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THE FUTURE WE WANT TO SEE: RE-IMAGINING RULE OF LAW, SECURITY AND HUMAN RIGHTS AND THE INCLUSIVE SOCIAL CONTRACT

Powered by UNDP Global Community of Practice on Governance for Peaceful, Just and Inclusive Societies

CONSULTATION SUMMARY

29 June - 31 July 2020

OBJECTIVE

To build on discussions in **UNDP's 2020 Annual Meeting on the Rule of Law and Human Rights**, UNDP (the Global Rule of Law, Security and Human Rights Team) hosted an online consultation on UNDP's SparkBlue platform on the 'The Future We Want To See: Reimagining Rule of Law, Security and Human Rights and the Inclusive Social Contract' from 29 June through 31 July 2020.

The consultation was structured along two discussion rooms, eliciting insights and lessons learned from the **Global Programme*** and identifying trends and opportunities in the Rule of Law field. 120 development practitioners from across UNDP Headquarters, regions and 46 country offices as well as from other UN-agencies, civil society, justice organizations, academia and external partners enriched the discussion with 140 unique contributions. The highlights of the crowd-sourced insights are presented below. They will contribute to a re-imagination of UNDP's governance, Rule of Law and peacebuilding portfolio. They will also be used to inform the design of the next phase of the Global Programme (2022-2025).



Women Police officers from the municipality of Bourj Hammoud, UNDP Lebanon

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THEMATIC CONSIDERATIONS

INNOVATION

- The use of innovation and digitalization within the justice system to improve access to justice and strengthen the capacities of the judiciary to use new technologies (AI, machine learning, automation) for open justice reforms should be strengthened.
- There are opportunities to incorporate tools from the open government toolbox to foster transparency, citizen participation and collaboration in the justice system by using open data.
- Behavioral economics and behavioral insights should be incorporated in thematic areas such as human rights, anti-discrimination, and in the judicial system.
- More focus should be given to building data capacities powered by new technologies and in line with institutional developments. These capacities should be used to design evidence-based policies and produce quality statistical data.
- The use of justice E-learning platforms to maximize training opportunities through distance learning should be promoted and enhanced.
- UNDP is encouraged to focus more on judiciaries, processes, and procedures. Impartial, representative, resourceful, and competent judiciaries are essential for sustainable peace, development, and human rights to respect, protect, and realization. There is a need for new justice products, services and processes that meet the needs of youth, women, and excluded communities.

PARTNERSHIPS AND HR-SYSTEMS SUPPORT (NHRI/UPR), ACCESS TO JUSTICE

- **Role of partnerships with civil society and civic engagement approach to Rule of Law development:** Traditionally, UNDP's work is perceived to be embedded in Government's structure, on the front-line of supporting national agendas of member-states who occasionally contradict the demands of civil society for justice, participation and democratic governance. This historical "human rights dilemma" vis-a-vis UNDP's corporate mandate and commitment to support national authorities is accentuated by rising tendencies of authoritarianism and shrinking civic space.

Thus, UNDP's Rule of Law support should continue to protect and promote civic space and partner with human rights defenders and civil society. Particularly in the context of conflict-affected and fragile settings, the role of social action litigation, civil society partnerships and referral mechanisms enable provision of legal services to otherwise marginalized, in-need and vulnerable communities (i.e. hotline services).

