

**UNITED NATIONS DEVELOPMENT PROGRAMME**

**Project of the Government of India**

Project Number: IND/03/023

Project Title: Strengthened Access to Justice in India Phase-I

Estimated start date: January 2006

Estimated End Date: December 2006

Executing Agent: Department of Justice,  
Ministry of Law & Justice

Implementing Agent(s): Department of Justice,  
Ministry of Law & Justice

Thematic Area: Democratic Governance

Summary of UNDP and Cost-Sharing Contribution  
(as per attached budgets)

UNDP	Approved Budget	Indicative Budget
TRAC (1 & 2)	\$ 200,000	\$ 1.5 million
TRAC (3)	\$ -	-
Other	\$ -	-
Cost Sharing:	\$ 800,000	\$ 55 million
Government:	\$ -	-
Financial Institution	\$ -	-
Third Party	\$ -	-
Total	\$ 1 million	-

Note: The official UN exchange rate for Dec 2005 is \$1 = Rs. 45.84

**Brief Description:**

Justice reforms are now widely recognized as one of the essential conditions for sustainable human development. GoI has expressed strong commitment to judicial reforms as reflected in the Tenth Five Year Plan and the National Common Minimum Programme. Access to justice is essential for poverty eradication, since justice remedies are a means for people to protect their economic, social, cultural and political wellbeing, when this is jeopardised by disputes or abuses of power.

Strengthened Access to Justice in India (SAJI) will take an integrated approach to justice reforms since enhancing access to justice calls for strengthening both the demand for and supply of justice; that is people's legal empowerment to claim their right to redress, as well as the capacities of those mandated to respond to fulfill their obligations in that respect.

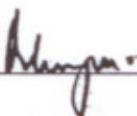
More specifically, SAJI will support initiatives directed towards strengthening justice delivery through the court system, informal justice processes, the criminal justice sector (police, prisons and prosecution), the informal as well as para-legal agencies and non-governmental organizations engaged in the provision of legal services. SAJI will at the same time support activities directed towards empowering the most disadvantaged groups (poor people, displaced people, tribal populations, scheduled castes, women and children) to seek remedies when they are aggrieved.

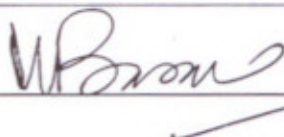
SAJI will be implemented in two phases.

**This project document pertains to Phase-I of SAJI.**

SAJI Phase-I will carry out preparatory work such as identification of activities and strategies, pilots under the Justice Innovation Fund (JIF), development of indicators, establishment of baseline, mapping exercise to address existing information gaps – leading to the design of a Project Implementation Plan that will form the basis for SAJI Phase-II.

Government



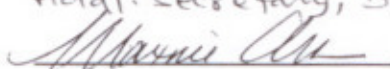


Executing Agency

R.K. Bhargava,  
Addl. Secretary, D/o Justice

MADHUSUDAN PRASAD  
JOINT SECRETARY (FB)

UNDP



12 JAN, 2006

Maxine Olson  
UN Resident Coordinator &  
UNDP Resident Representative

20/01/06

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## **A: UNDP'S COUNTRY PROGRAMME CONTEXT**

### **I: Background**

The Tenth Five-year Plan proposes "a shift in the focus of planning from merely resources to the policy, procedural and institutional changes which are essential for every Indian to realise his or her potential."

This resonates with the overarching goals of the work of the United Nations system in India – *to work towards the promotion of sustainable human development and the elimination of human poverty and inequalities* – as well as the UNDP global mandate to establish 'partnerships to fight poverty'. The Government of India (GoI)-UNDP Country Programme for the period 2003 to 2007 is aligned with these priorities, and is a reflection of the recognition that international co-operation can play a significant role in supporting the GoI in addressing these issues.

With an average growth rate in the gross domestic product of 5.8 per cent during the first decade of reforms (1992-2001), India is among the ten fastest growing economies in the world. (Figures just published for the third quarter of 2003 show an impressive growth rate of over 8%). India's steady progress over the last decade towards meeting the goals of human development is also reflected in the improvement of the country's human development index (HDI), which rose from 0.406 in 1975 to 0.590 in 2001.

Yet the challenges for human development remain formidable<sup>1</sup>. Statistics on critical development indicators and incomes show that regional and interstate disparities are increasing<sup>2</sup>. There is a consensus on the need for proactive measures to tackle the situation of disadvantaged and vulnerable groups. The pressures on environmental and natural resources and the repercussions of their degradation on low-income livelihoods have become a source of increasing concern. In the context of rapid strides in decentralisation, there is an urgent need to strengthen the capacity of organs of local governance-rural and urban, as also to make public administration more efficient, open and accountable to the public.

