refuses to register</i>	Yes (Q306)	No
<i>No one approached me about registering</i>	Yes (Q307)	No
<i>No point in registering</i>	Yes (Q307)	No
<i>Don't know how to register</i>	Yes (Q307)	No
<i>Tried to register but was taking so long to do so stopped the process</i>	Yes (Q307)	No
<i>Other</i>	Yes (Q307)	No
305. <i>If other, please specify (Level 4)</i>		
306. <i>If GN refused to register, what have you done about this? (Level 4)</i>		
307. <i>Are you currently registered as an IDP? (Level 2)</i>	Yes (Q310)	No (Q308, 310)
308. <i>If no longer registered as an IDP, why not? (Tick only one) (Level 3)</i>		

<i>We refused to return so have been removed from the register</i>	Yes	No
<i>De-registered because relocated or local integrated</i>	Yes	No
<i>Because assistance came to an end</i>	Yes	No
<i>Everyone else was de-registering</i>	Yes	No
<i>Don't know</i>	Yes	No
<i>Other</i>	Yes	No
309. <i>If other, please specify (Level 4)</i>		
310. <i>Why is this family still displaced? (Tick all that apply) (Level 2)</i>		
<i>LTTE has not given us written permission to return (Northern Muslims only)</i>	Yes	No
<i>Place of origin is in HSZ</i>	Yes	No
<i>No work to do if return</i>	Yes	No
<i>Poor infrastructure in area of return</i>	Yes	No
<i>Secondary occupation (any form)</i>	Yes	No
<i>Fighting and shelling, not safe to return</i>	Yes	No
<i>Other security issues make it not safe to return</i>	Yes	No
<i>All my other family / relations are here in this place</i>	Yes	No
<i>Cannot keep children safe if return</i>	Yes	No
<i>Land registry destroyed</i>	Yes	No
<i>Land is in the tsunami buffer zone</i>	Yes	No
<i>Prefer to stay here</i>	Yes	No
<i>Other</i>	Yes	No
311. <i>If other, please specify (Level 3)</i>		
312. <i>Do you own / have use of rights over land in your <u>place of origin</u>? (Level 2)</i>	Yes (Q313,314, 316)	No (Q320)
313. <i>If yes, is this private land or state land? (Level 3)</i>		
<i>Private</i>	Yes	No
<i>State</i>	Yes	No
314. <i>If yes, is the deed/permit only in your name or joint with your spouse? (Level 3)</i>		
<i>My name/father/mothers</i>	Yes	No
<i>Joint with spouse/parents</i>	Yes	No
<i>Daughter/son's name</i>	Yes	No
<i>My spouses name only</i>	Yes	No
<i>Other</i>	Yes	No
315. <i>If other, please specify (Level 4)</i>		
316. <i>If yes, do you have an original copy of your deed/permit? (Level 3)</i>		
<i>Yes, ,original</i>	Yes (Q320)	No

	<i>No, copy</i>	Yes (Q320)	No
	<i>Neither</i>	Yes (Q317)	No
317.	<i>If neither, have you tried to get a copy of the deed? (Level 4)</i>	Yes (Q320)	No (Q318, 320)
318. <i>If no, why not? (Tick all that apply) (Level 5)</i>			
	<i>Don't know how / from where to get a replacement</i>	Yes	No
	<i>Need help filling out the paperwork for a replacement</i>	Yes	No
	<i>Transportation costs to go fill out paperwork too high</i>	Yes	No
	<i>Need child care to go and fill out paperwork</i>	Yes	No
	<i>Not important</i>	Yes	No
	<i>Need to pass through too many checkpoints to get there</i>	Yes	No
	<i>Land registry destroyed</i>	Yes	No
	<i>Other</i>	Yes	No
319. <i>If other, specify (Level 6)</i>			

15. RETURNEES

320.	Have you recently returned from a period of displacement?	Yes (Q321, 323)	No (Q333)
321.	<i>If yes, have you registered yourself as a returnee? (Level 2)</i>	Yes (Q323)	No (Q322, 323)
322. <i>If no, why not? (Level 3)</i>			
	<i>GN refuses to register</i>	Yes	No
	<i>No one approached me about registering</i>	Yes	No
	<i>No point in registering</i>	Yes	No
	<i>Don't know how to register</i>	Yes	No
	<i>Tried to register but was taking so long to do so stopped the process</i>	Yes	No
	<i>Other</i>	Yes	No
323. <i>Where are you living now? (Level 2)</i>			
	<i>In a camp / transitional site</i>	Yes (Q324)	No
	<i>In own original home</i>	Yes (Q326)	No
	<i>In temporary shelter on own land</i>	Yes (Q324)	No
	<i>Other</i>	Yes (Q324)	No
324. <i>If you are not living in your own original home, why not? (Level 3)</i>			
	<i>Home is occupied by forces (secondary occupation)</i>	Yes (Q325)	No
	<i>Home occupied by other private individuals (secondary occupation)</i>	Yes (Q325)	No
	<i>Home too damaged to live in</i>	Yes (Q326)	No
	<i>Home is in a HSZ</i>	Yes (Q326)	No

	<i>Never owned a home/joint family situation</i>	Yes (Q328)	No
	<i>Other</i>	Yes (Q326)	No
325. <i>If some form of secondary occupation, what do you think you can do to remove your secondary occupants? (Level 4)</i>			
	<i>Ask them to move myself</i>	Yes	No
	<i>Ask the police to remove them</i>	Yes	No
	<i>Ask the GA to remove them</i>	Yes	No
	<i>Ask the military to remove them</i>	Yes	No
	<i>Contact Human Rights Commission</i>	Yes	No
	<i>Make court application</i>	Yes	No
	<i>There is nothing I can do</i>	Yes	No
	<i>Don't know</i>	Yes	No
	<i>Other</i>	Yes	No
326. <i>When you returned was the house partially/fully damaged? (Tick only one) (Level 2)</i>			
	<i>Not damaged</i>	Yes (Q328)	No
	<i>Partially damaged</i>	Yes (Q327)	No
	<i>Fully damaged</i>	Yes (Q327)	No
327.	<i>Have you received any compensation for the damage? (Level 3)</i>	Yes	No
328.	<i>Was your house looted? (Level 2)</i>	Yes (Q329, 333)	No (Q333)
329.	<i>If it was looted, have you filed a claim for damages/loss of this property? (Level 3)</i>	Yes (Q331, 332, 333)	No (Q330)
330. <i>If no why not? (Tick all that apply) (Level 4)</i>			
	<i>Unaware that I could make claim</i>	Yes	No
	<i>Don't believe that if I make a claim that I will receive anything</i>	Yes	No
	<i>Was told that I could not make a claim or that making a claim would be a waste of time</i>	Yes	No
	<i>Need some assistance to make the claim / do the paperwork</i>	Yes	No
	<i>Afraid of the consequences of making a claim</i>	Yes	No
	<i>Other</i>	Yes	No
331. <i>If yes, who did you make a claim with? (Tick only one) (Level 4)</i>			
	<i>Police</i>	Yes	No
	<i>GN</i>	Yes	No
	<i>DS Office</i>	Yes	No
	<i>Other</i>	Yes	No
332. <i>If yes, did you receive any compensation for your losses? (Tick only one) (Level 4)</i>			
	<i>Yes, full financial compensation</i>	Yes	No
	<i>Yes, full compensation in kind</i>	Yes	No

<i>Yes, partial financial compensation</i>	Yes	No
<i>Yes, partial compensation in kind</i>	Yes	No
<i>Yes, mixture of financial and in kind compensation</i>	Yes	No
<i>I was told I will get something but not received anything yet</i>	Yes	No
<i>No - nothing</i>	Yes	No

16. DEMOGRAPHICS

333. This is the final section of the questionnaire and I am going to ask a few questions about you and your household.

What is your marital status? (Tick only one) (Level 1)

<i>Single</i>	Yes	No
<i>Married (registered)</i>	Yes	No
<i>Married (unregistered/co-habiting)</i>	Yes	No
<i>Divorced</i>	Yes	No
<i>Separated</i>	Yes	No
<i>Widowed</i>	Yes	No
<i>Refused to answer</i>	Yes	No

334. What is your ethnic group? (Tick only one) (Level 1)

<i>Sinhala</i>	Yes	No
<i>Muslim</i>	Yes	No
<i>Tamil</i>	Yes	No
<i>Indian Tamil</i>	Yes	No
<i>Burghers</i>	Yes	No
<i>Veddahs</i>	Yes	No
<i>Kuravar</i>	Yes	No
<i>Godi</i>	Yes	No
<i>Other</i>	Yes	No

335. If other specify (Level 2)

336. Is this a UC/MC, town, village or estate? (Level 1)

<i>Urban/Municipal Council area</i>	Yes	No
<i>Town</i>	Yes	No
<i>Village</i>	Yes	No
<i>Estate</i>	Yes	No

337. Number of persons living in this house? (Level 1)

338. How would you rate your ability to speak each of the following languages? (Level 1)

<i>Tamil</i>	Mother tongue / fluent / intermediate / basic / none
--------------	--

<i>Sinhala</i>	Mother tongue / fluent / intermediate / basic / none
<i>English</i>	Mother tongue / fluent / intermediate / basic / none

339. What is your age? (Level 1)

<i>18-24</i>	Yes	No
<i>25-29</i>	Yes	No
<i>30-34</i>	Yes	No
<i>35-39</i>	Yes	No
<i>40-44</i>	Yes	No
<i>45-49</i>	Yes	No
<i>50-54</i>	Yes	No
<i>55-59</i>	Yes	No
<i>60-64</i>	Yes	No
<i>Over 65</i>	Yes	No

340. What is your level of education? (Tick only one) (Level 1)

<i>Never attended school</i>	Yes	No
<i>Did not complete primary education</i>	Yes	No
<i>Completed primary education</i>	Yes	No
<i>Completed some secondary school (up to Grade 10)</i>	Yes	No
<i>Completed secondary school (Grade 10)</i>	Yes	No
<i>Passed O-Level Exam</i>	Yes	No
<i>Passed A-Level Exam</i>	Yes	No
<i>Completed a diploma course / technical course</i>	Yes	No
<i>Attended university but did not complete</i>	Yes	No
<i>Completed university degree</i>	Yes	No

341. What is the main source of household income? (Tick only one) (Level 1)

<i>Fisheries sector</i>	Yes	No
<i>Agriculture (plantation crops and paddy cultivation)</i>	Yes	No
<i>Coir and palmyrah processing</i>	Yes	No
<i>Government sector</i>	Yes	No
<i>Skilled manual labour (mason, carpenter, tailoring/sewing, electrician)</i>	Yes	No
<i>Livestock/poultry rearing</i>	Yes	No
<i>Unskilled daily wage labourer</i>	Yes	No
<i>House servant</i>	Yes	No
<i>Work on an estate</i>	Yes	No

<i>Small business or trade (inc. rickshaw drivers)</i>	Yes	No
<i>Cash for work programmes</i>	Yes	No
<i>Assistance from friends and relations</i>	Yes	No
<i>Remittances from family members (living abroad only)</i>	Yes	No
<i>Remittances from government (including pensions and rations)</i>	Yes	No
<i>Assistance from NGOs</i>	Yes	No
<i>Living off investments and assets</i>	Yes	No
<i>Home based work</i>	Yes	No
<i>Working in a shop or restaurant/hotel</i>	Yes	No
<i>Other</i>	Yes	No
342. Does this household receive samurdhi benefits? <i>(Level 1)</i>	Yes	No
343. How much money do you think your household spent on food last month? (Rs) <i>(Level 1)</i>		
344. Does the respondent or any one in the family have a disability?	Yes (Q345,346)	No (Q346)
345. <i>If yes is this a war related injury?</i>	Yes	No
346. Is there anyone from this family who is missing?	Yes	No
347. What DS division is this interview being conducted in? <i>(Level 1)</i>		

348. PDA operator:	
349. Survey time (finish):	

Socio Economic Baseline Survey Questionnaire (Sri Lanka)

SOCIO-ECONOMIC BASELINE ANALYSIS
2010

00. SOURCE INFORMATION	
1. Interviewee code	
2. DS division	
3. GS/GN division	
4. Village name	
5. Start time	

01. DEMOGRAPHIC AND SOCIO-ECONOMIC DATA (PART 01)		
6. What is your age?		
7. How many people live in this household?	Male	Female
<5 years		
6-18 years		
19-55 years		
>55 years		
8. What is your marital status?		
1Single		
Married (Registered)		
Married (Unregistered/co-habiting)		
Divorced		
Separated		
Abandoned		
Widowed		
9. Is this a single headed household?	Yes (Q10)	No
10. If yes, is this a male or female headed household? (Level 02)	Male headed	Female headed
11. Does anyone in your household have to leave the household for at least three consecutive months a year in search of work/for work purposes?	Yes (Q12, 13)	No
12. If yes, how many people? (Level 02)		

13. If yes, what is their gender? (Level 02)		
Male		
Female		
Both		
14. Are there any people in this household with disabilities?	Yes (Q15, 16)	No
15. If yes, are they? (Level 02)		
Physically disabled	Yes	No
Mental/ Intellectually disabled	Yes	No
Both	Yes	No
16. Were any of these disability/disabilities caused/worsened as a result of the war? (Level 02)	Yes	No

02. ENVIRONMENT				
17. What would you think are the two main environmental problems in your village?				
None	(Skip to Q20)			
Don't know	(Skip to Q20)			
Sand mining/ coral mining- data collector to tick if observed or if it comes up in conversation				
Land mines				
Deforestation- data collector to tick if observed or if it comes up in conversation				
Illegal fishing/Overfishing				
Human-elephant conflict				
Land/ coastal erosion				
Water scarcity				
Stagnant water and mosquitoes				
Noise pollution				
Other				
18. Are there any government/ non-government agencies/organisations in	Yes (Q19)	No	NA	DK

<i>your area that deal with these types of issues? (Level 02)</i>				
19. If yes do you think they are effective? (Level 03)				
<i>Very effective</i>				
<i>Effective</i>				
<i>Neither effective nor ineffective</i>				
<i>Ineffective</i>				
20. Is your house regularly affected by				
<i>Floods</i>				
<i>Drought</i>				
<i>High winds</i>				
<i>Cyclones (Q21)</i>				
<i>None</i>				
21. If cyclone, does your community have an early warning mechanism/system? (Level 02)	Yes	No	NA	DK
22. Of the following environment management activities, which ones does your household or community engage in? (Tick all that apply)				
<i>Composting</i>				
<i>Reforestation</i>				
<i>Shramadana/clean up</i>				
<i>Maintenance of tanks</i>				
<i>Maintenance of wells</i>				
<i>Organic farming</i>				
<i>Recycling/Reusing</i>				
<i>Other</i>				
<i>None</i>				
23. Have you or anyone in your household received training or awareness on disaster management practices?	Yes		No	
24. Do you or anyone in your household know how to administer first aid to an injured person?	Yes		No	
25. Do you or anyone in your household know what to do if someone in your household is bitten by a snake?	Yes		No	

