

Social transformation through women's human rights, access to justice and security:

A strategic vision for UNDP

Summary of the Background Paper for the Global Expert Meeting on “Reducing Gender-based Violence to Achieve the Sustainable Development Goals” 2-4 March, Seoul, Korea

Lucy Turner, February 2016

This paper explains how Rule of Law, Justice, Security & Human Rights (ROLJSHR) programmes contribute to ending GBV. Effective justice, security and human rights institutions and mechanisms:

- protect against GBV;
- end the impunity in which GBV proliferates; and
- help women to access entitlements which reduce their vulnerability to abuse.

The paper describes the issues that sustain impunity and how ROLJSHR programmes help to address them. ROLJSHR programmes aim to be comprehensive, supporting: *advocacy* for development and reform of legal frameworks which protect and promote women's human rights; *access* to justice and security institutions and services; the *administration* of justice in formal and informal systems; and *accountability* for upholding women's human rights.

ROLJSHR programmes also aim to be multi-sectoral, engaging partners from government, the judiciary, civil society and national human rights protection systems in order to support access to the multiple services that GBV survivors need to obtain justice, from shelter and legal assistance, to health services and psycho-social support. The paper presents examples of such programming, the results they achieve, and promising practices on which to build over the next 15 years.

ROLJSHR programmes address the *legal and institutional* issues that sustain impunity for GBV, such as gaps in the law and regulatory framework, poorly trained police and gaps in accountability, or lack of legal aid. Other, *non-legal*, issues must be addressed to enable GBV survivors to access justice. For example, a victim of domestic abuse is unlikely to pursue justice if she does not have access to a shelter, and to livelihoods opportunities that enable her to leave a partner on whom she is financially dependent. Justice institutions will not be able to respond to her claim unless finance ministries make adequate and timely disbursements. Security institutions will not be able to prevent GBV unless women can participate in the governance processes through which they can ensure that the issues that perpetuate GBV are addressed (e.g. structural gender inequalities, lack of street lighting; inability to inherit/own property or to register land in their own name, etc.).

These issues must be addressed to end impunity for GBV, yet they fall within the remit of other programmes: governance, economic development, gender, peacebuilding and others. For ROLJSHR programmes to realize their potential, they must therefore establish linkages with these other initiatives. By doing so, ROLJSHR programmes could measure the significant, 'macro-level' changes—in GBV crime reporting rates; GBV conviction rates; public perceptions on the acceptability of GBV; and overall prevalence of GBV crimes—that the international community wants to see over the next 15 years (the period during which the Sustainable Development Goals (SDGs) must be achieved).

Linkages between ROLJSHR programmes and a number of other initiatives would enhance their individual and collective impact. ROLJSHR programmes would benefit from being able to offer more comprehensive support, which enables more GBV survivors to access and achieve justice. Other programmes could benefit from 'tapping into' initiatives which are established by ROLJSHR in order to enhance access to justice, but which have a broader relevance and potential value. For example, programmes in all areas typically require: *legislative changes* to ensure that the rights promoted by those programmes—be they political, civil, economic, social, or cultural—are

enshrined in law; support to enable women at risk of GBV to *access* relevant institutions and mechanisms, claim their rights and obtain their entitlements; and help to ensure that those institutions are held *accountable* for quality gender-responsive service provision. They would therefore benefit from ‘tapping into’ the legal reform processes, access to justice structures, and accountability mechanisms which ROLJSHR programmes support.

This paper argues that reconceptualising ROLJSHR programmes in this way—from initiatives which work with ROLJSHR institutions in order to promote women’s access to justice, to structures which provide a platform for the success of a range of programmes, through concrete linkages which enhance their individual and collective impact—is the key to enabling ROLJSHR programmes to do a better job of addressing impunity for GBV, as well as helping UNDP to contribute to *SDG 5: achieve gender equality and empower all women and girls*, and *SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*.

Rationale for suggested approach: UNDP is challenged to demonstrate a significant contribution to support the implementation of the ambitious 2030 Agenda and “leaving no one behind”, with the current complexity of the world with protracted conflicts, rising violent extremism, widespread human rights violations and continued inequalities, diminished core resources, a more crowded development context, accelerated UN reform processes to bridge the work across the 3 pillars of the UN, and donor demands for evidence of macro-level social change. The SDGs suggest that this may be done by working in partnership (goal 17). This paper proposes how such partnership may be achieved in practice: through cross-practice participation in ROLJSHR programmes. An annex proposes steps to realize this new vision within the next 15 years, as well as measures which could improve the impact of programmes, within existing (stand-alone) frameworks.