### **II: The Country Programme (2003-07) and its Thematic Focus**

**Table 1: Four main themes for the Country Programme (2003- 2007)**

Promotion of human development and gender equality	In India, the state human development reports (SHDRs) have been a successful vehicle for promoting the concept of human development as a valid basis for development planning. It is now proposed to build on the credibility and experience-base established through the first Country Cooperation Framework (CCF) to create an interface at the state level between economic policy and social concerns such as gender equality, poverty eradication and people's participation. Strategies proposed include: partnerships with research institutions, civil society organisations and individual experts to support state governments in facilitating integration of social concerns; providing conceptual and methodological support to the process of engendering development; strengthening the state HDR process to make it more consultative and broad-based; and strengthening the involvement in the HDR process of various tiers of the Government and diverse stakeholders, including other members of the United Nations system and bilateral donors.
Capacity-building for decentralisation	Decentralisation is a programme priority. Given the crosscutting focus on decentralisation, strategies proposed include capacity building of panchayati raj institutions (PRIs) and other local institutions. Issues in empowerment of tribal communities through the Panchayat Extension to Tribal Areas Act (PESA) will be explored. Activities to increase access to justice will be undertaken to ensure that vulnerable people are empowered to take part in governance processes. Urban governance will be addressed through building of capacity

<sup>1</sup> <http://planningcommission.nic.in/appdraft.pdf>

<sup>2</sup> [http://www.un.org.in/CCA2.htm#The state of human development](http://www.un.org.in/CCA2.htm#The%20state%20of%20human%20development)

	of urban local bodies and partnership with communities and parastatals. Capacity-building for district and village-level planning will be supported. Support to civil service reform at various levels, with a focus on gender sensitivity, responsiveness, transparency and efficiency of administration, including initiatives on access to information, will be provided. A grassroots perspective of ICT for development will be explored to support the above initiatives. Given the crosscutting focus on decentralisation, partnerships with local institutions initiated under this programme will also provide a basis for convergent programming in other thematic areas.
Poverty eradication and sustainable livelihoods	This programme will intensify efforts piloted during the first CCF to facilitate action on human poverty and ensure their sustainability by rooting them within local institutions and mainstream government programmes. Strategies proposed include: strengthening partnerships between PRIs, women's groups, civil society organisations and government agencies to develop; test and disseminate innovative, gender-equitable and community-managed approaches to sustainable livelihoods and environmentally sustainable natural resource management; piloting and testing gender-responsive models of support for traditional artisan communities; supporting production of status reports on poverty in India; and evolving a coordinated strategy to share Indian best practices with other developing countries and accessing lessons from international experience.
Vulnerability reduction and environmental sustainability	This programme will comprise activities designed to reduce the vulnerability of communities to natural disasters and environmental degradation. Proposed strategies include: strengthening state-and regional-level systems for establishment of disaster-preparedness plans and systems for early warning and recovery; developing community capacities to plan and implement gender-equitable disaster-mitigation strategies and post-disaster reconstruction/sustainable recovery; strengthening national capacities for influencing global debates on environment and mainstreaming global environmental concerns (e.g., biodiversity areas, renewable energy, land degradation, desertification, climate change) into national projects, programmes and policies; and demonstrating technologies and approaches to address linkages between global environment issues and national developmental challenges.

Based on specific roles for UNDP development co-operation identified through a comprehensive review and stakeholder consultation process, all projects build on the following qualities:

- A perspective 'from below', of low-income households and marginalised communities - rural or urban - in order to strengthen their self-help and self-reliance capacities through innovative and catalytic, 'action-research' types of interventions.
- A common platform to bring a diverse set of development partners (Government agencies at the Central, State and district levels; PRIs, NGOs and CBOs; and other UN system and bilateral donor partners) together to devise innovative solutions to development challenges.
- Emphasis on addressing the multi-sectoral dimensions of development programming and when possible, integrating programming at selected geographical locations/districts.
- Comprehensive monitoring and documentation of development innovations from proven success stories and effective pilot initiatives and dissemination of lessons of value for policy-makers with regard to the design and implementation of much larger public sector schemes.

The new Country Programme reflects a continued commitment to national direction and ownership. Partnerships with government agencies and civil society partners initiated under the first Country Cooperation Framework (CCF- I, 1997-2002) will be vigorously pursued and alliances with the Indian corporate sector and the voluntary sector built to draw on their experience and expertise.

## **B: PROJECT SITUATIONAL CONTEXT**

### **I: The Development background**

Improving access to justice for the most disadvantaged people in society is a way to ensure that these people have better opportunities of realizing their human potential, of participating in the governance of the country and ultimately of improving their livelihoods and choices in life. Access to justice is essential for poverty eradication and human development for various reasons:

*First*, poor and other disadvantaged groups who suffer from discrimination also experience disproportionately crime and illegality. Because of their vulnerability, they have a greater chance to be victims of fraud, theft, sexual or economic exploitation, violence, and murder.

*Second*, crime and illegality are likely to have a greater impact on poor and disadvantaged people's lives, particularly because they find it harder to obtain a redress for them. As a result, they are likely to fall deeper into poverty. Justice systems can provide remedies to minimize or redress damages – e.g. by clarifying agreements and titles, determining financial compensation, and enforcing penal measures.

*Third*, justice mechanisms can also be used as tools to overcome deprivation, for instance by protecting access to education by girls and minorities, or developing jurisprudence on access to food, health and other economic, cultural or social human rights.

*Fourthly*, fair and effective justice systems are the best guarantees for reducing risks of violent conflict. The elimination of impunity can deter people from committing further injustices, or from taking justice in their own hands through illegal and violent means.

*Finally*, a robust justice system is key to ensuring better governance across the board: it can contribute to more effective enforcement of pro-poor laws and policies, and it can encourage service delivery to improvements through effective complaint mechanisms and judicial supervision of administrative action.