03. EDUCATION

26. What is your level of education?			
<i>Never attended school</i>			
<i>Did not complete primary education</i>			
<i>Completed primary education</i>			
<i>Completed some secondary school (up to Grade 10)</i>			
<i>Completed secondary school (Grade 10)</i>			
<i>Passed O-Level Exam</i>			
<i>Passed A-Level Exam</i>			
<i>Completed a diploma course / technical course</i>			
<i>Attended university but did not complete</i>			
<i>Completed university degree</i>			
27. What is the highest level of education in your household?			
<i>Never attended school</i>			
<i>Did not complete primary education</i>			
<i>Completed primary education</i>			
<i>Completed some secondary school (up to Grade 10)</i>			
<i>Completed secondary school (Grade 10)</i>			
<i>Passed O-Level Exam</i>			
<i>Passed A-Level Exam</i>			
<i>Completed a diploma course / technical course</i>			
<i>Attended university but did not complete</i>			
<i>Completed university degree</i>			
28. Are all male school-aged children attending school 5 days a week?	Yes	No (Q29)	NA
29. If no, why not? (Level 02)			
<i>School is too far away/ No school in the area</i>			
<i>No teachers in the school</i>			
<i>No proper transport or access route to reach school</i>			
<i>Children help in /fields/workplace</i>			
<i>Children take care of younger siblings</i>			
<i>Not safe to send children alone (including abductions, kidnapping other safety related issues)</i>			
<i>Children not interested</i>			
<i>Don't have money to send children to school</i>			
<i>Disabled (Mentally/physically)</i>			
<i>Other</i>			
30. Are all female school-going attending school 5 days a week?	Yes	No (Q31)	NA

31. If no, why not? (Level 02)	
School is too far away/ No school in the area	
No teachers in the school	
No proper transport or access route to reach school	
Children help in /fields/workplace	
Children take care of younger siblings	
Not safe to send children alone (including abductions, kidnapping other safety related issues)	
Female children do not need to go to school	
Children not interested	
Don't have money to send children to school	
Disabled (Mentally/physically)	
Other	

04. LIVELIHOOD AND INCOME GENERATION

32. How many people in this household earn an income?	
33. How many people in this household between the ages of 18 and 60 are unemployed? (Only count those who are searching for employment)	
34. What are the livelihood skills that people in this household have?	
Carpentry	
Masonry	
Motor mechanic	
Sewing	
Driving	
Book keeping	
Handicrafts	
Food processing	
Other	
None	
35. Do you have a job or engage in any income generation/ livelihood activities?	Yes (Q36) No
36. If yes, what? (Level 02)	
Fisheries sector	
Agriculture (plantation crops and paddy cultivation)	
Coir and palmyrah processing	
Government sector	

Skilled manual labour (mason, carpenter, tailoring/sewing, electrician)	
Livestock/poultry rearing	
Unskilled daily wage labourer	
House servant	
Work on an estate	
Small business or trade (inc. rickshaw drivers)	
Cash for work programmes	
Assistance from friends and relations	
Remittances from family members (living abroad only)	
Remittances from government (including pensions and rations)	
Assistance from NGOs/Govt	
Living off savings and assets	
Home based work	
Working in a shop or restaurant/hotel	
Private salaried job	
Other	
37. What is the primary source of income/livelihood in this household?	
Fisheries sector	
Agriculture (plantation crops and paddy cultivation)	
Coir and palmyrah processing	
Government sector	
Skilled manual labour (mason, carpenter, tailoring/sewing, electrician)	
Livestock/poultry rearing	
Unskilled daily wage labourer	
House servant	
Work on an estate	
Small business or trade (inc. rickshaw drivers)	
Cash for work programmes	
Assistance from friends and relations	
Remittances from family members (living abroad only)	
Remittances from government (including pensions and rations)	
Assistance from NGOs/Govt	
Living off savings and assets	

<i>Home based work</i>	
<i>Working in a shop or restaurant/hotel</i>	
<i>Private salaried job</i>	
<i>Other</i>	
38. What is the secondary source of income/livelihood in this household?	
<i>No secondary source</i>	
<i>Fisheries sector</i>	
<i>Agriculture (plantation crops and paddy cultivation)</i>	
<i>Coir and palmyrah processing</i>	
<i>Government sector</i>	
<i>Skilled manual labour (mason, carpenter, tailoring/sewing, electrician)</i>	
<i>Livestock/poultry rearing</i>	
<i>Unskilled daily wage labourer</i>	
<i>House servant</i>	
<i>Work on an estate</i>	
<i>Small business or trade (inc. rickshaw drivers)</i>	
<i>Cash for work programmes</i>	
<i>Assistance from friends and relations</i>	
<i>Remittances from family members (living abroad only)</i>	
<i>Remittances from government (including pensions and rations)</i>	
<i>Assistance from NGOs/Govt</i>	
<i>Living off savings and assets</i>	
<i>Home based work</i>	
<i>Working in a shop or restaurant/hotel</i>	
<i>Private salaried job</i>	
<i>Other</i>	
39. In this household who has primary control/takes decisions on how to spend the household income?	
<i>Myself</i>	
<i>My spouse/partner</i>	
<i>My parents</i>	
<i>My mother</i>	
<i>My father</i>	
<i>My child/children</i>	
<i>My husband/wife and I (Joint)</i>	
<i>My parents and I (Joint)</i>	

<i>My children and I (Joint)</i>			
<i>The entire household together</i>			
<i>Other</i>			
40. On average, how many hours on an average day does the primary income earner spend at work?			
41. Do you or anyone in your household require official permission to go to work/do your livelihood?	Yes	No	NA
42. If anyone in this household is engaged in fishing, agriculture or livestock has production/catch gone up or down within the last year? (pick main if household engages in two of more of the above)			
<i>Up</i>	(Q44,45)		
<i>Down</i>	(Q43,45)		
<i>Same</i>	(Q45)		
<i>N/A</i>			
43. If down, what is the main reason? (Level 2)			
<i>Conflict/displacement related</i>			
<i>Natural degradation/natural phenomenon</i>			
<i>Lack of irrigation water</i>			
<i>Overfishing/illegal fishing</i>			
<i>Encroachment by foreign fishermen</i>			
<i>Other man-made degradation (including pollution etc)</i>			
<i>Development policies</i>			
<i>Damaged or lack of infrastructure/resources/inputs-fertiliser</i>			
<i>Access to markets</i>			
<i>Lack of livestock resources</i>			
<i>Livestock disease</i>			
<i>Lack of drinking water/grazing ground</i>			
<i>Other</i>			
44. If up, what is the main reason? (Level 2)			
<i>Peace</i>			
<i>Increased availability of marketing</i>			
<i>Positive development policies</i>			
<i>Reduction in illegal fishing</i>			
<i>Increased/improved infrastructure</i>			
<i>Other</i>			
45. What value-addition activities does anyone in your household undertake as part of your livelihood? (Level 2) (Tick all that apply)			
<i>Sell in raw form</i>			

<i>Partial processing (processed as an input for another product)</i>	
<i>Fully processed (processed product is ready to be consumed)</i>	
<i>Don't sell</i>	
46. What credit facilities are available nearby for people in your village? (Tick all that apply)	
<i>None</i>	
<i>Don't know</i>	
<i>CBO/NGO</i>	
<i>UN/INGO</i>	
<i>Private bank</i>	
<i>Govt. Bank/scheme</i>	
<i>Private money lender</i>	
<i>Other</i>	
47. What impediments do people in this village usually have in accessing credit? (Tick all that apply)	
<i>NA</i>	
<i>None</i>	
<i>Don't know</i>	
<i>Lack of trust</i>	
<i>Discrimination (gender)</i>	
<i>Discrimination (language/ethnicity)</i>	
<i>Discrimination (Politics)</i>	
<i>Restricted to group membership</i>	
<i>High user fees/interest</i>	
<i>Lack of information</i>	
<i>Lack of collateral</i>	
<i>Concern about inability to repay</i>	
<i>Other</i>	
48. Does anyone in this family receive (Tick all that apply)	
<i>Samurdhi</i>	
<i>IDP/returnee relief</i>	
<i>Pin Padi/Pichaichhambalam</i>	
<i>None</i>	
<i>Other</i>	
05. EXPENDITURE	
49. How much does this household spend on average per month for the following?	
<i>Food</i>	

<i>Gas/electricity/firewood</i>	
<i>Education</i>	
<i>Transport(including fuel)</i>	
50. Does anyone in this household currently owe a private individual, bank or shop any money?	Yes (Q51) No
51. <i>If yes, what is it for? (Level 2) (Tick all that apply)</i>	
<i>Household expenses</i>	
<i>Livelihood related expenses</i>	
<i>Assets</i>	
<i>Construction or repair of house</i>	
<i>Other</i>	
06. LAND OWNERSHIP	
52. Do you or anyone in your household have legal rights to the land you live on?	
<i>Yes, deed</i>	(Q 53,54,)
<i>Yes, permit</i>	(Q 53,54,)
<i>Yes, lease/rent</i>	(Q 53,54)
<i>No</i>	(Q 55)
53. <i>If yes, do you currently possess the document /deed/permit? (Level 2)</i>	Yes No
54. <i>If 'Yes, deed' or 'Yes, permit', whose name is it in? (Level 2)</i>	
<i>Husband</i>	
<i>Wife</i>	
<i>Joint</i>	
<i>Parents</i>	
<i>Mother</i>	
<i>Father</i>	
<i>Children</i>	
<i>Eldest daughter</i>	
<i>Eldest son</i>	
<i>Other female child</i>	
<i>Other male child</i>	
<i>Other</i>	
55. <i>If no, what is your living arrangement? (Level 2)</i>	
<i>Squatting on government land</i>	
<i>Long term resident on government land awaiting document</i>	
<i>On private land with written/oral permission from the owner</i>	

<i>On private land without the permission of the owner</i>	
<i>In welfare camp/village</i>	
56. What is the type of house you currently live in?	
<i>Brick/cement block</i>	
<i>Wood</i>	
<i>Tin</i>	
<i>Mud and Cajun</i>	
<i>Combination permanent | semi-permanent</i>	
<i>Tarpaulin/tent</i>	
57. How long have you been living in this location? (Years)	
58. Does anyone in this family own agricultural land? (Do not include lease/kuthakai land)	Yes (Q59)
	No
59. If yes, what kind? (Level 2) (Tick all that apply)	
<i>Paddy land</i>	
<i>Other crop land (vegetables, tobacco coconut, highland crops)</i>	
<i>Chennai/Hena land (cut and burn forest lands)</i>	
<i>Home garden</i>	
07. ACCESS TO SERVICES & WATER AND SANITATION	
60. What is your main source of energy for lighting?	
<i>Electricity, CEB</i>	
<i>Electricity, solar</i>	
<i>Lamps (Kerosene, coconut oil)</i>	
<i>Other</i>	
61. What is your main source of energy for cooking?	
<i>Gas</i>	
<i>Firewood</i>	
<i>Kerosene</i>	
<i>Other</i>	
62. What is your main source of drinking water?	
<i>Pipe borne water</i>	
<i>Own protected well</i>	
<i>Own unprotected well</i>	
<i>Tube well</i>	
<i>Public/private protected well</i>	
<i>Public/ private unprotected well</i>	
<i>Bowser</i>	

<i>Tank</i>		
<i>Other</i>		
63. Is this source of drinking water available in sufficient quantities throughout the year?		
<i>Throughout the year</i>		
<i>For more than 6 months of the year</i>		
<i>Less than 6 months a year</i>		
<i>Only during the rainy season</i>		
<i>Never adequately available</i>		
64. Do you need to do any of the following to treat your water before drinking? (Tick all that apply)		
<i>Boiling</i>		
<i>Filtering</i>		
<i>Chlorination</i>		
<i>None (water good enough to drink straight from source)</i>		
<i>None, can't afford to treat</i>		
65. If you cultivate crops, is there sufficient irrigation water throughout the year?		
<i>Throughout the year</i>		
<i>For more than 6 months of the year</i>		
<i>Less than 6 months a year</i>		
<i>Only during the rainy season</i>		
<i>Never adequately available</i>		
<i>N/A</i>		
66. What toilet facilities do you have?		
<i>Private toilet</i>		
<i>Public toilet</i>		
<i>Communal toilet shared by a few neighbouring families</i>		
<i>Toilet on abandoned land</i>		
<i>No toilet</i>		
67. Access to services: Time taken in minutes/Primary mode of travel used	Time (one way)	Mode of Travel (Foot/Bicycle/Motorbike/Three-wheeler/Bus/Other/NA)
<i>Primary school</i>		
<i>Health services</i>		
<i>Market</i>		
<i>Drinking water supply</i>		
08. LOCAL GOVERNANCE		
Representation & Participation		

68. To what extent do you think CBOs including FO, FCS, RDS and WRDS represent the best interests of the village?		
<i>Always</i>		
<i>Often</i>		
<i>Sometimes</i>		
<i>Rarely</i>		
<i>Never</i>		
<i>I don't know</i>		
<i>I don't wish to answer</i>		
<i>CBOs recently formed or in process of formation</i>		
<i>N/A</i>		
69. To what extent do you think the GS represents the best interests of the village?		
<i>Always</i>		
<i>Often</i>		
<i>Sometimes</i>		
<i>Rarely</i>		
<i>Never</i>		
<i>I don't know</i>		
<i>I don't wish to answer</i>		
<i>N/A</i>		
70. To what extent do you think the Pradeshiya Sabha/ Municipal Council represents the best interest of the village?		
<i>Always</i>		
<i>Often</i>		
<i>Sometimes</i>		
<i>Rarely</i>		
<i>Never</i>		
<i>I don't know</i>		
<i>I don't wish to answer</i>		
<i>N/A</i>		
71. Do you participate in any community groups/organisations in your village?	Yes (Q 73,74)	No (Q72)
72. If no, why not? (Level 2)		
<i>Household responsibilities</i>		
<i>Wage-earning work</i>		
<i>Unavailability of childcare</i>		
<i>Lack of interest</i>		
<i>Safety concerns</i>		