- **The importance of supporting engagement with international human rights machinery such as the Human Rights Councils' Universal Periodic Review process (UPR):** There is a strong business and efficiency case for fostering country-level implementation of UPR and Treaty Body recommendations and to mainstream UPR recommendations in the UN and national development planning processes. The guidelines for national voluntary reporting to the high-level political forum were revised (December 2019) to include important entry points to advance human rights including specific mentions of **National Human Rights Institutions** (NHRI's) and human rights mechanisms such as the UPR.
- More engagement and support to **National Human Rights Institutions** is needed to increase their participation and capacity to influence global processes.
- Knowledge products and methodologies should be introduced to NHRIs in the context of the Tri-partite Partnership* and the next phase of the Global Programme.
- **Administrative justice is important** to control the executive and crucial to peace and development and protect human rights. UNDP should dedicate adequate technical resources to this area, going beyond criminal justice.
- Areas of Rule of Law programming should be broadened by working with court systems, beneficiaries, communities and with other justice actors and ensure coordination among justice sector actors to ensure comprehensive justice. **The Global Focal Point should be further utilized to ensure coordinated Rule of Law work.**
- UNDP needs to improve its support to national governments in developing an inclusive and participative policy and legislative drafting process that is essential for justice and a renewed social contract. This should include considerations on international trade and foreign direct investment and its impact on conflict dynamics.
- **Issues of stigma and anti-discrimination** should be at the front and center of UNDP's programming on human rights and justice. The principle of non-discrimination should be included in a more even way in the next phase by unpacking its root causes and drivers.
- **The National Election institutions** are critical for people's voices, human rights, and representation, and conflict resolution. UNDP is already providing solid efforts and support in this area. More support is needed in ensuring impartial, resourceful, and competent election commissions and fair and impartial election dispute resolution.

SECURITY/STABILIZATION

- **The importance of drawing synergies and enhancing coordination between community-based reconciliation efforts, humanitarian assistance and early recovery efforts to enable pathways for peace and social cohesion** has been highlighted. There is a growing incentive to view access to justice in the scope of stabilization and early recovery efforts.

*GANHRI, UNDP and OHCHR have enjoyed a strategic tri-partite partnership since 2011 in support of NHRIs. Each partner brings a specific value proposition and complementary expertise to the partnership bringing additional opportunities to leverage and complement respective mandates, expertise and operations to support NHRIs around the world. Access the document [here](#).

UNDP should increase its focus on reconciliation efforts through traditional or religious networks or community-led dispute management mechanisms. These also serve to strengthen local access to justice and further enhance conflict transformation.

- UNDP should continue its work with relevant state actors including formal security actors to **elaborate a Disarmament, Demobilization and Reintegration (DDR) approach**. This could help to define pathways for exit and community-based reintegration approaches strengthening local actors within the scope of long-term reconciliation and reintegration efforts.
- **The importance of applying and implementing people-centered justice** and people-centered security in UNDP programmes was emphasized.
- **The humanitarian-development-peace nexus** and integrated solutions are important. However, it needs more consolidation, learning, and efforts to achieve the objectives. It also requires a mindset change.
- To consolidate peace, **transitional justice programmes are a key underpinning**. Establishing proper mechanisms, is a delicate and time-consuming task, potentially resisted by political elites. There is great opportunity for UNDP to support long-term processes, however those might not align with budget cycles.
- Political and financial **investment in SDG16+ needs to be amplified** to accelerate progress on SDG16+ and to achieve the 2030 Agenda.

CONSTITUTIONAL REFORM

- **To enhance support to constitutional reform**, UNDP should ensure the full and equal participation of women and all other marginalized segments of the population in constitutional review and reform processes. Further, UNDP should leverage the opportunity from cross-country learning by showcasing positive experiences of intersectional and gender-responsive constitution-making, particularly in relation to eliminating persistent discriminatory constitutional provisions and structural discriminatory (patriarchal) biases. UNDP should also provide sufficient resources for post-constitutional policy and legislative processes to leverage constitutional enforcement and support intersectional gender-responsive public interest litigation.

BUSINESS AND HUMAN RIGHTS

- UNDP should expand the **Business and Human Rights** agenda further by building upon powerful market incentives for both governments and industries to address policy gaps (i.e. Reputational risk management for companies, emerging trade policies that require labor and sustainability considerations). UNDP should advance the business case through high-level political engagement to establish normative approaches to engage businesses in rights-oriented reform processes. This should include considerations to develop systems to promote gender equality and adopt affirmative action for private sector entities.