The Indian Constitution is one of the most progressive in the world and guarantees that all citizens are equal before the law. The formal legal system secures a framework within which all people can realise their rights and achieve full access to justice. Several acts have been passed since 1950 that have further strengthened access to justice including the Provision of Panchayat Extension to Scheduled Areas Act (PESA), the Family Courts Act in 1984, and the Legal Services Authorities Act (LSAA) in 1987. India also has a progressive legal framework for women. Further, Gol has been supporting alternative dispute resolution (ADR) mechanisms by strengthening the system of lok adalats.

The active role taken by government in strengthening pro-poor justice in the country is reinforced by the vibrant civil society existing in India. Civil society organizations play an important role in strengthening people's access to justice through such activities as legal awareness, research and data collection for policy development, legal aid services and general judicial activism to support the rights of especially the most disadvantaged in society.

## **II: Priority issues to be addressed under SAJI**

Studies have shown that the Indian justice system sometimes fails to provide remedies that are – in all circumstances - preventive, timely, adequate, just and deterrent. In the lower courts in particular, major challenges include mounting backlogs of untried cases, inordinate delays in disposals, excessive costs, uncertainties of litigation, and insensitivity to the problems of the marginalized groups.

SAJI aims at supporting Department of Justice in their efforts at capacity building of both justice providers and justice seekers particularly the poor and marginalized.

Experience of many countries has shown that if all segments of the justice system are not addressed, the reform process may be neither effective nor sustained. For instance, if efficient functioning of the police is achieved through police reforms, but the formal court system continues to remain tardy, the next stage of litigation through a court may prove to be a stumbling block in the dispensation of justice.

SAJI therefore intends to take a comprehensive, holistic approach of the justice system in India, and will simultaneously address the following five areas:

1. **Formal court system (with focus on lower courts):** Many of the problems in lower courts stem from basic human resource and capacity gaps among court administrators and judges such as insufficient management and administrative capacity, lack of sensitivity towards poor and women, weak institutional structures, poor working conditions, inadequate case management procedures and insufficient coordination between actors of the justice system.
2. **Informal justice system:** It is widely known that in India a large percentage of cases never come to the formal justice system. Poor and marginalized people frequently take recourse to the traditional and indigenous system that seems familiar and within their reach. The informal justice system may well be the answer for a large majority of justice seekers in India, but apart from "guesstimates", not enough is known about its spread and functioning. It is important to ascertain whether these institutions perpetuate and reinforce discriminatory practices or they provide fair and equitable justice. It would also be useful to explore the linkages between the formal and the informal justice systems, and possibilities of complementarities between the two.
3. **Criminal justice system (police, prison & prosecution):** For the vast majority of disempowered groups, the only interaction they may ever have with the justice system takes place at the police station. However, the police, prison and prosecutorial systems are also characterized by structural, administrative and human resource weaknesses. Discriminatory practices and insensitivity to the special problems of the most disadvantaged groups also seem to be prevalent in the context of the criminal justice system. Moreover, these do not always enjoy the trust and respect of the citizens, creating a void between justice seekers and justice providers. Thus there is a strong need for improved interface between the civil society and these agencies.
4. **Legal empowerment:** Even if the legal framework is in place and remedies to address grievances exist, poor and disadvantaged people often are not empowered to access these. Poor legal literacy is a widespread phenomenon in the country, since most disadvantaged groups lack knowledge about basic rights and the working of the legal system. This problem is further compounded by the fact that other critical support mechanisms are lacking, such as good counseling services and support from coalitions of CSOs for demanding effective justice remedies.
5. **Legal aid:** Legal aid is not reaching out effectively to all people seeking legal assistance in India. This may stem from capacity gaps in the legal aid centres such as inadequate training in counseling, lack of linkages between legal aid centres and NGOs, insufficient opportunities to improve staff competencies and offer career progression, difficulties in attracting competent lawyers to offer their services as well as lack of commitment to pro bono work by members of the bar councils.

SAJI encompasses Phase-I and Phase-II, with Phase-I being essentially the design or preparatory phase, leading to the development of a Project Implementation Plan which will form the basis for Phase-II.

### **III: Indicators of national priority, government strategy and programmes**

The Tenth Five-Year Plan and the GoI-UNDP Country Programme (2003-2007) share common concerns about improving the justice system for all and empower the marginalized and excluded. The Tenth Five-Year Plan, perhaps for the first time so strongly, recognizes the linkage between an improved justice system and poverty reduction. Government of India clearly emphasizes the need for judicial reforms in the 10th Five Year Plan in which it is stated that: "There is an urgent need to bring about judicial reforms with a view to speeding up the process of delivering justice. Alternatives to the

regular delivery mechanism through a hierarchy of alternate courts like Family Courts, Lok Adalats, Nyaya Panchayats etc, need to be resorted to more often.”<sup>3</sup>

The importance of ensuring access to justice for all has also recently been underlined by GOI through the National Common Minimum Programme (CMP) in which it is reflected that: “*The government will take the leadership role to drastically cut delays in High Courts and lower levels of the judiciary. Legal aid services will be expanded. Judicial reforms will be given a fresh momentum.*”<sup>4</sup> GOI’s commitment to ensuring gender equality through enhanced access to justice for women is similarly evident in the CMP which states that “*Complete legal equality for women in all spheres will be made a practical reality, especially by removing discriminatory legislation and by enacting new legislation that gives women, for instance, equal rights of ownership of assets like houses and land.*”

That access to justice is at the epicenter of institutional reform in India can also be seen from GOI’s commitment to pro-poor reforms – including judicial reforms such as the establishment of Legal Aid and Advice Committees and *lok adalats* (or people’s courts) - in the country.