<i>Nonexistent</i>	
<i>Cultural/religious taboos/norms</i>	
<i>Discrimination</i>	
<i>None exist that adequately represent my interests/needs</i>	
<i>CBOs recently formed or in process of formation</i>	
<i>Other</i>	
73. If yes, what does this group do? (tick up to two) (Level 2)	
<i>Providing food, clothing, medicine etc to others</i>	
<i>Savings/Micro credit/seetu</i>	
<i>Livelihood based group</i>	
<i>Health</i>	
<i>Education</i>	
<i>Religious</i>	
<i>Village development group</i>	
<i>Cooperatives</i>	
<i>Mothers/widows groups</i>	
<i>Women's advocacy</i>	
<i>Women's group (including savings and support)</i>	
<i>Funeral society</i>	
<i>Samurdhi</i>	
<i>Other</i>	
74. How often does the group meet? (Level 2) Select most active group)	
<i>More than once a month</i>	
<i>Once a month</i>	
<i>Once in 3 months</i>	
<i>Once in 6 months</i>	
<i>Once a year</i>	
<i>Rarely</i>	
<i>Never</i>	(Skip 75,76)
75. How many times in the last 12 months did the group mobilise to represent members' or village needs? (Level 3)	
<i>Zero</i>	
<i>Once</i>	
<i>2-3</i>	
<i>3<</i>	
76. How often does the group meet with or have linkages with similar groups in other villages? (Level 3)	
<i>More than once a month</i>	

<i>Once a month</i>	
<i>Once in 3 months</i>	
<i>Once in 6 months</i>	
<i>Once a year</i>	
<i>Rarely</i>	
<i>Never</i>	
Transparency & Accountability	
77. Are people from your village consulted regarding any development activities in your village?	
<i>Yes</i>	
<i>No</i>	
<i>Don't know</i>	
<i>There are no development activities</i>	
<i>Only community leaders are</i>	
78. What is the most frequently used method to inform the village of decisions taken by government officials?	
<i>It's never communicated</i>	(Skip Q79)
<i>Public meetings/hearings</i>	
<i>Posters</i>	
<i>Notices at GS office/Other public spaces</i>	
<i>Leaflets</i>	
<i>Personal visits</i>	
<i>Public announcement</i>	
<i>Through local CBOs</i>	
<i>Other</i>	
79. Are these information dissemination processes conducted in a language you can understand? (Level 2)	Yes No
80. If you were to seek assistance for a problem from a government official, would you be able to communicate in your own language?	
<i>Always</i>	
<i>Often</i>	
<i>Sometimes</i>	
<i>Rarely</i>	
<i>Never</i>	
Effectiveness & Service Delivery	
81. Service/Satisfaction level	Satisfied / Neither satisfied nor unsatisfied / Unsatisfied / Don't know/NA
<i>Water availability (only pipe and bowser services)</i>	

<i>Road and infrastructure construction and maintenance</i>	
<i>Documentation</i>	
82. In general are you satisfied with the following –	Satisfied / Neither satisfied nor unsatisfied / Unsatisfied / Don't know
<i>Agrarian/Fisheries services</i>	
<i>Veterinary services</i>	
<i>PH services</i>	
83. If you had a legal problem, are you aware of a place where you can get free legal support/lawyer?	Yes No
09. GENDER	
Economic empowerment	
84. Are women and men paid the same wage per day for working (for eg. in agriculture) for the same number of hours?	
<i>Yes</i>	
<i>No</i>	
<i>Don't know</i>	
<i>Women here don't work outside the household</i>	
85. How many hours of unpaid household work do you engage in on average during the course of a day?	
86. Do you feel women have equal or more employment opportunities in this village?	
<i>Yes</i>	
<i>No</i>	(Q 87)
<i>Don't know</i>	
<i>Women here don't work outside the household</i>	
<i>Both don't have opportunity</i>	
87. If no, what do you feel are the main obstacles that prevent women from seeking and gaining employment? (Tick 2) (Level 2)	
<i>Inadequate skills</i>	
<i>Household responsibilities</i>	
<i>Unavailability of childcare</i>	
<i>Lack of interest</i>	
<i>Safety concerns</i>	
<i>Cultural/religious taboos/norms</i>	
<i>Discrimination of women</i>	
<i>Access to credit</i>	
<i>No suitable jobs for women</i>	
<i>No jobs at all</i>	
<i>Other</i>	
Gender-based violence	

88. How many incidents of domestic violence are you aware of in your village?	
None	(Q91)
One	(Q89,90)
Few	(Q89,90)
Many	(Q89,90)
I don't know	(Q91)
I don't wish to answer	(Q91)
89. If at least one, what action do you think people in this village should take to solve the issue? (Level 2)	
None, no need	
None, no point	
Tell the police	
Tell a religious leader	
Tell the GS	
Tell other community leaders	
Encourage family to intervene	
Neighbours should intervene	
Don't know	
Other	
90. If yes, in most cases what is the cause for this issue? (Level 2)	
Alcohol/drugs	
Poverty	
Women don't listen to their husbands	
Adultery	
Property disputes	
Access and control over resources	
Dowry	
Lack of awareness	
Men are entitled to beat their wives	
Close living quarters	
Other	
Collective empowerment	
91. Do you feel women have equal opportunity to hold positions of leadership in your village?	
Yes	
No	(Q92)
Don't know	
NA	

92. If no, why not? (Level 2) (Tick 2)		
They have inadequate skills		
They are bad leaders		
The community does not select them		
They are not interested		
Our culture/religion forbids it		
They are not able to participate in public affairs		
Too many household responsibilities/children		
Other		
93. If you are faced with a problem do you complain to the police/ local government official?	Yes	No (Q 94,95)
94. If no, why not? [women] (Level 2) (Tick 2)		
It may result in more problems for me and my family		
Government officials do not listen to women		
They will expect 'improper' favours in return		
It is the role of the man, not woman		
They don't feel comfortable		
Most government officials are men		
The local government official would not have the time or interest		
I would be asked for a bribe		
Do not know who to ask		
No point		
Other		
95. If no, why not? [Men] (Level 2) (Tick 2)		
It may result in more problems for me and my family		
The official will not understand my problem		
The local government official would not have the time or interest		
I would be asked for a bribe		
No point		
Do not know who to ask		
Other		
10. SOCIAL COHESION		
Collective community action		
96. If your village had a water scarcity problem for a month what do you think people in this village would do to address it?		
Solve it ourselves		

<i>Ask GN/DS for help</i>	
<i>Ask PS for help</i>	
<i>Ask ministers for help</i>	
<i>Ask religious leaders</i>	
<i>Tell community leaders</i>	
<i>Ask the military</i>	
<i>Ask paramilitary</i>	
<i>Ask UN/INGOs for help</i>	
<i>Ask NGOs/CBOs</i>	
97. During the last 6 months, how many times did people from this village participate in activities such as,	
<i>UN/INGO meeting</i>	
<i>CSO meeting/event</i>	
<i>Sporting events</i>	
<i>Religious observances/ceremonies</i>	
98. What opportunities do you have to meet and interact with people from other groups/ (Tick all that apply)	
<i>None</i>	
<i>Public places including markets and hospitals</i>	
<i>Festivals</i>	
<i>Religious observances/ceremonies</i>	
<i>Funerals/weddings</i>	
<i>Government meetings</i>	
<i>CBO meetings</i>	
<i>NGO/UN meetings</i>	
<i>Sporting events</i>	
<i>School related</i>	
<i>Security forces</i>	
<i>Local tourists</i>	
<i>Meeting through livelihood activities</i>	
<i>Other</i>	
Level of trust and solidarity	
99. If you suddenly need Rs.1000, how many people beyond your family would be willing to assist you?	
<i>0-no one has money to give</i>	
<i>0-no one willing to give</i>	
<i>1-2</i>	
<i>3-4</i>	
<i>5 and above</i>	

Safety/security		
100. In general, do you feel safe to move around/travel?	Yes	No
101. Do you feel safe at night?	Yes	No
Conflict and dispute resolution		
102. What are the most frequent sources of problems/tensions in your village? (Tick 2)		
<i>No issue</i>	(Skip to Q105)	
<i>Don't know</i>	(Skip to Q105)	
<i>Land</i>		
<i>Property</i>		
<i>Disputes over relief distribution</i>		
<i>Host-IDP</i>		
<i>Security</i>		
<i>Public resources</i>		
<i>Ethnicity/religion</i>		
<i>Caste</i>		
<i>Other</i>		
103. Have any of these problems resulted in violence? (Level 2)		
<i>Yes</i>	(Q104)	
<i>No</i>		
<i>Don't know</i>		
<i>NA</i>		
104. If yes, when was the last such incident? (Level 3)		
<i>Within the last year</i>		
<i>In the last 2-5 years</i>		
<i>Over 5 years ago</i>		
105. If there fence/boundary/space a problem between two families, what would they do/who would they seek assistance from?		
<i>Do nothing</i>		
<i>Solve it themselves</i>		
<i>Relatives</i>		
<i>Friends/neighbours</i>		
<i>GN</i>		
<i>Police</i>		
<i>Military</i>		
<i>Paramilitary</i>		
<i>Mediation board</i>		
<i>Religious leader/committee</i>		

<i>Community leader</i>		
<i>Minister</i>		
<i>Other</i>		
Demographics and socio-economic class		
106. Are you registered as an IDP (Long-term IDPs)	Yes	No
107. Have you ever been displaced?	Yes	No
108. <i>If yes, how many times? (Level 2)</i>		
<i>1-2</i>		
<i>3-4</i>		
<i>>5</i>		
109. <i>If yes, when did you last return/relocate? (Level 2)</i>		
<i>Over the last year</i>		
<i>Last 2-5 years</i>		
<i>Over 5 years ago</i>		
110. <i>If yes, is this your place of origin? (Level 2)</i>		
<i>Place of origin</i>		
<i>Place of relocation</i>		
11. ASSET OWNERSHIP		
111. Asset ownership (Tick all that apply)		
<i>Livestock</i>		
<i>Livestock-related tools and equipment (including nets/tools)</i>		
<i>Non-motorised vehicle (including boat, bullock cart)</i>		
<i>Motorised vehicle (including boat and auto rickshaw)</i>		
<i>TV/Radio</i>		
<i>Phone (including mobile phone)</i>		
<i>Savings/</i>		
<i>Sewing machine</i>		
<i>Computer</i>		
<i>House</i>		
112. What is your ethnic group?		
<i>Sinhala</i>		
<i>Tamil</i>		
<i>Muslim</i>		
<i>Burgher</i>		
<i>Mixed</i>		
<i>Other</i>		

113. What is your religion?	
<i>Buddhist</i>	
<i>Hindu</i>	
<i>Catholic</i>	
<i>Christian (including all new church denominations)</i>	
<i>Islam</i>	
<i>Mixed</i>	
<i>Other</i>	
114. Is the interviewee male or female?	
<i>Male</i>	
<i>Female</i>	
115. Survey finish time	
116. PDA Operator	

Access to Justice Questionnaire (Vietnam)

QUESTIONNAIRE ON ACCESS TO JUSTICE IN VIETNAM IN 2010

A. INTRODUCTION

Access to Justice is a vital part of UNDP's mandate to reduce poverty, promote human development and strengthen democratic governance. That is completely in line with Vietnamese Communist Party and State's goal of building up "a strong nation with rich people and a fair, democratic and civilized society". To realize those comprehensive targets, in addition to maintaining economic growth which Vietnam has well achieved so far, the rule of law and better opportunities for access to justice by the people should also be created and strengthened.

On 27 Nov., 2009, UNDP and Ministry of Justice launched a new Project on strengthening Access to Justice and Protection of People's Rights aiming at assistance for the constitutional reform activities by Vietnamese Government of the next five years up to 2014.

Within this framework, this survey has been initiated by UNDP (Hanoi) and welcomed by the relevant authorities with a specific focus. That is to gather information on what the people of Vietnam in their daily life think about relevant issues regarding Access to Justice. Based on the outcome of this survey, an expert analysis report will be presented to and could be used then as an important reference for Vietnamese Government in its future policy making process.

Your time and efforts spent for answering the following questions will be highly appreciated. We ensure that your personal information, if given, shall be kept confidential and only be disclosed subject to your consent.

B. INTERVIEW

I. ACCESS TO LEGAL INFORMATION

1. Have you ever participated in law making process and your assessment?
 - a. No - Go to Q.2
 - b. Yes.

1.1 Form of participation	Type of Document		1.2 Do you think that given the chance you would participate in the future?		
	Central regulations	Local regulations			
1.1.1 Meeting held by Civic Unit/Village			Yes	No	Don't Know
1.1.2 Seminar organized by Government authority					
1.1.3 Seminar organized by other organizations					
1.1.4 Public poll					
1.1.5 Expressing your opinion to the Government					
1.1.6 Other (Specify)					

II. ASSESSMENT OF EDUCATIONAL, CULTURAL AND PSYCHOLOGICAL ASPECTS

9. If you were involved in dispute with your neighbors or someone else in your locality where negotiations failed, to what degree would you adopt the following courses of action?

Solutions	Possibility of use					
	Definitely	Probably	Not Quite Sure	Probably not	Never	Don't Know
9.1 Do not take any formal action but view it as a learning experience.						
9.2 Ask a third person who is respected in the village (e.g. the oldest man) to mediate?						
9.3 Ask the Head of the Village or Reconciliation Group for help						
9.4 Ask the People's Committee of the Commune or Commune's Police for help						
9.5 Ask for help from an association (e.g. Women Association, Veterans Association)						
9.6 Bring it to the Court				Go to Q.10	Go to Q.10	
9.7 Other (Specify) _____						

10. You would not bring the dispute to the Court because (rank your priority 1,2,3..):

- (a) No awareness of the Court and Court's procedures
- (b) Too costly
- (c) Too time consuming
- (d) No trust to have a fair judgment
- (e) Other reasons (pls. specify): _____

	Yes	Not quite sure	No
11. If you feel your case was wrongly decided by the court of first instance would you appeal?			Go to Q.13
12. If you lose again at the court of second instance will you further appeal your case?			Go to Q.14

13. You would not appeal at the higher Court against such a judgment because (rank your priority 1,2,3..):

- (a) No awareness of the Appeal Court and appeal procedures
- (b) Too costly
- (c) Too time consuming
- (d) No trust to have a fair judgment
- (e) Other reasons (pls. specify): _____

14. You would not further appeal the second judgment because (rank your priority 1,2,3...):

- (a) No awareness of the appeal procedures
- (b) Too costly
- (c) Too time consuming
- (d) No trust to have a fair judgment
- (e) Other reasons (pls. specify): _____

15. Which of the three statements best describes the relationship between the people and Government Officials in the current situation?