PROGRAMMATIC CONSIDERATIONS

PROGRAMME DESIGN AND M&E

- **Reporting, monitoring and evaluation systems to account for impact and quality delivery of legal aid should be enhanced;** priorities should be rebalanced to ensure the results-framework promotes focus on quality over quantity of aid delivered (i.e. effective enforcement mechanisms such as prompt execution of judicial judgements vs. achievement of legal redress as adjudicated by a court of law).
- The Global Programme is currently successful in supporting assessment and design stages, however, support to country projects in the implementation phase through stronger monitoring frameworks could be improved.
- **Lessons learned** should be fed back into programming continuously along the programme cycle.
- More importance should be given to conducting needs assessment and political economy analysis that are gender sensitive. This can be a first step to understand the need for flexible and adaptive programming prior to designing and approving projects. It is important to understand capacities, resources and risks from a political economy perspective. Where/when applicable, it should be ensured that conflict assessment and analysis precede conflict response programming.
- **More systematic analysis of root causes and drivers of structural barriers** to people in societies is required when using a Human Rights-Based Approach and Leave-No-One-Behind approaches. This will enable targeting vulnerable groups and women in a more comprehensive way. To avoid an ad-hoc approach to Rule of Law support, future programming considerations should ensure the sustainability of capacity building efforts, such as self-provision of local institutions, including budget allocations and the provision of training programmes by institutions themselves.
- **Flexibility and adaptation to local needs enables greater impact than detailed ex-ante planning and large allocation of resources.** Not the quantity of funds, but rather the possibility to use them strategically in the framework of a larger ROLSHR portfolio in each Country Office is the decisive factor. To ensure this, Global Programme support to UNDP Country programmes may not necessarily translate in comprehensive or self-contained projects, but rather should fill the gaps in current portfolios or enable pushing forward innovative and risk-taking ROLSHR initiatives. Global Programme support is most impactful when it the missing piece of a large puzzle, rather than a small puzzle itself.

UNDP-INTERNAL PROCESSES AND CAPACITY

- **Horizontal cooperation** is needed to support the operationalization of the Global Policy Network. Beyond the global-regional-country structure (which already helps in this endeavor), **country office to country office horizontal cooperation and cross-fertilization across regions should be improved:** UNDP should better capitalize on its global reach which is a crucial comparative advantage.
- **Sustained, predictable funding to ensure technical expertise** is deployed in a timely manner is essential.
- It is encouraged to coordinate and share internal technical expertise, lessons learned and best practices at the regional level.
- UNDP already has the right frameworks and approaches in its existing toolkit; however, these should be used in a more systematic manner.



Training for agents of the OPC (Office de Protection du Citoyen) on human rights investigation and monitoring methodologies

TRENDS AND OPPORTUNITIES

DIGITALIZATION

- **The rising prominence of digitalization for access to justice and the challenges that come with it:** Delivering justice in COVID-19 Crisis particularly prompts courts, police and other justice services to adapt their services, focusing on interventions that are most likely to resolve or prevent additional wave of justice problems. Digital justice tools and systems, from electronic case management systems and online dispute resolution, to electronic document filing and virtual court hearings, have emerged around the world to transform the delivery of justice, promising to enhance access to justice, and improve justice sector efficiency, transparency and accessibility. However, challenges to equitable and inclusive governance that stem from digitalization should be addressed and incorporated to UNDP's future programmatic support in this field. These challenges include considerations of representation, socio-economic or gender specific barriers to access the technology, disability and other factors exacerbating inequalities through the digital divide.
- **The shift in development paradigm towards securitization and the role of Artificial Intelligence (AI), privacy and data protection:** As video-surveillance and use of AI is becoming more prominent in the Rule of Law and community security, there is a greater need to reflect on the impact of technologies on personal freedoms and privacy rights and to re-balance between communal benefits and individual rights. AI systems' ability to exacerbate mass surveillance and intrusion into personal lives reflect and reinforce some of the deepest societal inequalities, fundamentally alter the delivery of public and essential services, undermine data protection legislation and disrupt the democratic process. To that end, future programmes should focus on rights-based AI responses to address collective harms, democratic oversight, enhancing platform regulation and simplifying data protection acts with a more people-centric approach.