#### **IV: Assessment of previous programmes – main lessons learnt**

UNDP is already cooperating with Department of Justice on a couple of projects: One, involving the National Judicial Academy on a project that has as its main objectives to (i) improve knowledge of barriers to accessing justice by the poor and disadvantaged groups and (ii) strengthen the capacity for judicial training on pro-poor justice by National and State Judicial Academies. Two, a project on Legal Empowerment through Community Radio being implemented in Karnataka and Gujarat that focuses on developing disadvantaged people’s knowledge about rights as well as their practical legal skills through the use of community radio while also strengthening the capacities of CSOs in basic legal counseling services.

UNDP has also previously supported a project on police reforms in collaboration with the Bureau of Police Research and Development, Ministry of Home Affairs.

A number of other external donor agencies like UNIFEM, ADB, DFID, USAID, SIDA and the Ford Foundation have also been supporting programmes in the justice sector. However, few external agencies, apart from ADB and UNDP, have worked directly with government on access to justice issues so far. Generally speaking, donor activities in the justice sector in India have been of a small-scale, isolated and fragmented nature and coordination between the various justice sector actors in the partner states has not been adequately addressed making interventions seem like isolated initiatives. Lessons learned from UNDP’s justice sector support around the world suggests that the separate institutions of police, prosecution, legal profession, courts, prisons, and community-based justice bodies are best addressed in a holistic, sector-wide basis that emphasizes the linkages between the key institutions, rather than treating each one in isolation.

With regard to specific project interventions in areas such as sensitization and awareness building, it has been UNDP’s experience both in India and abroad that it can be quite a challenge to measure the impact of activities undertaken. SAJI will ensure that a proper baseline with data disaggregated by gender and socioeconomic status is developed and that useful criteria or ‘indicators’ will be developed for assessing the project including user satisfaction of various justice mechanisms. Thereby the impact of the project can be monitored closely, and it can be ensured that there is a qualitative change in the access to justice for the most disadvantaged people.

In light of the lessons learned above, SAJI follows a strategy where, on the one hand, support to capacity building of a broad spectrum of justice actors (enforcement agencies, prosecution, court system, informal systems, para-legal systems etc.) will be provided for better provision of justice services and for improved coordination among these. On the other hand, support will be provided to

<sup>3</sup> 10th Five Year Plan, p. 187.

<sup>4</sup> National Common Minimum Programme, 27th May 2004.

the most disadvantaged people to strengthen their capacity to seek a legal remedy and hold justice actors responsible for the provision of justice.

#### **V: Reasons for UNDP development cooperation**

UNDP embodies political neutrality and high UN values. Its long presence in this country and ongoing dialogue with stakeholders - state, civil society, private sector and other donors - makes it a trusted partner of the national government. With capacity development as its mandate, UNDP is in a unique position to provide support to national government in achieving good governance through improved access to justice.

The Millennium Declaration, to which India is a signatory, puts forward essential foundations for a more peaceful, prosperous and just world. The Declaration is the overarching framework for UNDP's work and includes guiding principles for achievements in the area of human rights, democracy and governance. The adherence towards these principles direct and inform UNDP's work globally, regionally and nationally and strengthens its capacity to provide support to GoI in the area of access to justice.

Moreover, UNDP will also be able to draw on the knowledge and experiences gained through the regional Asia-Pacific Rights and Justice Initiative that was launched in 2002. The focus of this UNDP Initiative is to strengthen networks of practitioners in the area of access to justice, to develop a toolkit for access to justice programming and to develop a knowledge map and a web-page on access to justice and human rights approaches to development. Relevant lessons from other countries in the region in this area can feed into the project.

Access to justice is a service line under Democratic Governance which is one of the Practice Areas identified by UNDP globally. This stems from the view that the quality and functioning of democratic processes and people's access to justice is tightly interlinked. If people do not have access to remedies through the justice system, they are fundamentally disempowered and have no means to hold rights violators, including government officials, accountable. Within the context of Democratic Governance, access to justice deals with the process of ensuring fair remedies to people through the justice system.

The rationale for UNDP's work in the area of access to justice in support of gender equality and strengthening of decentralisation is elaborated in Section C III on Mainstreaming UNDAF Focus Areas.

### **C: THE PROJECT**

#### **I: Project Strategy**

##### **UNDP Approach:**

SAJI will draw upon UNDP's global experiences in this field and bring together the experience of the work already done in this area in India. It will take an integrated approach addressing both the judiciary – both formal and informal institutions - and actors, lawyers and related officials, enforcement agencies, community-based justice bodies and civil society organizations.

UNDP's approach to justice sector programmes follows a capacity development perspective in both substance and process. The development of people's ability to access justice requires capacities at multiple levels: individual, collective and institutional. Enhancing access to justice calls for strengthening both the supply of and the demand for justice; that is people's legal empowerment to claim their right to redress, as well as the capacities of those mandated to respond to fulfill their obligations in that respect.