- (a) Government officials are there to serve the needs of the people.
- (b) Government Officials are supervisors over the people

16. In a case where a Government official or Government Agency has infringed your legitimate rights are you likely to complain or sue him \ it in a Court?	Extremely likely	More likely than Not	Not Quite Sure Go to Q.18	Less than likely Go to Q.18	No Go to Q.18	Don't Know
17. In such a case, how likely is it that you will win the case?	Extremely likely	More likely than Not	Not Quite Sure	Less than likely	Unlikely	Don't Know

18. You would not complain or sue that Government official because (rank your priority 1,2,3...):

- (a) No awareness of the Complaining Procedures
- (b) Too costly
- (c) Too time consuming
- (d) No trust to have a fair judgment
- (e) Other reasons (pls. specify): _____

	Extremely likely	More likely than Not	Not Quite Sure	Less than likely	Unlikely	Don't Know
19. Assuming you have witnessed a criminal act, are you likely to notify the competent authorities?			Go to Q.21	Go to Q.21	Go to Q.21	
20. How likely are you to notify the authorities about an incident of domestic violence within your family?			Go to Q.22	Go to Q.22	Go to Q.22	

21. You would not likely to notify the competent authorities about such a criminal act because (rank you priority 1,2,3...)

- (a) That act does not relate to yourself
- (b) You are afraid of having no protection in case of revanch
- (c) You don't have trust in an adequate actions from the authorities
- (d) Other reasons (pls. specify): _____

22. You would not notify the competent authorities about such a domestic violence because (rank you priority 1,2,3...):

- (a) You are afraid of damaging the family relationship
- (b) You are afraid of damaging your own or your family's reputation
- (c) You don't have trust in an adequate actions from the authorities
- (c) Other reasons (pls. specify): _____

23. How important are the following factors in your decision making about whether or not to commence proceedings before the Court or Government authority:

	Very important	Fairly important	Little Importance	Not important	Don't Know
23.1 Time expenditure					
23.2 Cost expenditure					
23.3 Possibility of winning					
23.4 You may lose face because of public rumors					
23.5 You may suffer repercussions from the other side?					
23.6 Others (Specify) _____					

24. How important do you think the following factors are to winning in court or to having your claim justly settled by State authorities:

	Very important	Fairly important	Average	Little important	Not important	Don't Know
24.1 Having honest and fair judges or state officials						
24.2 The case has clear legal or regulatory authority supporting it						
24.3 Having a good lawyer						
24.4 Having good contacts or close relations with Government Officials						
24.5 Strong pressure from the public or mass media						
24.6 Support from social or professional association where you are a member						
24.7 Having the ability to incur high costs of litigation						
24.8 Others (Specify) _____						

III. ACCESS TO LEGAL PROTECTION INSTITUTIONS

III (1) Court

25. Have you had your own case settled by the Court?

- No – Go to No.28
- Yes

26. What kind of case?

- Criminal
- Civil
- Economic
- Labor
- Administrative

27. To what degree do you think your requests have been met?

- High Degree
- Relatively High Degree
- Average
- Relatively Low Degree
- Low Degree

28. Rate your level of familiarity with the Court?	High (Knowing organization, function, competence and procedures)	Relatively High (Knowing organization, function and competence)	Medium (Knowing organization, function)	Relatively low (Knowing function)	None (Knowing name only)	
29. What level of attention do you feel the Court pays to people's requests about a case?	High	Relatively High	Medium	Relatively low	None	Don't Know
30. How would you rate the distance from your home to the District Court?	Very Close	Close	Reasonable	Far	Too Far	Don't Know
31. How would you rate the means of transportation available to you to get to the Courts?	Excellent	Good	Adequate	Not so Good	Bad	Don't Know
32. How reasonable do you think the time for a Court proceeding is?	Very Reasonable	Reasonable	Not Quite Sure	Not Reasonable		Don't Know
33. How costly do you feel it is to pursue a lawsuit?	Very Costly	Costly	Reasonable	Not Costly		Don't Know
34. In addition to the official Court fees, in your opinion, how necessary is it to make other expenses to rapidly settle the case?	Very Necessary	Necessary	Average	Not so Necessary	Not Necessary	Don't Know
	Always	Regularly	Sometimes	Never		Don't Know
35. In your opinion how often are the judgments given just and fair?						
36. In your opinion how often is the Court compliant with the procedures stipulated by the law?						
37. In your opinion how often are the judges impartial and independent in making judgments?						

38. In your opinion how well do judges understand the case and apply laws and regulations accurately in settling the case?	Very Well	Well	Acceptably	Not so well	Not well	Don't Know
39. How well respected do you feel the judgments of the Court are?	Highly respected	Respected	Not Quite Sure	Little Respected	Not Respected	Don't Know

40. In your opinion whether the following people face with disadvantages or discrimination when accessing the Court?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

41. How has your perception about the Court been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any) : _____
 Positively changed

III (2) Procuracy

42. Have you ever been involved in a case where you have had contact with the Procuracy in its official capacity?

- Yes
 No

43. Rate your level of familiarity with the Procuracy?	High (Knowing organization, function, competence and procedures)	Relatively High (Knowing organization, function and competence)	Medium (Knowing organization and function)	Relatively Low (Knowing function)	None (Knowing name only)	
44. How would you rate the level of attention that the Procuracy pays to people's requests about a case?	High	Relatively High	Medium	Relatively Low	None	Don't Know
45. Do you believe that they are just and fair in dealing with cases?	Strongly Believe	Believe	Believe a little	Not Quite Sure	Don't believe	Don't Know
46. Do you think that the participation of the Procuracy in civil, economic, labor and administrative hearing is useful?	Very Useful	Useful	Fairly Useful	Not Useful	Don't Know	

47. In your opinion whether the following people face with disadvantages or discrimination when accessing the Procuracy?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

48. How has your perception about the Procuracy been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

50. Rate your level of familiarity with the police?	High (Knowing organization, function, competence and procedures)	Relatively High (Knowing organization, function and competence)	Medium (Knowing organization and function)	Relatively Low (Knowing function)	None (Knowing name only)	
51. How would you rate the level of attention that the police pay to the requests of the people?	Very High	High	Medium	Relatively Low	None	Don't Know
52. To what degree do you think they carry out their functions and duties in accordance with their mandate?	High	Relatively High	Average	Relatively Low	Low	Don't Know
53. To what degree do you think that the police carry out procedures in compliance with the law?	High	Relatively High	Average	Relatively Low	Low	Don't Know
54. To what degree do you think that the Police at the grass roots level play a role in protecting people's interests?	Very important	Important	Average	Less important	Not important	Don't Know

III (3). Police

49. Have you ever been involved in a case where you have had contact with the Police in their official capacity?

- Yes
 No

55. In your opinion whether the following people face with disadvantages or discrimination when accessing the Procuracy?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

56. How has your perception about the Procuracy been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any) : _____
 Positively changed

III (4). Judgment sEnforcement Bodies

57. Have you had your own case or judgment enforced by a judgment enforcement body?

- Yes
 No

58. Rate your level of familiarity with the judgment enforcement Bodies?	High (Knowing organization, function, competence and procedures)	Relatively High (Knowing organization, function and competence)	Medium (Knowing organization and function)	Relatively Low (Knowing function)	None (Knowing name only)	
59. How often are the judgments strictly enforced by these bodies?	Always	Regularly	Sometimes	Never		Don't Know

60. In your opinion whether the following people face with disadvantages or discrimination when accessing the judgment enforcement body?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

61. How has your perception about the judgment enforcement body been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

III (5) People's Committee

62. Have you ever requested that the People's Committee settle your case?

- Yes
 No

63. Rate your level of familiarity with the People's Committee?	High (Knowing address, function, competence of PC of Commune, District and Province)	Relatively High (Knowing address, function and competence of PC of Commune and District)	Medium (Knowing address, function and competence of PC of Commune)	Relatively Low (Knowing address and function of PC of Commune)	None (Knowing address of PC of Commune only)	
64. How would you rate the level of attention that they pay to the requests of the people?	High	Relatively High	Medium	Relatively Low	None	Don't Know
65. To what degree do they protect the rights and interests of the people?	High	Relatively High	Average	Relatively Low	Low	Don't Know

66. In your opinion whether the following people face with disadvantages or discrimination when accessing the people's committee?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

67. How has your perception about the people's committee been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

III (6) State Inspector

68. Have you ever been involved in a case where you have had contact with a State Inspector in his \ her official capacity.

- Yes
 No

69. Rate your level of familiarity with the State Inspector?	High (Knowing organization, function and competence)	Relatively High (Knowing organization, function)	Medium (Knowing organization)	Relatively Low (Knowing name only)	None (no idea)	
70. How do you rate the role of the State Inspectors in protecting people's rights?	Very Important	Important	Not Quite Sure	Little Importance	Not Important	Don't Know
71. In your opinion, is State Inspector's decision well respected and enforced?	Strongly Respected	Respected	Medium	Little Respected	Not respected	Don't Know

72. In your opinion whether the following people face with disadvantages or discrimination when accessing the people's committee?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

73. How has your perception about the people's committee been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

III (7) *Informal alternative institution*

74. Have you ever had a dispute brought before the Grass Roots Reconciliation Group for settlement?

- Yes
 No

75. Rate your level of familiarity with the Grass root reconciliation Group	High (Knowing organization, function and name of head of conciliator team)	Relatively High (Knowing function and name of head of conciliator team)	Medium (Knowing function and one conciliator)	Relatively Low (Knowing name of one conciliator only)	None (no idea)	
---	--	---	---	---	----------------	--

76. How would you rate the level of attention given to people's requests about a dispute?	High	Relatively High	Medium	Relatively Low	None	Don't Know
77. How efficient and effective do you think they are in dealing with a dispute?	Very Efficient and Effective	Efficient and Effective	Not Quite Sure	Not so efficient and effective	Not Efficient and Effective	Don't Know
78. How important do you feel they are in settling people's disputes?	Very Important	Important	Average	Not so Important	Not Important	Don't Know

79. In your opinion whether the following people face with disadvantages or discrimination when accessing the Grass Roots Reconciliation Group?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

80. How has your perception about the Grass Roots Reconciliation Group been changed during the past 5 years?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

81. Rate your level of familiarity with the following institutions?	High (Knowing organization, function, competence and name of one leader)	Relatively High (Knowing organization, function and competence)	Medium (Knowing organization and function)	Relatively Low (Knowing organization)	None (Knowing name)
81.1 Party Unit					
81.2 Vietnam Father Front					
81.3 Woman Union					
81.4 Veteran Association					
81.5 Youth Union					
81.6 Farmer Association					
81.7 Others (Specify)					

82. How important do you feel the following institutions are in settling people's disputes?	Very Important	Important	Average	Not so Important	Not Important	Don't Know
---	----------------	-----------	---------	------------------	---------------	------------

82.1 Head of Village , the old						
82.2 Party Unit						
82.3 Vietnam Father Front						
82.4 Woman Union						
82.5 Veteran Association						
82.6 Youth Union						
82.7 Farmer Association						
82.8 Others (Specify)						

83. Have you ever used any of the following associations to settle a dispute in the past ?	Yes	No
83.1 Head of Village , the old		
83.2 Party Unit		
83.3 Vietnam Father Front		
83.4 Woman Union		
83.5 Veteran Association		
83.6 Youth Union		
83.7 Farmer Association		
83.8 Others (Specify)		

III (8). Other questions

84. Do you think people of the following groups are provided with adequate support in accessing the legal system?	Always	Regularly	Sometimes	Never	Don't Know
The Poor					
Ethnic Minorities					
Women					
People living with HIV/AIDS					
Handicapped, lack of literacy					

85. How disadvantaged are the following groups of people in seeking dispute resolution mechanisms?	Very disadvantaged	Disadvantaged	Little disadvantaged	Not disadvantaged	Don't Know
The Poor					
Ethnic Minorities					
Women					
People living with HIV/AIDS					
Handicapped, lack of literacy					

IV. ASSESSMENT OF SUPPORTING INSTITUTIONS

a. Lawyer

86. Have you ever used a lawyer's services?

- Yes
- No

87. Rate your level of familiarity with the services that lawyers provide?	High (Knowing organization, function, and name of two well-known lawyer)	Relatively High (Knowing organization, function and name of one well-known lawyer)	Medium (Knowing function and name of one lawyer)	Relatively Low (Knowing function)	None (Knowing name)	
88. How would you rate the cost of lawyers' services?	Very Costly	Costly	Fair	Not Costly		Don't Know
89. What role do you think that lawyers play in dispute settlement?	Very Important	Fairly important	Average Important	Not so important	Not important	Don't Know
90. Do you think that the legal institutions encourage the use of lawyers?	Strongly Encourage	Encourage	Not Quite Sure	Sometimes Encourage	Discourage	Don't Know
91. In your opinion what level of consideration is given by the Courts to the arguments of lawyers?	High	Relatively High	Medium	Relatively Low	None	Don't Know

92. In your opinion whether the following people face with disadvantages or discrimination when accessing lawyers ?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

93. How has your perception about the lawyers been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

b. Legal Aid

94. Have you ever accessed a legal aid center?

- Yes
 No

95. Rate your level of familiarity with any local Legal Aid Center?	High (Knowing organization, address, function, procedures)	Relatively High (Knowing organization, function, address)	Medium (Knowing organization, function)	Relatively Low (knowing function)	None (knowing name only)	No answer
96. To what degree						

are the locations of and number of legal aid centers in your locality adequate for serving people's needs?						
97. To what degree are people aided by the legal aid centers in ensuring they have correctly filed their application and they have all the necessary documents?						
98. To what degree do you think the centers have the capacity (training, staff, resources) to deal with people's problems?						
99. Do you think that the staff at the centers are helpful in assisting people with their concerns?	Very Helpful	Helpful	Neither Helpful nor Unhelpful	Not so Helpful	Not Helpful	Don't Know

100. In your opinion whether the following people face with disadvantages or discrimination when accessing legal aid centers?

	disadvantaged	not disadvantaged	don't know
Women			
The Poor			
Ethnic Minorities			
People living with HIV/AIDS			
Handicapped, lack of literacy			

101. How is your perception about the legal aid centers been changed during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

c. Mass media

102. How would you evaluate the role of the mass media in protecting people's interests?	Very Important	Important	Average	Not so Important	Not Important	Don't Know
103. To what degree do you think the media has the ability to influence legal decisions and judgments in deciding specific cases?	High	Relatively High	Medium	Relatively Low	None	Don't Know