LEGAL EDUCATION

- **Foundational Systems and the Role of Legal Education:** The social contract can only work when everyone knows about it, understands its rationale and how the institutions of society have evolved to serve it. While some systems teach children about their responsibilities as citizens, not as many focus on their rights, or on the role of the justice system to hold the state accountable.

Inspired by the concept of a “culture of lawfulness” in the **Doha Declaration***, UN agencies should continue to increase the focus on raising awareness on human rights and continue delivering justice education at different levels.

TRANSPARENCY AND JUDICIAL ACCOUNTABILITY

- **The role of judicial accountability, transparency and anti-corruption:** Transparency, judicial democracy and democratization of the justice system will continue to be critical to institutionalize the Rule of Law and to advance access to justice for all. One entry point to increase focus on accountability could be self-assessment of judicial integrity beyond the judiciary and covering key pillars of the criminal justice system and law enforcement agencies. In this regard, modernization and e-judicial environment, developing an e-strategy for judicial service (i.e. introducing systems such as information centers, client-centric citizen charter, judicial outreach programmes to avoid malpractices) might help to make services more accessible and transparent.

By working with other UN entities, UNDP’s focus should be on corruption prevention and capacity building of judiciary, oversight, and audit institutions.

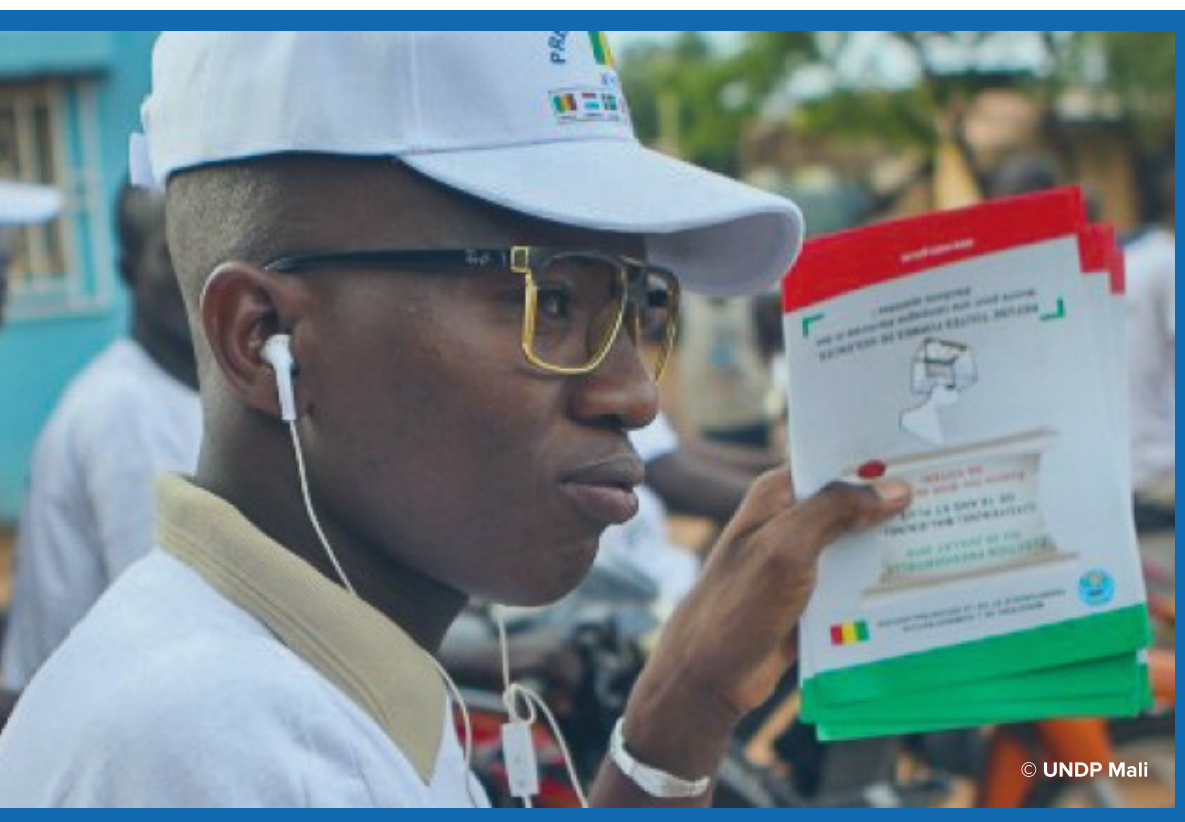
- **There is growing need to challenge “sectorization” of Rule of Law development assistance and to integrate Rule of Law programming with the rest of the development sectors addressed by Agenda 2030 such as sustainable development, environment, climate change, gender equality and empowerment of women:** The traditional pattern of Rule of Law assistance focuses on criminal and civil justice, with a strong focus on legislative, policy-making, capacity development, coordination, legal aid and legal awareness. However, to strengthen the social contract and promote constitutional rights which are often neglected and/or violated by states and private institutions, UNDP should extend its support beyond the criminal justice sector into public administration agencies who are principal interfaces between state and society.