UNDP's approach to working with the justice sector follows an integrated model which focuses on three major dimensions of capacity development: The existence of *normative protection*, *the supply of remedies* and the *demand for remedies*:

Since the Normative Framework in India is in compliance with international standards, this level will not be a priority area in SAJI. SAJI will consequently focus on the capacity of the most disadvantaged groups to seek justice remedies and the capacity of judicial actors to provide effective remedies.

UNDP's strategy in access to justice is based on a set of 4 main principles. The twin principles of **accountability** (of duty bearers) and **empowerment** (of claim holders) provide an objective for capacity development strategies. **Non-discrimination** implies a particular focus on disadvantaged groups and special attention to the impact of the programme on those who are not the focus of development interventions. **Participation** is a key principle underlying all stages in the programming process.

### Overall Strategy of SAJI:

Based on the above analysis of the development background in India and priority issues to be addressed and the expected outputs under SAJI are:

1. Strengthened capacity of the actors of the lower formal court system (through improved case management, strengthened business procedures, training etc.) to provide fair, equitable, effective and efficient justice to poor and disadvantaged groups;
2. Improved capacity of the criminal justice system (Prison, Police and Prosecution) to provide access to justice for poor and disadvantaged people;
3. Strengthened capacity of the actors of the informal justice system to increase consistency, predictability and equality in the application of the law and strengthen conformity with the normative justice system;
4. Improved capacity of the poor and disadvantaged groups (through legal awareness and a range of support mechanisms) to seek justice remedies;
5. Improved formal and informal legal aid services provided to poor and disadvantaged people especially at district and sub-district level.

SAJI will work towards the above outputs through two phases. Phase-I will lead to the development of a Project Implementation Plan and a full-fledged project document for Phase-II.

**This project document pertains to Phase-I or the Design/ Preparatory Phase of SAJI.** The section below outlines the structure of Phase I.

### Strategy of SAJI Phase-I

SAJI Phase-I or the design phase will seek to fill the information gaps that exist (particularly in partner states) with regard to the capacity of justice seekers to seek a remedy and of the capacity of duty bearers to provide effective remedies. Phase-I will also provide the necessary baseline for developing performance indicators and assessing the impact of project activities. It is envisaged that the diagnosis will involve surveys, round table discussions and workshops, desk based and field based quantitative and qualitative data collection and analysis, as well as other mechanisms to gather the perspectives of both the disadvantaged groups and the justice actors.

A Project Implementation Team constituted by a multidisciplinary team of consultants (mainly national, backed up with international expertise where necessary and appropriate) will undertake the work under the Design Phase in close cooperation with government and non-government stakeholders.

During Phase-I, a detailed Project Implementation Plan will be developed on the basis of the activities outlined below:

- **Identification of activities and strategies:** Consultations/ stakeholder meetings with both justice providers and seekers will be held to determine the kind of activities to be undertaken, and the strategies to take them forward in the five focus areas. It is important for all stakeholders to take part in this process to ensure that their demands are tabled, consensus on the way forward arrived at, and ownership and buy-in secured.
- **Justice Innovation Fund (JIF):** The JIF will support selection and implementation of innovative pilot projects across the 5 themes of the project for possible replication/ up-scaling under phase-II. The JIF is an integral part and a critical element of the preparatory phase, as would be evident from its objectives, which are:
  - To provide **practical evidence** of what works/ does not work in the area of justice reforms. Lessons learned will constantly feed into the Project Implementation Plan.
  - To identify partners most likely to push the justice reform agenda, and establish **partnerships** with them for collaboration under phase-II.
  - To build **momentum** by starting up projects and establishing partnerships that would enable quick and effective implementation of phase-II.
  - To demonstrate 'quick wins' and good practices to build **credibility** that improvements can indeed be brought about in the justice sector.

The projects under JIF will be selected on the basis of the following criteria:

- They seem capable of being replicated elsewhere in India or upscaled as part of phase-II of SAJI.
  - They focus on the five main areas of SAJI.
  - They are new or innovative.
  - They must have a focus on access to justice for poor and disadvantaged groups.
  - The project cost should not exceed US\$ 100,000.
  - They are likely to lead to real outcomes for poor people during the life of the project period.
  - They involve organizations with a proven track record.
  - They will be completed within a period of 12 months or less.
- **Development of indicators:** The project will develop specific parameters to measure the success of the activities undertaken in the 5 areas through deskwork and extensive consultations. It is important for all levels of stakeholders to be involved as they need to collaborate in measuring progress and impact in their particular area: both with regard to defining the parameter of success/failure, and in collecting the data for measuring the same. For instance, if the project includes an intervention to improve prisoners' access to health facilities, such data would only be available if prison authorities are on board and willing to collect and share the data and allow oversight by external organizations.
  - **Establishment of baseline:** During the preparatory phase, quantitative and qualitative data on the level of access to justice through the various justice systems will be collected to serve as a "baseline" against which progress as well as impact under SAJI can subsequently be assessed. For instance, the project could collect information as to how the most vulnerable groups in a particular district view the performance of the police (i.e. whether they interact with the police, whether they feel safe and secure in their neighborhood, whether they think the police is behaving in an appropriate way etc. etc.) so later on during the project it would be possible to measure whether the activities directed at improving pro-poor performance of the police really have the desired results.
  - **Mapping exercise to address existing information gaps:** Literature review has shown that there are certain gaps in the information available on some aspects of SAJI's five intervention areas. E.g. the quality of research on informal/indigenous justice forums in India has been limited and geographically restricted. The preparatory phase will accordingly include:

- Collection of information on the informal justice sector – its structure and its working.
- Mapping of the most vulnerable groups to be addressed under the project.
- Information about barriers faced by vulnerable groups, especially women, to access justice remedies and their strategies, if any, to overcome these.
- A mapping and capacity assessment of civil society organizations that could be potential partners under the project.