104. How is your perception about the role of mass media in protecting people's rights during the past 5 years

- No change
 Negatively changed. Why (if any): _____
 Positively changed

d. Social and Mass Association

105. How would you evaluate the role of the mass associations and organizations in protecting people's interests?	Very Important	Important	Average	Not so Important	Not Important	Don't Know
106. To what degree do you think these organizations and associations have the ability to influence legal decisions and judgments in deciding specific cases?	Very influential	Somewhat influential	Average Influence	Weak Influence	Not influential	Don't Know

107. Are you a member of any association?

- Yes
 No

108. How is your perception about the role of mass media in protecting people's rights during the past 5 years ?

- No change
 Negatively changed. Why (if any): _____
 Positively changed

V. ASSESSMENT ON THE PROSPECT OF LEGAL REFORMS

109. Rate your level of familiarity with the legal reforms being implemented by the government?	High (Read Party's resolutions and Government's programs on legal reforms and donor sponsored projects)	Relatively High (Knowing some major contents of Party's resolution and Government's programs on legal reform)	Medium (Heard about such legal reform programs, knowing some general issues)	Relatively Low (Heard about legal reform programs)	None (no idea)
---	--	--	---	---	-------------------

110. How important are the legal reforms in your daily life?	Very Important	Important	Average	Not so Important	Not important	Don't Know
--	----------------	-----------	---------	------------------	---------------	------------

	Improved Substantially	Improved	Slightly improved	The same	Worse	Don't Know
111. How would you rate the results of the reforms to date within each of the following areas?						
111.1 Making law						
111.2 Legal education and information						

111.3 Administrative reform						
111.4 Judicial reform						
111.5 Judgment enforcement and implementation of decision of State authority						

112. Would you welcome and be ready to participate in a similar survey in the future (say 3 or 5 years later) ?

- Yes
 Not sure
 No. Why (if any _____)

C. INFORMATION ON RESPONDENT

C1. Full name (*if possible*): _____ Tel: (*if possible*): _____

C2. Location of interview (specify commune and district): _____

- | | | |
|---|------------------------------------|-----------------------------------|
| Urban | Rural | Mountainous |
| <input type="checkbox"/> Ha Noi | <input type="checkbox"/> Thai Binh | <input type="checkbox"/> Hoa Binh |
| <input type="checkbox"/> Ho Chi Minh City | <input type="checkbox"/> Can Tho | <input type="checkbox"/> Dak Lak |

C3. Sex: Male Female

C4. Ethnic group:

C5. Handicapped, lack of literacy

C6. Living with HIV/Aid

C7. Age:

- from 18 up to 25 from 25 up to 60 above 60

C8. Occupation

- Civil servant Businessman Farmer Worker
 Professional jobs (including lawyers, journalist, consultants, doctors, artists, architects)
 Others (no permanent job, street traders, “xe om” drivers...)

C9. By income:

- | Urban area | Rural area |
|--|---|
| <input type="checkbox"/> up to 390,000 VND/month | <input type="checkbox"/> up to 300,000 VND/month |
| <input type="checkbox"/> above 390,000 VND/month to 2,000,000 VND/month | <input type="checkbox"/> above 300,000 VND /month to 1,000,000 VND/month |
| <input type="checkbox"/> above 2,000,000 VND/month to 10,000,000 VND/month | <input type="checkbox"/> above 1,000,000 VND/month to 5,000,000 VND/month |

above 10,000,000 VND/month

above 5,000,000 VND/month

C10. By education:

Primary education (1 – 5 Class)

Secondary education ((6-9 Class)

High-school education (10-12 Class)

College, university and post-graduate education

D. FOR INTERVIEWER

D1. Date of interview: _____

D2. Name of interviewer: _____

D3. Name of participants in interview: _____

D3. Name of Supervisor: _____

D4. Supervisor's certification: (satisfactory unsatisfactory)

Provincial Justice Index Questionnaire (Vietnam)

8	8	8	8
---	---	---	---

Serial number of the
questionnaire
(To be filled in by PJI
Team)

9	9	9	9	9	9	9	
Province/ City		District	Commune	Village	Interviewee's ID as per assigned numeric order in the list of interviewees		
(To be filled in by PJI Team)					(To be filled in by the field supervisor)		

Interviewee's code

Interview location [ALL FIELDS REQUIRED] :	
Province:	District:
Commune:	
Village:	
Interview date:	/..... /2010
Interview length:	minutes
Time spent checking questionnaire:	minutes
Interviewer Name & Code:	Interviewer Signature:
Inspector Signature:	Inspection date:
	/..... /2010
Data Entry Person signature:	Data entry date:
	/..... /2010

Questionnaire

Provincial Justice Index

United Nations Development Programme Vietnam (UNDP Vietnam)

2010

Introduction

Hi, my name is _____. I work for ABC. We are conducting a study to understand the quality of public administration and the justice system in your locality and we appreciate your views in order to help make further improvement to public administration and the justice system. We will not note down your name on this questionnaire. We are very thankful for your cooperation. Do not feel obligated to answer any question that you are not comfortable with and do not hesitate to ask me for a clarification if you think that a question is a bit difficult or unclear. Cam on! Now, let's get started.

[Note to the Interviewer:

- 1. Don't read aloud options "Don't Know" or DK and "Reluctant to Answer" or RA. Mark either option based on the actual response from the interviewees that he/she doesn't know the answer, or the hesistance to respond from face reading.*
- 2. Expressions/statements in bold and italic within the punctuation [...] are those for interviewers only. It means that you will perform those requests by yourself.*
- 3. Expressions/statements in bold but not in italic are those that interviewers have to read aloud to lead or to transit the interview.]*

A. First, let me ask some initial questions about yourself and your family...

A001. [Interviewer to mark gender of respondent]:

1. Male 2. Female

A002. How old are you?..... **888. [DK]** **999. [RA]**

A002a. What sign are you?..... **88. [DK]**

[Interviewer's age estimate:.....]

A003. How long have you lived in this commune/ward?..... year **88. [DK]**

A004. How long have you lived in this province?..... year **88. [DK]**

A005. What is your ethnicity?

1. Kinh 7. Other (please specify):
 8. [DK] **9. [RA]**

A006. What is your highest level of education?

- | | |
|--|---|
| 01. <input type="checkbox"/> No formal education | 03. <input type="checkbox"/> Complete primary |
| 02. <input type="checkbox"/> Incomplete primary | 05. <input type="checkbox"/> Complete secondary |
| 04. <input type="checkbox"/> Incomplete secondary | 07. <input type="checkbox"/> Complete high school |
| 06. <input type="checkbox"/> Incomplete high school | 09. <input type="checkbox"/> University(completed) <input type="checkbox"/> |
| 08. <input type="checkbox"/> Some university education | 88. [DK] 99. [RA] |
| 10. <input type="checkbox"/> Post-graduate degree | |

A007. How many family members live in your house (including you)?

COUNT: _____ (Total number of family members, not counting employees)

88. [DK] 99. [RA]

A008. What is your occupation? _____

[Interviewer: WRITE ANSWER and USE TABLE BELOW]

88. [DK] 99. [RA]

A009. In which sector is your current primary occupation [was your last job if retired]?

01 Agriculture

021 Industrial economic sector (Private)

022 Industrial economic sector (State)

023 Industrial economic sector (Foreign investment sector)

031 Service/Business (Private)

032 Service/Business (State)

033 Service/Business (Foreign Investment sector)

04 Governmental sector

41 Military or police

07 Other (Specify): _____ 88 [DK] 99 [RA]

A013. What is your source of information about national affairs and government? [ALLOW MULTIPLE RESPONSE]

01. Television

02. Newspapers / Magazines

03. Radio

04. Internet

05. Cell phone short message

06. Personal contact (including friends)

07. Other (Please specify): _____

00. I do not seek any information

88. [DK] 99. [RA]

A013x. In the past year, which of the following sources have you used in order to obtain legal information? (*Multiple answers allowed*)

A013x.	
1. TV programs (such as “Toa Tuyen An”)	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
2. Village information speakers	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
3. Local library	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
4. Legal bookshelves of your communal committee office	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
5. Newspapers (such as “Nhan Dan”)	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
6. Legal dissemination meetings	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
7. Communist party meetings	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
8. Association’s meetings (Please specify : _____):	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
9. Lawyers	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
10. Internet websites (such as “luatvietnam.vn” or “chinhphu.vn”)	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
11. Village meetings/group meetings	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
12. Radio shows (such as “Laws and Life”)	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
13. Personal contacts (including friends)	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
14. Other (Please specify):	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK

A014x. Do you know any name of the following titles in your province or district?

1 <input type="checkbox"/> Name of a judge	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
2 <input type="checkbox"/> Name of a prosecutor	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
3 <input type="checkbox"/> Name of a policeman	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
4 <input type="checkbox"/> Name of a mediator	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
5 <input type="checkbox"/> Name of a lawyer	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
6 <input type="checkbox"/> Name of the legal aid worker	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
7 <input type="checkbox"/> Name of a People's Inspector	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]
8 <input type="checkbox"/> Name of a local people's committee member	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 0. No	<input type="checkbox"/> 8. [DK]

A016. Are you a member of the Party, mass organizations, professional associations, cultural or social groups (for example, dance club, opera, sports team)? IF YES: Please tell me about organizations or in which you play an active role. If NO, please simply say you do not belong to any of the organizations. *[Interviewer: if necessary, please show Showcard # A016 at Page 11 in the Interviewers' Manual to support the respondent]*

- 1
- 2:
- 3:
- 4
- 5:

[Relevant codes in the following table will be inserted back office, after the interview]

[Coding table]

The Party.....	01
Residential & community association.....	02
Religious group.....	03
Sports/recreational club.....	04
Culture organization.....	05
Charities.....	06
Public interest group (exc.)	07
Labor union	08
Farmer union or agricultural association	09
Professional organization	10
Business association.....	11
Parent-Teacher Association	12
Producer cooperative	13
Consumer cooperative	14
Alumni association	15
Volunteer organizations	18
Women's Union	19
Youth Union	20
Tontine group / microcredit.....	21
Not a member of any organization or group	-99

Section “B”

Let me tell you about a recent event that was reported in the newspaper.

Show card (including picture)

A large copper refining company in Lao Cai province has been dumping 16.5 tonnes of untreated industrial waste every month. The plant lacks a waste treatment facility, and in the past 6 months, there have been two incidents where toxic acid and fumes escaped from the copper facility. Local residents are quite concerned about the quality of the air and the water in the vicinity of the factory.



B1. Suppose that a similar situation to the Lao Cai copper plant developed in your neighborhood and that your family suffered from the negative health and economic impact of the waste. Here is a list of groups and organizations that some people in environmental dispute have relied upon in similar instances. Try to think about what you would do if you were confronting this situation here. [**SHOW CARD**] Please tell me which person or organization you would rely on.

Actions that other people may engage in: (multiple choice allowed)

B1. Would you...		
a. Seek help from Environmental and Natural Resources Division under the District people’s committee	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
b. Seek help from the Environmental Protection Department under the Provincial people’s committee	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
c. Seek help from a National Assembly representative of this province	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
d. Seek help from the Commune (ward) people’s committee	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
e. Seek help from Party officials in the commune (ward)	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]

f. Seek help from Party officials in the district	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
g. Seek help from Party officials in the province	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
h. Contact the Environmental police	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
i. Contact the Environmental Protection Inspectorate	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
j. File a lawsuit by yourself	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
k. Get local officials to sue the copper company on your behalf	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
l. File a collective lawsuit along with other victims in the community	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
m. Contact a lawyer	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
n. Contact legal aid	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
o. Negotiate a compensation directly with management of the copper company	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
p. Contact an environmental protection NGO	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
q. Contact the Farmers' Association	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
r. Contact the Fatherland Front	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
s. Join a demonstration with other victims	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]
t. Contact national media	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. [DK]

u. Contact local media	<input type="checkbox"/> 1. Yes <input type="checkbox"/> 5 No, Would not use it <input type="checkbox"/> 6. No, Does not exist here <input type="checkbox"/> 7. No, DK how to access	<input type="checkbox"/> 8. <i>[DK]</i>
v. Others(Specify): _____		

B3. Among those you chose to engage, can you tell me which one is the most likely to succeed in resolving the dispute?

Interviewer: Write corresponding letter from table E2: _____ 8. *DK* 9. *NA*

B4. Among those, can you tell me which one is the least likely to succeed in resolving the dispute?

Interviewer: Write corresponding letter from table E2: _____ 8. *DK* 9. *NA*

B5. How would you rate the quality of the air in your neighborhood?

- 4. Very good
- 3. Good
- 2. Neither good nor bad
- 1. Bad
- 0. Very bad 8. *DK*

B6. Have you been the victim pollution caused by production activities?

- 1. Yes 0. No 8. *[DK]*

B7. Have you or your family been involved in an environmental dispute?

- 1. Yes
- 0. No → GO to D1 8. *[DK]*

B7a. If yes: When was that?

Year ___ Month ___ 8. *[DK]*

B7b. What did you do about it? (open ended)

B7c. Did you obtain satisfaction?

- 1. Yes 0. No 8. *[DK]*

D1.

D101. In the past five years, have elections for the following officials been held in your locality? *[Interviewer: please circle corresponding answers in the following table]*

		No	Yes	[DK]	[RA]	D101a. If YES, did you vote in the most recent election?		[RA]
a.	Chairman of commune/ward People's Committee	0	1	8	9	1 yes	0 no	9
b.	Members of commune/ward People's Council	0	1	8	9	1 yes	0 no	9
c.	Village/Residential group head	0	1	8	9	1 yes	0 no	9

D704. Which organization/ person did you seek help from while trying to resolve this dispute?	D704a. Sequence of actions	D705. How satisfied are you with the service that was provided?	D706 -Would you use the same organization/ person in the future?
<i>[multiple answers allowed]</i>			
A. Prosecutor	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
B. Police	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
C. Courts	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
D. Commune/ward People's Committee	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
E. Elected official (People council at any level)	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
F. National Assembly member	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
G. Grass-roots mediators	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
H. Political/ social / mass organization [Specify:.....]	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK

I. Elder(s)	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
J. Head of hamlet	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
K. Legal aid	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
L. Lawyer	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
M. State Inspectorate	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
N. Local Mass media (Specify: _____)	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
O. National Mass media (Specify: _____)	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK
P. M. Others: [Specify:.....]	<input type="checkbox"/>	<input type="checkbox"/> 4 Very satisfied <input type="checkbox"/> 3 Somewhat satisfied <input type="checkbox"/> 2 Somewhat dissatisfied <input type="checkbox"/> 1 Very dissatisfied	<input type="checkbox"/> 1.Yes <input type="checkbox"/> 0.No <input type="checkbox"/> 8.DK

D704a. Among the institutions that you contacted which one did you approach first? Second? Etc.