Proposed Roadmap

To enhance the impact of programming under the current model, UNDP could consider focusing on the following issues:

Reduce the costs and enhance the benefits of pursuing justice. Access to justice for GBV is limited because the cost of pursuing justice to the individual—in terms of financial outlay, time invested, risks (loss of social belonging; risk to physical safety)—are significant and relatively certain, whereas the benefits are uncertain. In the best case scenario—if that individual’s needs are met and rights upheld by justice and security institutions—she may ‘gain’ healing and some form of financial settlement (e.g. in case of disinheritance, return of property) which benefits her personally. Society gains far more, though, in terms of the ‘social learning’ that occurs about tackling impunity: a conviction for this one injustice deters many more rights violations, and sends a powerful message about women’s human rights which help to unravel the impunity and perverse social norms which hold all of society back. In other words, access to justice for women is a classic example of a public good¹: it is ‘undersupplied’ because the costs and risks accrue primarily to the individual, whereas the benefits accrue mainly to the wider society. To enhance GBV survivors’ willingness to access justice—and hence amplify the potentially socially transformative impact of ROLJSHR programming—a means must be found to reduce the costs and enhance the benefits to the individual.

Greater focus on civil and administrative cases. UNDP’s ROLJSHR programmes have tended to focus on supporting GBV survivors’ access to justice in criminal cases (especially rape). This is important for helping individual survivors to move forward with their lives, and to deter further abuses. However, women’s human rights are most often violated in civil and administrative cases,¹ and access to justice for these cases reduces vulnerability to GBV. UNDP could therefore expand the scope of its programming to focus on these cases.²

Focus on accountability. UNDP’s focus on ‘capacity development’ mainly focuses on training. This is important: justice and security personnel must have the technical skills needed to support women’s access to justice.

¹ For example, a public perception survey of Palestinian justice and security institutions found that civil cases constitute the majority of cases—64.6%. See UNDP 2013, *Public Perceptions of Palestinian Justice and Security Institutions: Survey Report*, Jerusalem: UNDP.

² Note that this will also support the development of programmatic linkages: gender, environmental, economic and governance programmes often aim to support women and vulnerable people to enjoy rights which are vindicated in civil and administrative cases. It will be easier to find programmatic linkages, therefore, if UNDP expands its focus to include civil cases.

However, ‘capacity’ is not limited to technical skills or knowledge. It is a more complex notion which connotes both *willingness* and *ability*. UNDP and other development entities’ focus on capacity development —i.e. developing ability—may partially explain an observed lack of implementation of relevant laws. Personnel also need to have the incentives needed to use the technical skills they develop through training. UNDP can achieve this by prioritizing accountability. These efforts could include:

- Support to develop human resource functions (ensure that staff have TORs, teams (and preferably also individual team members) have workplans with targets and M&E frameworks which include gender-responsive service provision indicators, and that they are supervised and have performance appraisals.
- National Human Rights Institutions and other type of public complaints mechanisms.
- Internal disciplinary mechanisms.
- Support oversight mechanisms, including potentially development of formal processes through which justice and security institutions receive and respond to civil society monitoring reports.
- Promoting participatory approaches, including engaging civil society organisations and affected populations in institutional and legal reform efforts.

Prioritise efforts to strengthen core institutional processes. Justice and security institutions’ capacity to protect women and support GBV survivors’ access to justice is a function of the effectiveness of core institutional processes: case management, and human resource management. These functions underpin institutional effectiveness and gender-responsive service provision. Thus support to core management functions—planning, budgeting, M&E—is particularly important for gender-responsive service provision. Justice and security institutions need to identify the concrete issues which perpetuate institutional discrimination, and identify concrete, costed, activities to address them. Often, institutional planning is done by senior male administrators, behind closed doors. Institution-wide, participatory processes in which women play a key role are required to ensure that the issues that make it difficult for justice and security institutions to recruit and retain female staff—or to respond to the needs of women and GBV survivors, are known and enshrined in action-oriented institutional plans, with targets, time-frames, and budgets. This information also is essential to obtain the resources (from national Ministries of Finance) needed to finance investments in gender-responsive service provision.³

Refine support to legal aid. UNDP supports an innovative form of legal aid aligned with new international standards⁴: networks composed primarily of female paralegal-based CSOs, with the participation of Bar Associations and university-based legal aid clinics. This form of legal aid service provision is generating excellent results for women’s access to justice. For example, the legal aid network established by UNDP Sierra Leone’s Improving Access to Justice (2009-2011) project was the driving force behind a key achievement: supporting 45 survivors of GBV to access justice: a 65% increase in the conviction rate in just one year. UNDP could enhance the impact and sustainability of this model of legal aid by doing more to: invest in the capacity of grantee service providers; address corruption amongst legal aid service providers; and promote the institutionalisation of legal aid (i.e. through national legal aid boards).