With the framework of SDG16, a Rule of Law deficit in public administration needs to be addressed by administrative authorities who can effectively influence conditions for justice, social cohesion, peace and security and play the “catalytic”, “enabling” and “accelerating functions” of good governance at country level. A SDG16+ focused approach can also respond to demands for increased coordination by national ministerial partners and unify both national and inter-agency partners towards delivery of Goal 16 (Governance for Peaceful, Just, Inclusive Societies)

Adopted at the conclusion of the 13th United Nations Congress on Crime Prevention and Criminal Justice in 2015, the **Doha Declaration highlights the importance of education as a tool to preventing crime and corruption. It emphasizes that education for children and youth is fundamental in promoting a culture that supports the Rule of Law, crime prevention and criminal justice.*

PEOPLE CENTERED SECURITY

- **There is an opportunity to articulate community security under people-centered security,** supporting strategic results at regional, national and local levels based on joint security assessments undertaken with partners with the perspective of achieving equal justice for all. Making this work in mission settings, during transitions, as well as in non-mission settings is key to delivering on UNDP's SDG integrator role.
- **Contextualizing Rule of Law, citizen/human security and human rights as an integral part of conflict prevention strategy:** citizens' lack of trust in key Rule of Law institutions, lack of voice and accountability as well as socio-economic oppression are increasingly leading to social unrest and protest movements which in turn can yield to outbreak of violence and complex crises. Supporting people-centered citizen security approaches and accountability mechanisms to enhance trust in Rule of Law institutions and to ensure no one is left behind may be an effective prevention strategy.



Young people taking part in youth caravan for peaceful ballot that traveled through Bamako, Mali.

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CLIMATE JUSTICE

- **Emerging environmental treaties to protect the rights of access to information, public participation and justice in areas such as the sustainable use of natural resources, biodiversity conservation, the fight against deforestation and climate change, and water and air quality** (e.g. **Escazú Agreement***) set the context for strategic engagement and programming focused on environmental and climate justice. These agreements can guarantee the right to enjoy a healthy ecological environment as a requirement for the full enjoyment of other human rights, such as the right to a dignified life, health, housing, food, water and sanitation.

Given the increasing challenges faced by environmental human rights defenders, it is also imminent for UNDP to explore avenues to support human rights defenders vis-à-vis increasing risks and violent acts they face.

GENDER JUSTICE

- In the field of **Gender Justice**, opportunities abound. For instance, the Global Programme should leverage its work with courts, parliaments, NHRIs and others to end violence and discrimination against persons with non-binary gender identities. Further, more efforts to assess the impact of court decisions on women and other marginalized segments of the population more broadly should be undertaken. Programme design should be directed to mitigate these adverse effects.