Interviewer: Keep prompting until and enter each item letters in the sequence of actions into column D704a. in the table above.

D 707. When was this dispute settled?

YEAR ____ MONTH ____

6666 unresolved [go to D708]

8888- [DK] [go to D708]

9899- [RA] [go to D708]

[If settled]

↓

D707a. Did you win your case?

1- Complete loss

2- Partial victory

3- Complete victory

8- [DK]

9- [RA]

↓

D 707b. Which organization eventually settled the case? [SHOW D704 card]

Interviewer: Enter code from D707 table _____ 8- [DK] 9- [RA]

↓

GO to D709

D708. [dispute still unresolved] Why is your dispute still on-going?

_____ 8- [DK] 9- [RA]

D709. Did the other party try to obtain a satisfactory settlement by using any of the following tactics?

1- Have to pay bribes

2 – Use his/her personal relationships

3- Threaten you or your family

4 – Demonstrate / mobilize others

5- Used media pressure

8- [DK]

9- [RA]

D710. Did you have to pay bribes and extra fees in order try to resolve this land dispute?

1- Yes

0- No

8- [DK]

9- [RA]

D8
Legal knowledge

D801	In Vietnam, it is illegal to cohabit prior to marriage.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D802	Citizens who live on a piece of land for 10 years are entitled to receive a land certificate automatically.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D803	Employers can hire 14-year old workers.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D804	Divorced fathers who fail to pay child support can be sued by their former wife.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D805	Juvenile criminals do not have the right to legal counsel when they appear in court.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D806	Married daughters do not have inheritance rights.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D807	Provincial governments are entitled to instruct judges on how to rule in specific cases.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D808	Only the male head of household must be listed on land certificates.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D809	Poor households are entitled to free legal aid.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D810	An employer who hires a worker for more than six months is required to issue a labor contract.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D811	Once an appeals court has issued a verdict in a civil case, all parties must enforce the judgement of the court.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure
D812	If a husband passes away, his surviving wife is entitled to at least 50% of the common assets of the household.	<input type="checkbox"/> 1- True <input type="checkbox"/> 0- False <input type="checkbox"/> 8- Unsure

Post-interview debriefing

[To be filled by the interviewer after interview, but not in the presence of the respondent]

Z1. Respondent's level of cooperation:

1- Excellent 2- Good 3- Average 4- Poor 5- Very poor

Z1a. If poor, please explain briefly:.....

Z2. Respondent's level of comprehension:

1- Very high 2- Above average 3- Average

4- Below average 5- Very low

Z2a. If below average, please explain

Z3. Respondent's level of anxiety about the survey before the Respondent began:

1- No anxiety 3- Some anxiety 5- Lots of anxiety

Z3a. If lots of anxiety, please explain.....

Z4. Level of reliability in respondent's responses:

1- Completely reliable 3- Somewhat reliable 5- Not reliable

Z4a. If not reliable, please explain.....

Z5. Respondent's level of interest in the interview in general:

1- Very high 2- Above average 3- Average

4- Below average 5- Very low

Z6. Was the interview conducted at respondent's home?

1. Yes ; 2. No

Z6a. If YES, based on your impression of the respondent's household, estimate the financial standing of the household in that locality:

1. Low income 2. Middle income

3. Upper-middle income 5. High income

Z7. Were there other people present during the interview?

1- Yes 5- No

Z7a. Who was present?

Z7b. Did they affect the quality of the interview?.....

Z8. Other points that need to be reported:.....



ANNEXES 3

Interview and Discussion Guides

Guide to Focus Group Discussions with Selected Disadvantaged Groups (Indonesia)

Guide for FGDs with Selected Disadvantaged Groups

(Separate FGDs for men and women, young people)

This guide is a tool (checklist) to help the researcher in obtaining information through detailed and comprehensive FGDs with selected disadvantaged groups.

The FGD data recording format will be used for recording information. Please explicitly state the number of men and women attending each FGD, in addition to other required information as outlined in the data recording format. Please explicitly state whether the experience discussed is the persons own or of someone they know.

Identification of Issue

- What are the access to justice issues faced by this group?
- What are the access to justice issues faced by other members of the village?
- How have/could these issues be best resolved?
- What other problems are faced by this group (not necessarily access to justice related, i.e. public health, drugs, corruption, poverty, debt)?
- What other problems are faced by other members of the village (not necessarily access to justice related, i.e. public health, drugs, corruption, poverty, debt)?
- How have/could these issues be best resolved?
- What obstacles exist to resolving the issues?
- What additional support/initiatives could be provided to resolve above issues/problems?
- Have any of the above led to conflict (intra or inter village or broader?) What type of conflict? Violent?
- Are there conflicts within the village between this group and other groups? Explain.
- Are there conflicts within the village between other groups? Explain.
- Are there conflicts between this village and other villages? Explain.
- Is crime a problem in this village?
- What kind of crime?
- Who are the main actors? Who is the most likely to be a victim of crime in your village?
- What sort of justice would be suitable for this crime in your opinion?
- How does the community react to crime and other issues of safety and security?
- If you were the victim of a crime, or had a complaint, what would you do? Why?
- Why do people engage in crime?
- How much crime is reported to the police?
- What responses does this group have to crime? Others in the village?
- To what extent does this group carry out their own form of justice and what does that involve? Others in the village?
- If this does happen, to what extent is it socially accepted? Does anyone disagree with it and why?
- How could this crime be best resolved/how has it been best resolved in the past?
- What is justice? What does it mean to you?

- Provide examples of some crimes/issues (e.g. land dispute, domestic violence, homicide, robbery) and what in your opinion would be a 'just' and an appropriate solution for each case.

Actors and Institutions

- Who/where do they go to when they have an access to justice issue? Link each specific issue to where they go to seek remedy.
- Who/where do they go to when they have other issues (not necessarily access to justice issues - as above) Link each specific issue to where they go to seek remedy.
- What dispute resolution mechanisms/actors/institutions exist (that they are aware of - at different levels, formal and informal)?
- For each mechanism/institution/actor - who is involved in them? How are people appointed to them?
- Are members of their group represented in the dispute resolution mechanism?
- For each mechanism named, are they impartial and/or neutral? Are they representative? Are women represented? Is the disadvantaged group in question represented?
- How do they work?
- How much does it cost? Note breakdown of costs involved.
- How long does it take?
- How appropriate/fair are the decisions?
- Are the decisions upheld?
- What happens if someone does not agree with the decision?
- What existing initiatives are there that help them access remedies for their grievances (i.e. any NGO initiatives, legal aid, any other community based initiatives)?
- Do they attend meetings, prayer groups, savings and loans groups, other group meetings?
- Do these groups/meetings ever help them in resolving disputes? Solving other problems?
- Who do they trust in their community to help them with problems/issues?
- Which mechanism/actor/institution has been successful in providing a remedy for their grievance?
- What issue/problem/case has been successfully resolved? Explain (Go to Case Study Format here)
- What support/initiatives could be provided for the successful provision of remedies by each mechanism mentioned?
- What sort of risks exist with going to certain actors/institutions to seek a remedy?
- What is the meaning of 'due process' in formal, *adat* and other informal systems?
- What type of representation do they get in informal dispute resolution mechanisms?
- What types of compensation/reparation and other forms of settlement is there in informal dispute resolution?
- What are the responsibilities and procedures for execution of decisions and settlements emerging from formal and informal mechanisms of dispute resolution?
- What are the disciplinary procedures for non-execution of orders and decisions in formal and informal systems – type of sanctions?

Participation

- Was it difficult for them to participate in this discussion? What were the obstacles? What types of incentives were provided?
- How can we increase their participation in this assessment?

In depth Interview Guide (Indonesia)

Guide for in-depth interviews with Selected Disadvantaged Group

This guide is a tool (checklist) to help the researcher in obtaining information through detailed in-depth individual interviews with selected disadvantaged people.

The in-depth interview recording format will be used for recording information. Please explicitly state whether the experience discussed is the persons own or of someone they know.

Identification of Issue

- What are the access to justice issues faced by this person?
- What are the access to justice issues faced by other members of the village?
- How have/could these issues be best resolved?
- What other problems are faced by this person (not necessarily access to justice related, i.e. public health, drugs, corruption, poverty, debt)?
- What other problems are faced by other members of the village (not necessarily access to justice related, i.e. public health, drugs, corruption, poverty, debt)?
- How have/could these issues be best resolved?
- What obstacles exist to resolving the issues?
- What additional support/initiatives could be provided to resolve above issues/problems?
- Have any of the above led to conflict (intra or inter village or broader?) What type of conflict? Violent?
- Are there conflicts that this person is involved in? Explain.
- Are there conflicts within the village? Explain.
- Are there conflicts between this village and other villages? Explain.
- Is crime a problem in this village?
- What kind of crime?
- Who are the main actors? Who is the most likely to be a victim of crime in your village?
- What sort of justice would be suitable for this crime in your opinion?
- How does the community react to crime and other issues of safety and security?
- If you were the victim of a crime, or had a complaint, what would you do? Why?
- Why do people engage in crime?
- How much crime is reported to the police?
- What responses does this person have to crime? Others in the village?
- To what extent does this person carry out their own form of justice and what does that involve? Others in the village?
- If this does happen, to what extent is it socially accepted? Does anyone disagree with it and why?

- How could this crime be best resolved/how has it been best resolved in the past?
- What is justice? What does it mean to you?
- Provide examples of some crimes/issues (e.g. land dispute, domestic violence, homicide, robbery) and what in your opinion would be a 'just' and an appropriate solution for each case.

Actors and Institutions

- Who/where do they go to when they have an access to justice issue? Link each specific issue to where they go to seek remedy.
- Who/where do they go to when they have other issues (not necessarily access to justice issues - as above). Link each specific issue to where they go to seek remedy.
- What dispute resolution mechanisms/actors/institutions exist (that they are aware of - at different levels, formal and informal)?
- For each mechanism/institution/actor - who is involved in them? How are people appointed to them?
- Are members of their group (that this person belongs to) represented in the dispute resolution mechanism?
- For each mechanism named, are they impartial and/or neutral? Are they representative? Are women represented? Is the disadvantaged group in question represented?
- How do they work?
- How much does it cost? Note breakdown of costs involved.
- How long does it take?
- How appropriate/fair are the decisions?
- Are the decisions upheld?
- What happens if someone does not agree with the decision?
- What existing initiatives are there that help them access remedies for their grievances (i.e. any NGO initiatives, legal aid, any other community based initiatives)?
- Do they attend meetings, prayer groups, savings and loans groups, other group meetings?
- Do these groups/meetings ever help them in resolving disputes? Solving other problems?
- Who do they trust in their community to help them with problems/issues?
- Which mechanism/actor/institution has been successful in providing a remedy for their grievance?
- What issue/problem/case has been successfully resolved? Explain (Go to Case Study Format here)
- What support/initiatives could be provided for the successful provision of remedies by each mechanism mentioned?
- What sort of risks exist with going to certain actors/institutions to seek a remedy?
- What is the meaning of 'due process' in formal, *adat* and other informal systems?
- What type of representation do they get in informal dispute resolution mechanisms?
- What types of compensation/reparation and other forms of settlement is there in informal dispute resolution?
- What are the responsibilities and procedures for execution of decisions and settlements emerging from formal and informal mechanisms of dispute resolution?

- What are the disciplinary procedures for non-execution of orders and decisions in formal and informal systems – type of sanctions?

Participation

- Was it difficult for them to participate in this discussion? What were the obstacles? What types of incentives were provided?
- How can we increase their participation in this assessment?

Guide for In-Depth Interviews with Justice Actors (Formal)

This guide is a tool (checklist) to help the researcher in obtaining information through in-depth individual interviews with Formal Justice Actors at the Provincial, District, Sub-District and Village levels.

The in-depth interview recording format will be used for recording information.

At a minimum you should interview members of the following institutions: Police, Prosecution Service, Courts (General, Religious, Military, Administrative), Prison Service, Lawyers, Legal Aid, NGOs working on justice related issues, Commission of Provincial DPR-D with responsibility for the justice sector)

General Institutional Information

- Legal source of authority.
- Geographic jurisdiction (from what area can it hear cases).
- Legal jurisdiction (the types of cases it can hear).
- The remedies that it can grant, or sentences that it can pass.
- How members are elected or appointed.
- General Functions, responsibilities or activities

Issues

- What are the access to justice issues faced by their constituents?
- How have/could these issues be best resolved?
- What other problems are faced by their constituents (not necessarily access to justice related, i.e. public health, drugs, corruption, poverty, debt)?
- How have/could these issues be best resolved?
- What obstacles exist to resolving the issues?
- What additional support/initiatives could be provided to resolve above issues/problems?
- Have any of the above led to conflict? What type of conflict? Violent?
- Is crime a problem in this area?
- What kind of crime?
- Who are the main actors? Who is the most likely to be a victim of crime in this area?

- What sort of justice would be suitable for this crime in your opinion?
- How does the community react to crime and other issues of safety and security?
- Why do people engage in crime?
- How much crime is reported to the police?
- To what extent do people carry out their own form of justice and what does that involve?
- If this does happen, to what extent is it socially accepted? Does anyone disagree with it and why?
- How could this crime be best resolved/how has it been best resolved in the past?
- What is justice? What does it mean to you?
- Provide examples of some crimes/issues (e.g. land dispute, domestic violence, homicide, robbery) and what in your opinion would be a 'just' and an appropriate solution for each case.

Dispute resolution

- Who comes to you when they have an access to justice issue? Who doesn't?
- For what type of issues do they come to you?
- What is the process of dispute resolution?
- How much does it cost? Note breakdown of costs involved.
- How long does it take?
- Are the decisions upheld?
- What happens if someone does not agree with the decision?
- What issue/problem/case has been successfully resolved? Explain (Go to Case Study Format here)
- What support/initiatives could be provided for the successful provision of remedies?
- What is the meaning of 'due process'?
- What type of representation do people get using this mechanism?
- What are the responsibilities and procedures for execution of decisions and settlements?
- What are the disciplinary procedures for non-execution of orders and decisions—type of sanctions?
- Where are the procedures you abide by written?
- Where are actions and decisions documented?
- Is there some kind of 'code of ethics'? Please explain. Are there any disciplinary measures against actors involved in improper/unethical conduct in the performance of their functions?
- Level of involvement with informal dispute resolution mechanisms (including adat and ADR among others).
- Procedures/scope for judicial review and oversight of traditional dispute resolution.
- Oversight mechanisms in place.