Prioritise the establishment of shelters, victim and witness protection programmes. To address the risk of retaliation, community stigma and security threats, the availability of appropriate and quality shelters is essential. Without them, women often lack confidence to access justice, or place themselves at risk by so doing. In addition to supporting the establishment of shelters (at least one per country), UNDP should ensure that legal aid service providers explain to victims and witnesses not just what their rights are and how to assert them, but also the consequences of doing so. Community-based women’s organisations can help to frame sensitive approaches to address gender justice issues safely.⁵ UNDP should also think about how to protect the human rights defenders and CSOs/NGOs it engages in gender justice efforts. Joint programming is also relevant here: OHCHR has policies and practices to inform programming on ‘defending human rights defenders’.

³ In accordance with public financial management principles, Ministry of Finance allocations are made conditional upon receipt of itemized annual budgets with justifications for budget line items. To obtain the larger budgetary allocations for the investments needed to promote gender sensitivity, institutions must be able to identify and fluently defend concrete activities to achieve this. UNDP can help them to do this.

⁴ *The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (adopted by the General Assembly in December 2012) present a new conception of relevant, cost-effective legal aid services. See also UNDP, *Legal Aid Service Provision: A How-To Guide on Legal Aid Programming in Africa*, 2010

⁵ For this purpose, beware of the parallel existence of urban-based women’s organisations which tend to be heavily oriented towards the international community, and more grassroots-based women’s organisations.

Support creative advocacy to target the socio-cultural context. ROLJSHR programming influences the norms which underpin GBV indirectly: by supporting an end to the impunity and lower socio-economic status which legitimizes it. In the poor and conflict-affected countries in which GBV is most acute, however, trying to obtain justice from broken systems is profoundly challenging—and trying to end GBV through convictions can seem like trying to bail out the ocean with a bucket. ROLJSHR could complement these efforts with other initiatives that help to achieve these outcomes directly such as:

- *Engaging men in creative advocacy campaigns to address gender stereotypes.*
- *Engaging human rights defenders and civil society organization in designing initiatives which ridicule gender stereotypes (such as India's 'slut walk') or promote different yet culturally-sensitive responses to GBV (e.g. 'ring the bell' campaign).*

If UNDP wishes to shift towards the proposed 'cross-practice' approach to ROLJSHR programming presented, it could consider the following steps:

- **Develop an evidence-base on the broader relevance and value of ROLJSHR programming:** To generate interest in forming linkages with ROLJSHR programmes, there is a need for inter-disciplinary research which could show how the rule of law enhances gender/governance/environment/livelihoods/peacebuilding objectives. Inter-disciplinary research could help to 'make the case' that 'cross-practice' participation in ROLJSHR programmes is mutually beneficial.⁶
- **Establish a protocol to foster linkages between ROLJSHR and other programmes:** ROLJSHR staff could be encouraged to consult with staff from other teams to ascertain whether or not collaboration would be mutually beneficial. If discussion identifies potential synergies, a modality to operationalise them could be agreed. To assist with this, Country Directors could be requested, as part of the SDG roll-out, to mandate these exploratory discussions as part of the process to develop new programmes.
- **Develop joint M&E frameworks:** Joint M&E strategies promote programmatic linkages by effectively 'binding' partners within a common framework. The existence of a joint governance-ROLJSHR Sustainable Development Goal (SDG 16) and SDG 17.18 on developing national statistical capacities (i.e. strengthening institutions which would obtain data covering a range of topics) could help with this.
- **Develop a model.** UNDP could consider providing incentives (i.e. additional funding for joint initiatives and assistance with reporting, M&E, etc.) to country offices to help to develop this new approach to ROLJSHR programming. The idea would be to develop a case study example whereby the kind of structure proposed in fig 2 is established on the ground, and is used as a source of lessons learned for other countries.

⁶ Note: this could perhaps be achieved by widening the scope of research currently being conducted to develop a 'theory of change' for RoLJSHR Global Programme Phase 3.