➤ **Development of a Work plan and Budget:** Following the indicative activities outlined above, consultations will be held with relevant partners to draw up a detailed work plan/ budget stating the precise deliverables and the time line and costs for achieving these.

On the basis of the preparatory phase described above, the **Project Implementation Plan** will emerge, and will include the following:

- Specific deliverables under the five focus areas of SAJI.
- A set of overall performance indicators enabling assessment of project impact.
- A logical framework giving (i) Outcomes; (ii) Indicators for Outcomes; (iii) Outputs; (iv) Activities, (v) Performance Indicators and (vi) Verification Mechanisms.
- A baseline providing the relevant data disaggregated by gender, ethnicity and socio-economic status.
- A detailed work plan/ budget.
- The project management plan outlining implementing structures, partners, roles and responsibilities.

On the basis of the Project Implementation Plan, a Project Document for SAJI Phase-II will be prepared.

#### **ii: Project Results and Resources Framework for SAJI Phase-I**

The Framework below provides an outline of baseline, targets, output and activities under the design phase of the project.

<b>Multi-Year Funding Framework (MYFF) Outcome: Justice systems sensitized to better address needs of the poor and marginalized.</b>			
<b>Project Development Outcome: Improved understanding of issues involved in access to justice for disadvantaged groups and identification of entry points and strategies for future action.</b>			
<b>Baseline</b>	<b>Target</b>	<b>Intended Outputs</b>	<b>Activities</b>
Inadequate understanding of certain justice issues involved in access to justice by poor and disadvantaged groups.	<ul style="list-style-type: none"> <li>• Enhanced understanding of the justice sector and interlinkages between various stakeholders.</li> <li>• Better appreciation of the barriers to accessing justice faced by poor and disadvantaged people.</li> <li>• Increased understanding of the impact of various innovative access to justice pilots and effective</li> </ul>	<ul style="list-style-type: none"> <li>• Surveys and assessments carried out to develop base line and indicators.</li> <li>• Innovative pilots carried out and lessons learned fed into Project Implementation Plan.</li> <li>• Project Implementation Plan developed.</li> <li>• Ownership of key stakeholders secured.</li> </ul>	<ol style="list-style-type: none"> <li>1. Development of ToR for the Design Phase and Justice Innovation Fund.</li> <li>2. Establishment of the Design Team.</li> <li>3. Development of methodology, work plan and timeline for the Design Phase.</li> <li>4. Stakeholder workshops, surveys, desk reviews, data collection and assessments to provide a baseline for developing performance indicators</li> </ol>

	training tools and delivery mechanisms to this effect.		and assessing the impact of project activities. 5. Pilots selected and implemented under the Justice Innovation Fund. 6. Impact of pilots evaluated and lessons learned fed into Project Implementation Plan.
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### **III: Mainstreaming UNDAF Focus Areas**

The Government of India has identified *promotion of gender equality and strengthening decentralisation* as the two priority goals for coordinated action by the UN System in India under the UN Development Assistance Framework (UNDAF). As the UNDAF is a central pillar of the GOI/UNDP Country Programme (2003-2007), all UNDP-supported projects are required to mainstream strategies towards achieving these goals.

This project will address the UNDAF goals by strengthening people's capacity to participate in governance processes and increase access to justice by poor and disadvantaged people. Access to justice is paramount for poverty eradication, since justice remedies are a means for people to protect their economic, social, cultural and political wellbeing, when this is jeopardised by disputes or abuses of power.

Through capacity building of justice actors and institutions, the project will lead to more responsive, open, transparent and accountable governance. The implementation of this project will be focused at the district level thereby addressing local level issues and contributing to the goal of strengthening decentralisation.

The project will take into account issues specific to the most disadvantaged groups in India of whom women constitute the most vulnerable group. In the assessment of the targeted justice institutions under the project, emphasis will be put on bringing forth the barriers for accessing justice as experienced by women. Similarly, as part of the strategies for improving the capacity of disadvantaged people to seek legal address, special concern will be on targeting women. Moreover, it will be ensured that women CSOs are included in the research teams and that capacity building of CSOs is especially focused on women CSOs.

### **IV: Risk Analysis of SAJI Phase-I**

SAJI Phase-I is only a preparatory or design phase, fully supported by the Department of Justice and all key stakeholders. As such, the risk perception is low.