Guide for In-Depth Interviews with Justice Actors (Informal)

This guide is a tool (checklist) to help the researcher in obtaining information through in-depth individual interviews with Informal Justice Actors at the Provincial, District, Sub-District and Village levels.

The in-depth interview recording format will be used for recording information.

At a minimum you should interview members of the following institutions: Adat, Alternative Dispute Resolution mechanisms (court annexed, and non-court annexed) any other groups identified as playing a role in dispute resolution (including any religious institutions, credit/finance groups, village security groups, prayer groups etc).

General Institutional Information

- Legal source of authority.
- Geographic jurisdiction (from what area can it hear cases).
- Legal jurisdiction (the types of cases it can hear).
- The remedies that it can grant, or sentences that it can pass.
- How members are elected or appointed.
- General Functions, responsibilities or activities
- Who accepts the authority of these institutions, to what extent and why?
- Who rejects the authority of these institutions, to what extent and why?

Issues

- What are the access to justice issues faced by members of the village?
- How have/could these issues be best resolved?
- What other problems are faced by members of the village (not necessarily access to justice related, i.e. public health, drugs, corruption, poverty, debt)?
- How have/could these issues be best resolved?
- What obstacles exist to resolving the issues?
- What additional support/initiatives could be provided to resolve above issues/problems?
- Have any of the above led to conflict (intra or inter village or broader?) What type of conflict? Violent?
- Are there conflicts within the village between this group and other groups? Explain.
- Are there conflicts within the village between other groups? Explain.
- Are there conflicts between this village and other villages? Explain.
- Is crime a problem in this village?
- What kind of crime?
- Who are the main actors? Who is the most likely to be a victim of crime in this village?
- What sort of justice would be suitable for this crime in your opinion?
- How does the community react to crime and other issues of safety and security?
- Why do people engage in crime?
- How much crime is reported to the police?

- To what extent do members of the village carry out their own form of justice and what does that involve?
- If this does happen, to what extent is it socially accepted? Does anyone disagree with it and why?
- How could this crime be best resolved/how has it been best resolved in the past?
- What is justice? What does it mean to you?
- Provide examples of some crimes/issues (e.g. land dispute, domestic violence, homicide, robbery) and what in your opinion would be a 'just' and an appropriate solution for each case.

Dispute resolution

- Does the institution involve one clan/ethnic/religious group only?
- Do they ever involve other clans/ethnic/religious groups?
- How does the institution make decisions? Who participates?
- Who do the decision makers consult in making decisions?
- To what extent do women participate in the decision making?
- What particular adat practices are there?
- When do these take place?
- Who is involved?
- What is the significance?
- Who comes to you when they have an access to justice issue? Who doesn't?
- For what type of issues do they come to you? What type of criminal cases?
- How does it work? What is the process of dispute resolution?
- How much does it cost? Note breakdown of costs involved.
- How long does it take?
- How appropriate/fair are the decisions?
- Are the decisions upheld?
- What happens if someone does not agree with the decision?
- What issue/problem/case has been successfully resolved? Explain (Go to Case Study Format here)
- What support/initiatives could be provided for the successful provision of remedies?
- What is the meaning of 'due process'?
- What type of representation do people get using this mechanism?
- What types of compensation/reparation and other forms of settlement is there in this informal dispute resolution mechanism?
- What are the responsibilities and procedures for execution of decisions and settlements?
- What are the disciplinary procedures for non-execution of orders and decisions in formal and informal systems – type of sanctions?
- Are procedures written?
- Are actions and decisions documented?
- Is there some kind of 'code of ethics' for adapt/informal system operators? Written, or unwritten? Please explain. Are there any disciplinary measures against actors involved in improper/unethical conduct in the performance of their functions?

Guide Questions to interview authorities and institutions at field level (Timor Leste)¹

TOOLS 1. Questions for field trips /To interview authorities

DISTRICT:

I. INTERVIEWEE

1. Name:
2. Gender:
3. Nationality:
4. Profession:
5. Occupation/ post:
6. Language/s spoken: a) Mother tongue: _ b) Tetum: ___ c) Portuguese: ___
d) Other National languages: _ d) Others:

II. CONTEXT

1. Jurisdiction:
2. Population:
3. Gender:
4. Average age:
5. Languages spoken by the population: A) b) c)
6. Are there indigenous peoples?/ Ethnic minorities?:
7. Religion:
8. Rate of Poverty:
9. Rate of literacy/ illiteracy:
10. Main social problems:
a) ___
b) ___
c) ___

III. INSTITUTIONAL FRAMEWORK

1. Name of the institution:
2. Branch: /Location:
3. Infrastructure: a) Local: __ b) Services: Running water, c) Reliable electricity:

¹ RYF, UNDP TIMOR Oct. 2008 (Send to: raquelyf@alertanet.org, Raquel.fajardo@undp.org)

4. Security
5. Other resources
 - Computers
 - Means of transportation
 - Other
6. Human resources:

	Nationals	Internationals
Men		
Woman		

7. Languages spoken by the personnel:

Tetum	Local languages	Portuguese	Bahasa Indonesia	Other national languages	English

IV. COMPENTENCES

1. What are your tasks/ competences?
2. What are your legal competences for conflict resolution?
3. What is your territorial competence (jurisdiction)?
4. Do you have clear legal framework for your competences?
5. Other issues in relation to competences:

V. ACCESSIBILITY

How would you qualify the accessibility of your institution?

1. Geographic:
2. Economic:
3. Linguistic:
4. Cultural:
5. Legal culture understanding?

VI. CASE MANAGEMENT / FUNTIONING

1. **Sources of the cases:** Who brings the cases your office receives?
 - a) People directly?
 - b) Any institution?
 - c) Other
2. **Profile of the user of the system**
 - a) Men/ women:
 - b) Rural/ urban:
 - c) Socio-economic condition (rich/poor):
 - d) Predominant language (Tetum/ local):

- e) Do you receive cases from indigenous peoples/ ethnic minorities?
- f) Other relevant feature:

3. Quantitative approach

- a) Number of cases received in total
- b) Number of cases received this year
- c) Number of cases resolved
- d) Number of cases under investigation/ managed currently:
- e) Average of cases received by month:
- f) Average of cases resolved by Month:

4. Qualitative approach

- a) Kinds of cases received:
- b) Most frequent cases:
- c) Most serious cases:
- d) Matters: Civil? / Criminal?

5. Perceptions of problems/ cases by users

5.1. Conflicts between individuals

- a) Do people classify civil/criminal cases?
- b) How do people classify the problems/ cases?
- c) For people, what are serious/ minor crimes?
- d) Have you ever received cases related to witchery?/ Other cases related to customs/ culture...

5.2. Social rights?

- Are there complaints related to access to education?, health? Food? Water?

5.3. Are there complaints related conflicts between the State and citizens?/

- Human rights violations?
- Corruption?
- Abuse of power?

5.4. Other

6. Demand for justice

- a) What kind of responses do people expect from you?
- b) Do people expect that you:
 - a. Investigate?
 - b. Call the parties?
 - c. Call witnesses?
 - d. Collect evidence?
 - e. Call for a mediation/ conciliation?
 - f. Promote agreements?
 - g. Make agreements? / Write minutes or agreements?

- h. Adjudicate/ Decide?
- i. Punish?
- j. Establish a fine/ payment/ reparation/ “indemnizacao”/ “multa”/ etc.
- k. Refer the case to other institution
- l. Other

7. Kinds of responses you provide

What do you do with the cases?

- a) Investigate?
- b) Call the parties?
- c) Call witnesses?
- d) Collect evidence?
- e) Call for a mediation/ conciliation?
- f) Promote agreements?
- g) Make agreements? / Write minutes or agreements?
- h) Adjudicate/ Decide?
- i) Punish?
- j) Establish a payment/ reparation/” multa”/ etc.
- k) Refer the case to other institution
- l) Other:

8. Referral

- a) In what circumstances do you refer the case to other institution/s?
- b) In case do you refer the case to other institution, where do you send it?
- c) What do you expect from the other institution?

VII. EVALUATION OF RESPONSES

- 1. How long does it take to give a response?
- 2. How much does it cost?
- 3. Do the parties respond when you call them?
- 4. Do the parties fulfill the agreements?
- 5. How can you enforce a decision?

VIII. EVALUATION OF RESPONSES BY USERS

- 1. (Legitimacy) What is the legitimacy of your institution?
- 2. (Efficiency) What is the level of satisfaction of the management of the cases by your institution?
- 3. (Efficacy) What is the level of satisfaction of the responses given by your institution?

IX. PERCEPTIONS OF THE SYSTEMS / INTERACTIONS

	What is your perception of this institution in relation to conflict resolution and protection of rights	What kind of competences this institution should have?
Lia nai		
Lui rai		
Chefe de barrio		
Chefe de aldeia		
Chefe de suco		
Administrator of sub-district		
Administrator of District		
Directorate of Lands and property		
Police		
Judges		
Public Defender		
Prosecutor		
Other		

X. RECOMMENDATIONS:

How to improve the legitimacy, efficiency and efficacy of the mechanisms in charge of conflict resolution and the protection of human rights

1. How to improve the access to justice in general?
 -
 -
2. How to improve the formal system? (Judiciary, Prosecutor Office, Public Defender, Prison system)
 -
 -
3. How to improve the police functioning?
 -
 -
4. How to improve the Directorate of lands and property?
 -
5. How to improve the functioning of local authorities?
 -
6. How to protect better women rights and children rights before the traditional justice?
 -
7. How to improve the coordination between the different mechanisms?

Consultative workshop agenda (Timor Leste)

Access to Justice, Customary Law and Local Justice in Timor Lester (2009)

Agenda for a workshop that analyses the access to justice situation in a selected geographical area

This is a three day workshop which facilitates the documenting of views and inout of 100 persons (per workshop) on access to justice issues.

Time required	Agenda Items	Specific Output
DAY 1		
45 mins	Access to justice and the objectives of the consultation process <ul style="list-style-type: none"> • Explanation of the objectives of the process of consultation • The right of access to justice in a democratic society • The right of participation • Explanation of the methodology of the workshop 	By the end of the workshop, the participants will be informed of: The right of access to justice and The right of participation
1.5 hours	The social demand for justice <ul style="list-style-type: none"> • Working groups related to the social demand for justice • List 3 main social problems that people face in your District/ Suco and analyse main causes and possible long term solutions. Chart 1. Main social problems • List 3 main conflicts that appear in your District/Suco and analyse: <ul style="list-style-type: none"> • Parties involved • Main causes of these conflicts. Are these conflicts related to other social problems? • When conflicts appear, what do people do? Where do people go? • Chart 2. Main conflicts • Chart 3. Available mechanisms for conflict resolution • Preparation of a role-play on one of the conflicts 	The participants have analysed the main social problems and conflicts that comprise the social demand for justice
2 hours	Plenary and role-plays Groups present the main problems and conflicts that comprise the social demand for justice at the District, and role-plays of different conflicts	
1 hour	Human rights provisions related to access to justice <ul style="list-style-type: none"> • Panel on the main problems of the District and possible long term solutions 	Participants informed of district level institutions
DAY 2		
20 mins	Constitutional Provisions and human rights principles <ul style="list-style-type: none"> • Brief explanation of the Constitutional provisions related to 	The participants analyse and evaluate

	Customary law (extension and limitation of constitutional recognition) and human rights principles	the customary law under the light of HR and constitutional values
2 hrs	Working groups related to customary law <ul style="list-style-type: none"> • <i>Considering that the Constitution recognises and values uses and customs as far as they do not violate human rights, List and describe good local uses and customs that should be recognised by the law</i> <i>List and explain some uses and customs that may affect women's rights or other human rights, and should change</i> <i>Choose one custom and prepare a role-play.</i> Chart 6 Good local uses and customs Chart 7 Questionable uses and customs	
1 hr 30 mins	Plenary Panel of commentators related to customary law	Participants informed of the current functions of the community authorities
1 hr 15 mins	The supply of justice services <ul style="list-style-type: none"> • Working groups to evaluate, from their experience, the justice services, including the police and the formal justice system (judiciary, prosecutor, defender) Chart 4 Cases presented to different mechanisms and responses given by each mechanism Chart 5 Evaluation of the justice services 	Participants analyse and evaluate the different justice services Participants informed of the competences of the formal justice system
DAY 3		
1 hr 15 mins	Conflict resolution mechanisms based on customary law <ul style="list-style-type: none"> • Panel on the customary conflict resolution mechanisms <i>What are your competences related to conflict resolution? What are the problems you face?</i> <i>Do you need legal recognition?</i> 	Participants analyse conflict resolution mechanisms based on customary law
	Proposals for local justice based on customary law	
30 mins	Constitutional provisions related to jurisdictional functions <ul style="list-style-type: none"> • Explanation of the constitutional provisions related to jurisdictional functions, non-jurisdictional functions and customary law 	Participants informed of the constitutional provisions related to jurisdictional functions Participants make proposals related to local justice based on customary law
1 hr 30 mins	Proposals for local justice based on customary law Working groups <ul style="list-style-type: none"> • Specific proposals for the establishment of local justice based on customary law <i>What kind of powers should local authorities have? (For mediation, conciliation, arbitration?)</i> <i>Or should they be able to settle disputes and enforce decisions too?)</i> <i>At what level is it necessary an authority able to settle disputes and enforce decisions? (aldeia, suco, sub-district, district?)</i> <i>Do you consider necessary the establishment of a customary body (like a council or court) able to apply customary law, settle disputes and enforce decisions?</i> <i>How could this body be elected, composed, and controlled to</i> 	

	<i>prevent possible abuse of power or violations of women's' rights? How should be the coordination between community, local and district authorities in relation to conflict resolution?</i> Chart 8 - Proposals related to the recognition of local justice	
2 hrs	Plenary Proposals related to local justice based on customary law	
1 hr	Closure/ evaluation	

(PROPOSAL) AGENDA FOR CONSULTATION WORKSHOPS

AT OECUSSE, SUAY AND LOS PALOS

Specific Outcomes	Agenda												
<p>1. By the end of the workshop, the participants are informed of:</p> <ul style="list-style-type: none"> • The strengthening of the justice process, • The right of access to justice • The right of participation <p>2. The participants have analysed the main social problems and conflicts that comprise the social demand for justice</p>	<p>Morning day 1</p> <p>8.00- 9.30 Registration</p> <p>9.30- 9.45 Welcome by the District Administrator</p> <p>9.45-10.45 Speech on Access to Justice and the objectives of the Consultation Process</p> <ul style="list-style-type: none"> - Delegates of the Ministry of Justice - Delegates of UNDP <ul style="list-style-type: none"> • Explanation of the objectives of the process of consultation • The right of access to justice in a democratic society • The right of participation • Explanation of the methodology of the workshop <p>10.45- 11.00 Coffee-break</p> <p>The social demand for justice</p> <p>11.00- 12.30 Working groups related to the social demand for justice</p> <p>1) List 3 main social problems that people face in your District/ Suco and analyse main causes and possible long term solutions.</p> <p>Chart 1. Main social problems</p> <table border="1"> <thead> <tr> <th>Main social problems</th> <th>Main causes</th> <th>Possible long term solutions</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> </tr> </tbody> </table> <p>2) List 3 main conflicts that appear in your District/Suco and analyse:</p> <ol style="list-style-type: none"> Parties involved Main causes of these conflicts. Are these conflicts related to other social problems? When conflicts appear, what do people do? Where do people go? 	Main social problems	Main causes	Possible long term solutions	1.			2.			3.		
Main social problems	Main causes	Possible long term solutions											
1.													
2.													
3.													

	<p>Chart 2. Main conflicts</p> <table border="1" data-bbox="454 248 1375 591"> <thead> <tr> <th>Main conflicts</th> <th>Parties involved</th> <th>Main causes of the conflicts</th> <th>What do people do? Where do people go?</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>3) Prepare a role-play on one of the conflicts</p>	Main conflicts	Parties involved	Main causes of the conflicts	What do people do? Where do people go?	1.				2.				3.			
Main conflicts	Parties involved	Main causes of the conflicts	What do people do? Where do people go?														
1.																	
2.																	
3.																	
	12.30- 1.30 Lunch																
(continuation)	<p>Afternoon day 1</p> <p>1.30-3.30 Plenary and role-plays</p> <p>3.30- 3.45 Synthesis</p> <p>Synthesis of the main problems and conflicts that comprise the social demand for justice at the District and their relationship with the right of access to justice in a democratic society</p> <ul style="list-style-type: none"> • Conflicts among individuals • Human rights violations • Issues of abuse of power <p>3.45- 4.00 Coffee- break</p>																
3.The participants have described and analysed the Supply of justice services	<p>The supply of justice services</p> <p>4.00- 5.00 Organization of working groups to start the next topic: What kinds of mechanisms do we have to respond to the social demand for justice?</p> <p>Question 1) Make a list of the available mechanisms for conflict resolution and protection of rights that you have at aldeia, suco, District level</p> <p>Chart 3. Available mechanisms for conflict resolution & HR protection</p>																

Level	List of available mechanisms for conflict resolution and protection of rights
Aldeia	
Suco	
Sub-district	
District	
Other	

Question 2) Analyse the functioning of one mechanism

Each group will evaluate one mechanism

- a) Community authorities (*lia nain, liu rai, katua, chefe de aldeia, chefe de suco, conselho de suco, etc.*)
- b) Sub-district and district authorities
- c) Police
- d) Directorate of Land and property, Mediators and other non-judicial mechanisms
- e) Formal justice system: judges, prosecutor, public defenders

In relation to each mechanism, explain and analyse:

- a) Kinds of cases presented to this mechanism
- b) Kinds of responses given by this mechanism

Chart 4. Cases presented to, and responses given by each mechanism

Kinds of cases presented to this mechanism by the people (lands, domestic violence, crimes, debts, etc.?)	Kinds of responses given by this mechanism (Does it call the parties, investigate, call witnesses, conciliate, refer the case, resolve?)
1.	
2.	
3.	
4.	
5. (add as much rows as necessary)	

4. The

Morning day 2

participants have analysed and evaluated the Supply of justice services

8.00- 9.00 registration

Evaluation of the Supply of Justice Services

9.00- 10.00

Question 3) Evaluation of each mechanism

Evaluate

- a) Advantages
- b) Disadvantages
- c) Proposals to improve each mechanism in order to respond better to the social demand for justice

To consider advantages and disadvantages, take into account:

- **Accessibility:** geographical, linguistic and cultural understanding.
- **Efficiency:** Time-consuming and costs.
- **Efficacy** of the response to resolve the problem: level of satisfaction, capacity to bring reconciliation between the parties and peace to the community; capacity to enforce its decisions.
- **Legitimacy:** level of recognition, acceptance and prestige.
- **Human rights concordance:** Respect of women’s and children’s rights; Transparency and accountability (possibility to control bias, partiality, corruption, etc.).
- **Legality:** Does this mechanism have a clear legal framework? Are its competences legally recognized?
- **Resources:** Does this mechanism have enough human and material resources to fulfil its mission?

Chart 5. Evaluation of each mechanism

Criteria	Advantages	Disadvantages	Proposals to improve this mechanism
<i>Accessibility</i>			
<i>Efficiency</i>			
<i>Efficacy</i>			
<i>Legitimacy</i>			
<i>Human rights concordance</i>			
Legality			
Resources			

	<p>10.00- 11.00 Plenary: Evaluation of the Supply of Justice Services- Customary and local authorities</p> <ul style="list-style-type: none"> - Community authorities - District authorities - Comments related to the legal functions on conflict resolution of community and local authorities (scope, extent and limits) <p>11.00- 11.15 Coffee- break</p> <p>11.15- 12.30 Plenary. Evaluation of the Supply of Justice Services: Non-Jurisdictional mechanisms</p> <p>Plenary</p> <ul style="list-style-type: none"> - Directorate of Lands and Property - Mediation Mechanisms - Comments by a delegate from the Directorate of Lands and Property
	<p>12.30- 1.30 Lunch</p>
<p>The participants are informed of the legal competencies of the justice system</p> <p>The participants have made proposals for improving each mechanism of the justice system</p>	<p>Afternoon day 2</p> <p>1.30 – 3.30 Plenary. Evaluation of the Supply of Justice Services: Jurisdictional mechanisms (Judicial system and the police)</p> <ul style="list-style-type: none"> - Plenary by participants related to the police and the judicial system. - Panel by justice operators to explain the legal competences of the judicial system and the Police <ul style="list-style-type: none"> ○ Explanation of the judicial system (jurisdictional functions) ○ Prosecutor ○ Defender ○ Police
<p>The participants have analysed and made proposals related to customary law</p>	<p>3.30- 3.45 Coffee- break</p> <p>Customary law</p> <p>3.45- 4.00</p> <p>Brief explanation of the Constitutional provisions related to Customary law (extension and limitation of constitutional recognition)</p>

4.00- 5.00 Working groups related to customary law

Considering that the Constitution recognises and values *uses and customs* as far as they do not violate human rights,

- 1) List and describe good *local uses and customs* that should be recognised by the law
- 2) List and explain some uses and customs that may affect women's rights or other human rights, and should change
- 3) Choose one custom and prepare a role-play.

Chart 6 Good local uses and customs

List good local uses and customs	How do these uses and customs help the people?	How these uses and customs should be strengthened and recognised by the law?

Chart 7 Questionable uses and customs

List questionable local uses and customs	How these uses and customs may affect women rights or other human rights?	How could we change these uses and customs?

The participants have made proposals related to local justice based on customary law

Morning day 3

8.00- 9.00 Registration

Customary law and local justice

9.00- 10.30 Plenary of customary law

	<p style="text-align: center;">Comments</p> <p>10.30- 10.45 Coffee-break</p> <p>Proposals for the establishment of local justice based on customary law</p> <p>9.00- 9.15 Brief reminding of the right of access to justice, the constitutional provisions related to jurisdictional functions, non-jurisdictional functions and customary law</p> <p>9.15- 10.45 Working groups: Specific proposals for the establishment of local justice based on customary law</p> <ol style="list-style-type: none"> a) What kind of powers should community/customary authorities have? (to mediate, conciliate or arbitrate? Or to settle disputes and enforce decisions?) b) At what level is it necessary an authority able to settle disputes and enforce decisions? (aldeia, suco, sub-district, district?) c) Do you consider necessary the establishment of a customary body (like a council or court) able to apply customary law, settle disputes and enforce decisions? d) How could this body be elected, composed, and controlled to prevent possible abuse of power or violations of women's' rights? e) How should be the coordination between community, local and district authorities in relation to conflict resolution? <p>Chart 8 Proposals for local justice</p> <table border="1" data-bbox="411 1025 1423 1317"> <thead> <tr> <th>Level/ function</th> <th>Kind of organ</th> <th>- Non-jurisdictional functions (Mediation, conciliation, arbitration)</th> <th>Capacity to settle disputes and enforce decisions (jurisdictional functions)</th> </tr> </thead> <tbody> <tr> <td>Aldeia</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Suco</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Sub-district</td> <td></td> <td></td> <td></td> </tr> <tr> <td>District</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>10.45- 11 Coffee- break</p> <p>11.00- 13.00 Plenary Plenary – Proposals related to local justice based on customary law Comments</p>	Level/ function	Kind of organ	- Non-jurisdictional functions (Mediation, conciliation, arbitration)	Capacity to settle disputes and enforce decisions (jurisdictional functions)	Aldeia				Suco				Sub-district				District			
Level/ function	Kind of organ	- Non-jurisdictional functions (Mediation, conciliation, arbitration)	Capacity to settle disputes and enforce decisions (jurisdictional functions)																		
Aldeia																					
Suco																					
Sub-district																					
District																					
	1.0- 2.00 Lunch																				
(continuation)	<p>Afternoon day 3</p> <p>2.00- 2.30 Evaluation Closure</p>																				



ANNEXES 4

Formats for Capturing Data and Case Studies

Case Study Format (Indonesia)

Case Study Format

At least two case studies must be completed for each village (one for the formal justice sector, one for the non-formal). You will need to interview several people for each case study (i.e. adat operator, parties involved in the dispute, observers).

Outline

- Background/context
- Matter in dispute
- Parties involved
- Nature of the case, (i.e. personal injuries, property damage, family or community conflict – include any amounts)
- Actors involved in dispute resolution (description of each)
- Timeline of events/chronology
- Flowchart of events
- Proceedings
- Normative base – source of legal authority
- Outcome
- Cost - breakdown
- Total time
- Punishment/reparation
- Were the proceedings/decision recorded?
- Was the decision upheld?

- What the situation is now

Please ask in addition:

- Was it easy to go there (to the dispute resolution – court, adat..)? How many days/hours did it take you to come here? How did you get here? How much did you spend each time you had to go there?
- Did they have the opportunity to participate in the arrival of the solution to the problem?
- Was this case previously managed by another authority? Village chief? Adat chief? Formal system? Other?
- Were there procedures for handling a case of this type?
- Are they happy with the solution? Is it fair? Do they agree?
- What was good/what was bad?
- What could have been done better?
- Do they believe this solution is better than if they went to the court/or another mechanism?
- Is it cheaper? Is it less time consuming?
- Were the police called? Why/why not?
- Were the military involved at all in this case?

Data Recording Format (Indonesia)

SOURCES, METHODS OF ACQUIRING INFORMATION AND TYPES OF DATA REQUIRED

Method	Bureaucracy	Community figures	Social / community organization	Type of data
Interviews	Provincial, reGENCY govt, social office, BPMD, health office, forestry office, prosecutor's office, BKKBN, Disnakertrans, Bank, court, Kompraswil, kabupaten, province regional government, PN, Dikjar, District, Kejari, Lurah, Village, Religious Affairs Ministry, High Prosecutor, Police	Adat, religious figures, women's leaders, party leaders, village chiefs, BPD / LPM, school teachers, midwives, Dukun	NGO, religious institutions and organizations, OKP(Karang Taruna), women's organisations	Statistics, maps, study results, letters, monographs, demography
FGD	Made according to issue / problem related to bureaucracy / offices	Related issue: e.g. health issues, then the FGD are village midwives, shamans (<i>dukun</i>), puskesmas	NGOs, religious agencies and organizations, OKP (Karang Taruna), women's organizations	Qualitative data
Observation	Bureaucrats' behaviour in planning, implementation and evaluation of activities related to issues / problems	Behaviour (involvement) of community leaders in implementation and evaluation	Behaviour of community organizations (board members)	Qualitative data

STANDARD FORMAT OF INTERVIEW DATA

Code:	
Location Code:	
Location:	
Interviewer	
Recorder:	
Date:	
Time:	
Duration:	

Number of people present:	
Name of respondent:	
Gender:	

Age of respondent;		
< 15	41-50 yrs	
15-21	51-60 yrs	
22-30	> 60 yrs	
31-40		

Respondents' organization (if possible)	
Position in organization:	
Ethnic group:	
Religion:	
Place/date of birth:	
Length of time lived in the area:	

INTERVIEW NOTES

A) Atmosphere:

B) Problems occurring during interview:

C) Gestures / body language of person interviewed:

STANDARD FORMAT OF INTERVIEW TRANSCRIPT

Code:	TRANSCRIPT OF INTERVIEW HERE

STANDARD FORMAT OF FGD DATA

Code:	
Interviewer	
Recorder:	
Date:	
Time:	
Duration:	
Location Code:	
Location:	

FGD Participant

No.	Name	Age	Education	Occupation	Ethnic Group	Religion	Others

FGD NOTES

A) Atmosphere:

B) Problems occurring during interview:

C) Gestures/body language of person interviewed:

STANDARD FORMAT OF FGD TRANSCRIPT

Code:	FGD TRANSCRIPT HERE

STANDARD FORMAT OF DAILY NOTES

Objective: to provide space for researcher to write down initial analysis.

Daily Notes should be filled out every day

Each researcher must have own Daily Notes.

Essential information :

- 1. Who was interviewed on that day, was the interview useful?**
- 2. Was there any problem during the interview? If so, how was it resolved?**
- 3. Where did you find accurate and useful data? Whether from official or unofficial sources**
- 4. Analytical observations**

Limit your Daily Notes to a maximum of ½ to 1 page a day

DAILY NOTES

Day/Date	Researcher	Location

LIST OF LOCAL VOCABULARY AND ACRONYMS

No.	LOCAL VOCABULARY	DESCRIPTION / CORRESPONDING WORD

NO.	LOCAL ACRONYM	IN FULL

LIST OF INFORMATION SOURCES

Location Code:

No	Name of information source	Position in inst / community	Site	Case Study	Standard Format of Interview	Interview Guide



*Empowered lives.
Resilient nations.*

United Nations Development Programme
Asia-Pacific Regional Centre
3rd Floor UN Service Building
Rajdamnern Nok Avenue
Bangkok 10200
Thailand

Tel: +66 (0)2 304-9100
Fax: +66 (0)2 280-2700
aprc.th@undp.org
<http://asia-pacific.undp.org>