### **V: Partnerships:**

The project aims at promoting improved access to justice through a cohesive partnership with a broad level of justice actors including civil society actors. The project will work with the following partners: Central Government (Department of Justice) and respective State Governments (Home/Law Secretaries), district courts, police, prosecution, prisons, legal aid centers in identified districts, law schools and law academies, judicial organizations like law committees and bar councils/association, informal justice systems, civil society groups and organizations, political leaders and the media.

### **VI: Linkages:**

UNDP is currently cooperating with Department of Justice and National Judicial Academy on a project that is centered on an analysis of the status of access to justice by poor and vulnerable sections through a study of court records of the last five years in 7 high courts. At the end of this investigation,

in selected states, there will be a set of organized and verified data on the access question in the formal justice system for use in policy development and corrective action as well as for curriculum development in judicial academies. The project has as its main objectives to (i) improve knowledge of barriers to accessing justice by the poor and disadvantaged groups and (ii) strengthen the capacity for judicial training on pro-poor justice by national and state judicial academies. UNDP is also collaborating with the Department of Justice on another project on Legal Empowerment through Community Radio being implemented in Karnataka and Gujarat. This project will work towards developing disadvantaged people's knowledge about rights as well as their practical legal skills through the use of community radio. It is expected that the two projects will inform the SAJI project and strengthen the impact of activities to meet the overall objectives.

UNDP has been cooperating with Department of Personnel and Training through activities supporting capacity building for access to information. This work aims to increase the awareness and enhance the capacities of government officials as information providers and citizens as information seekers, and a range of actors to facilitate the sharing of information. Since access to information is a crucial part of building people's knowledge and awareness about their rights and entitlements, strong linkages between UNDP's access to information work and the proposed work under this project will be secured.

With decentralized local self government institutions (LSGIs) playing an increasing role in development programmes as well as in social justice, they need to intervene with the informal justice system - as these institutions are closer to the common people - and to ensure its operation within a normative framework. The UNDP-supported programme on Rural Decentralisation and Participatory Planning for Poverty Reduction in collaboration with the Planning Commission will be working on issues of capacity development of LSGIs in local dispute resolution. This programme links up with SAJI with regard to legal literacy and informal justice systems.

Finally, since improved access to justice and improved governance across the board are interdependent and mutually supportive areas of work, convergence will be ensured between a range of UNDP's other projects.

As access to justice has implications for people's ability to control their own lives and increase their livelihood options, it has almost universal applicability to development issues involving democratic processes. As such, this programme will have implicit or explicit linkages with most of the development efforts in the country.

#### **VII: Geographical coverage**

The project will have a national and a state component. With regard to the state component, implementation will be focused in a limited number of states to be selected in consultation with the Department of Justice. However, the clutch of projects that will be supported under the Justice Innovation Fund will be selected on the basis of their merit and with a view to ensuring that they form a uniform and representative sample across the five themes that form the pillars of SAJI, rather than on consideration of geographical location.

### **D: IMPLEMENTATION ARRANGEMENTS AND ROLES AND RESPONSIBILITIES OF PROJECT PARTIES**

#### **I: Prior Obligations and Pre-requisites**

The Department of Justice will closely monitor the implementation of the project and provide necessary inputs, substantive and managerial, for the successful implementation of the project. It is expected that the DoJ would facilitate linking up of this project with other externally supported/ centrally sponsored projects.

The lessons learned on both process and implementation related issues will be shared with UNDP and other stakeholders on a continuous basis.

UNDP assistance will be provided subject to the satisfactory fulfillment of the above pre-requisites. If anticipated fulfillment of one or more pre-requisites fails to materialize, UNDP may, at its discretion, either suspend or terminate its assistance.

## **II: Implementation Arrangements – Institutional Mechanisms and Monitoring**

This project document for Phase-I, once approved by the Department of Economic Affairs, will be signed by UNDP and Department of Justice, Ministry of Law & Justice, who will be the Executing and Implementing Agency. As Phase-I is only a preparatory/ design phase with short time duration, it will not require elaborate implementation arrangements. Phase-I will only have the Project Steering Committee (PSC) that will guide and manage its activities and recommend the Project Implementation Plan for formulation of SAJI Phase-II.

The composition of the management structure for the project will be as follows:

### **Project Steering Committee (PSC)**

- |  |               |
|--|---------------|
| 1. Additional Secretary, DoJ                                     | - Chairperson |
| 2. Nominee of UNDP   | - Member      |
| 3. A nominee of the Integrated Finance, DoJ                      | - Member      |
| 4. Representative of DEA   | - Member      |
| 5. Team Leader of the Project Implementation Team                | - Member      |
| 6. Four co-opted members (including NGOs) with special expertise | - Members     |
| 7. A representative of NJA, Bhopal                               | - Member      |
| 8. Joint Secretary (Police), MHA                                 | - Member      |

### **Project Implementation Team**

The project will be implemented by a Project Implementation Team which will coordinate the activities and be responsible for meeting the objectives under the project. The Project Implementation Team will be constituted by a multi-disciplinary team of national/international experts. The Project Implementation Team will guide the development of the Project Implementation Plan by designing in detail the activities to be undertaken as per the outline of the Design Phase in the project document, planning a detailed time frame for the activities to be carried out, developing a budget, selecting partners to carry out research and mapping activities and providing training and support to partner throughout the process. The Project Implementation Team will also manage the Justice Innovation Fund including selecting pilots and partners to carry them out, support and monitor the implementation of pilots, draw lessons learned and feed these into the Project Implementation Plan. An initial task under the project would be to develop a detailed work plan for the Design Phase and for the process under the Justice Innovation Fund.

Besides the management structure described above, it is envisaged that experts will advise and give inputs to the implementation of activities at various stages throughout the project. These may comprise international/ national experts including those from UNDP's Oslo Governance Centre and the Regional Center at Bangkok.

## **III: Funds Flow Arrangements and Financial Management**

The funds flow arrangements under the project will be guided by the GOI NEX Guidelines and UNDP procedures for national execution. Funds shall be advanced to projects on a quarterly basis based on annual work plan. A Financial Report in the prescribed format reflecting the expenditure in the previous quarter, the balances at hand and estimated funds requirement for the next quarter will be submitted by the Implementing Agency to the Executing Agency for their verification and counter signature and onward transmission to UNDP. The quarterly Financial Reports should be submitted to UNDP within 15 days of the close of the quarter.

UNDP will also make direct payments to suppliers of goods and services (if required) and to consultants, domestic or international, on receipt of request for direct payment from the Executing

Agency. In case of direct payments to the Implementing Agencies, it will be ensured that the funds thus received are properly reflected in the budgets and accounts of the recipient institutions.

The Implementing Agency(s) shall maintain separate bank account in order to receive and disburse UNDP funds. Separate books of accounts on cash basis of accounting shall also be maintained in order to ensure accurate reporting of expenditures and providing a clear audit trail. Suitable guidelines on financial management will be issued by UNDP separately.

#### **IV: Audit**

As per the GOI NEX Guidelines, the project shall be subject to audit in accordance with UNDP procedures. In order to meet the UNDP requirement of covering 90% of the annual NEX expenditure under audit, an annual audit plan will be drawn up in consultation with DEA. The project shall be informed of the audit requirements by January of the following year. The audit covering annual calendar-year expenditure will focus on the following parameters: (a) financial accounting, documenting and reporting; (b) monitoring, evaluation and reporting; (c) use and control of non-expendable reporting; and (d) UNDP Country Office support.

The auditor shall be appointed in consultation with DEA. In line with the UN Audit Board requirements for submitting the final audit reports by 30<sup>th</sup> April, the field visits will be carried out by the auditors in February/March. Detailed instructions on audit will be circulated by UNDP separately.

#### **E: MONITORING & EVALUATION**

In order to ensure effective and results-oriented project implementation, the qualitative monitoring described above will be complemented with evaluation(s) when considered necessary by the PMB or PSC. In general, UNDP is trying to practice outcome evaluation - that means evaluation of a cluster of projects contributing to a given outcome rather than evaluation of individual projects. This would enable better appreciation of relevance, performance and success in a broader context. Monitoring and evaluation will also be made more participatory so that it is the people who evaluate the success or otherwise of the project. A detailed M & E strategy will be chalked out at the beginning of the project.

#### **F: PROJECT BUDGET**

##### **I: UNDP contributions**

Of the US\$ 1 million allocated for this preparatory project, UNDP will contribute US\$ 200,000 out of core resources, and US\$ 800,000 will be cost-sharing contribution. As the preparatory phase progresses, and the need felt for augmenting the activities (and correspondingly, the resources), additional funding may be allocated to SAJI Phase-I in consultation with the Executing Agency and DEA.

Access to justice issues are emerging as strong areas of support for many other donors and international development partners. Apart from UNDP core resources, efforts will be made to mobilize resources for Phase-II and subsequently for upscaling, deepening and widening activities under SAJI. Such an expansion in the project will be subject to the agreement of the Executing Agency and DEA.

##### **II: Government contributions**

The Government of India's contribution will be in the form of time given by the DoJ, the State Governments, and other government partners.

The Implementing Agency for the project will contribute in the form of all necessary human and other resources to ensure successful implementation of the project.

Required office accommodation, local transportation, support staff, information and other facilities required to carry out sub-programme activities will also be provided by the Government as counterpart contribution.

## G: LEGAL CONTEXT

The following types of revisions may be made to this document with the signature of the UNDP Resident Representative UNDP only, provided he or she is assured that the other signatories of the sub-programme document have no objection to the proposed changes:

- (a) Revisions in or addition of any of the Annexes of the sub-programme document.
- (b) Revisions which do not involve significant changes in the immediate objectives, outputs of activities of the sub-programme but are caused by the rearrangement of inputs already agreed to or by post increases due to inflation
- © Mandatory annual revisions, which re-phase the delivery of agreed sub-programme inputs or increased experts or other costs due to inflation or other reason.

The Executing Agency shall at all times, ensure compliance with the NEX guideline annexed hereto and also comply with the requirements contained in the UNDP procedures for national execution (April 1998) to the extent they do not conflict with the said NEX Guidelines or extant rules and provision of GOI.

## H. INDICATIVE BUDGET FOR SAJI PHASE-I

	Amount (US \$)
Pilots under Justice Innovation Fund	500,000
Baseline, mapping, indicators etc.	200,000
Consultants	150,000
Travel/mission costs, M&E	50,000
Workshops and meetings	35,000
UNDP operation support (5% of total)	50,000
Miscellaneous	15,000
<b>Total</b>	<b>1,000,000</b>