

**United Nations Development Programme Iraq**

**Promoting Rule of Law in the Kurdistan Region of Iraq through a Modern, Efficient and Accountable Justice Sector**

**Annual Progress Report: 2013**

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| **Project Title:** | Promoting Rule of Law in the Kurdistan Region of Iraq through a Modern, Efficient and Accountable Justice Sector |
| **UNDP Project #:** | 00086306 Atlas ID for output 1  00086307 Atlas ID for output 2  00087888 Atlas ID for output 3 |
| **Project Duration:** | 36 months (1st Oct 2012 - 30 Sept 2015) |
| **Project Resources:** | TRAC and Kurdistan Regional Government |
| **UNDP Iraq Focal Point:** | Marc-Antoine Morel  Nahid Hussein |

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| **UNDAF Outcome(s)** |  |
| **CP Outcome(s):** | 1. Improved governance, including the protection of human rights 2. Enhanced rule of law, protection and respect for human rights in line with international standards |
| **Output(s):** | * Delivery of Justice enhanced through support for Institutional Development and court administration * Protection of citizen's rights enhanced through support to access to justice mechanisms |
| **Implementing Partner:** | UNDP |
| **Responsible Partner:** | UNDP |
| **Project Location(s):** | Iraq |

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# 1.0 Executive Summary

The project aims to enhance the rule of law, protection and respect for human rights in Kurdistan Region (KR) in line with international standards, through enabling governmental and non-governmental institutions in providing better protection and promoting the human rights of all people in KR, with a focus on the most vulnerable groups.

This project is a comprehensive strategy to address the intersecting needs and challenges facing the justice sector in Kurdistan through promoting rule of law and enhancing access to justice mechanisms. The project will focus on capacity development for the justice sector as well as enhancing citizen-government interface to ensure an efficient and responsive court and legal system, as such the project will focus on enhancing the delivery of Justice through support for institutional development and court administration. The project will look to be innovative in incorporating voice and accountability mechanisms, civil society oversight and broad participation and coordination among stakeholders.

In order to identify the real needs, the project started with assessment phase, as such UNDP contracted two consultants, one of whom is an expert in arbitration, who has been fielded to Erbil to carry out project assessment. The suitability of the legal and institutional environment to accommodate an arbitration system has been assessed during this mission and the consultant extended the necessary technical support to establish and functionalize an arbitration system in KR. A symposium was hold in Erbil to introduce arbitration to the relevant participants, and to achieve common agreement on the prerequisite requirements and the mechanism for establishing the arbitration tribunal.

The second consultants conducted series of meetings with the key staff of relevant counterparts to identify the needs, he also visited Kurdistan Judicial Institute (KJI), the New Court Palace and the Ministry of Justice (MoJ) to assess the needs in terms of the required equipment and human resource for developing the KJI, establishing an IT directorate and the CCMS for the Court Palace, as well as the legal database for MoJ, so as to prepare strategic plans and action plans for achieving the project outputs.

Despite the continues follow up meeting by UNDP’s senior management personnel with the Ministry of Planning for expediting the project approval and the release of cost sharing funds, the delay of fund release by KRG remains the main challenge, which had significant impact on the project time line.

# 2.0 Context

This project was initiated upon a request by KRG prime minister during his meeting with UNDP’s country director in November 2012

KRG is moving towards market economy and seeking to encourage private and foreign investments in KR-I. The KRG passed and ratified the Investment Law offering foreign investors various incentives to invest in the Kurdistan region, however capacity and familiarity with commercial issues particularly within an international business context remains weak among relevant institutions in KRG. Similarly, potential training and learning opportunities for the judicial sector is still underdeveloped particularly in investment/arbitration laws. In order to assure that the judicial sector is capable of winning the confidence of investors and/or businesses, significant training and orientation on the various treaties, laws, mechanisms and procedures necessary to maintain active and efficient arbitration and commercial litigation systems.

The judiciary sector in KRG is also suffering from lack of human resource capacity to manage the responsibility of its citizens, particularly with regards to court personnel and judges. Following 1990, judges from the Kurdistan region were no longer able to attend or study at the Judicial Training Institute (JTI) in Baghdad having a disastrous effect on both the number and capacity of the judges entering service in Kurdistan. As a consequence, the number of Judges in Kurdistan courts is low.

Therefore, the shortage of key judicial personnel, including judges and prosecutors is a significant issue; as such there is urgent need to support the newly established Judicial Institute in Erbil, in administration and curriculum development.

Since 2009, UNDP implemented a successful program on the Rule of Law and access to Justice in KR, the main component of this program was Erbil pilot court which included capacity building for judges, and public prosecutors, court case management system, legal research unit and study tour visit to Dubai Courts, in addition to the legal help desk, therefore UNDP can build on the previous support it has provided to the justice sector.

A new court palace is inaugurated recently in Erbil, it requires support in court automation and case management system, and the previous support to Erbil pilot court needs to be extended to other courts that are accommodated in the New Court Palace.

KRG prioritized Rule of Law as key policy priority for enhancing the government performance and honesty. The fourth pillar of the KRG 2020 Vision is “putting a government that works to the people”.  The Vision identifies that in order for KRG to become an effective, transparent, trusted, and honest government, it must improve Rule of Law and ensures a professional and autonomous judicial system through which it will fight corruption and must enhance access to justice and thus build the confidence of the public.

Strengthening the rule of law and enhancing access to justice mechanisms in a broad and participatory matter are two essential components for institutional, economic and social recovery and will prove sustainable when trust and confidence is enhanced in the justice sector in KR-I. The KRG Government is committed to increasing trust and confidence and the efficiency of the justice system as well as building towards judicial independence. This project aims through, working on several levels (policy, institutional and grassroots) as well mainstreaming gender components, to programme holistically to ensure that relevant partners are able to better provide quality service to its citizens; be more responsive, and efficient in its capacity as well as able to meet the functions and challenges of development in the KR.

Intended objective: The project will target capacity development for the justice sector as well as enhancing citizen-government interface to ensure an efficient and responsive court and legal system. The project will focus on two axes; Enhancing the delivery of Justice through support for institutional development and court administration and enhancing access to justice through legal aid and legal empowerment.

Intended beneficiaries: The direct beneficiaries of this project will be the citizens of Kurdistan region of Iraq and justice sector institutions in KR-I; the Ministry of Justice, the Kurdistan Judicial Council, Judges and staff at the Judicial Training Institutions, the Bar Association, Judge's Union and NGOs working on human rights and access to justice issues as well as the Investment Board

Main project stakeholders: UNDP CO, and KRG

Implementing arrangements: DIM

Reference to key documents

UNDAF: UNDAF Priority 1: Improved Governance, including the protection of human rights.

CPAP: Outcome 2: Enhanced rule of law, protection and respect for human rights in line with international standards

CPD:Strengthening accountable and responsive governing institutions

MDGs: Promote gender equality and empower women

# 3.0 Implementation Progress

***Output 1: Delivery of Justice enhanced through support for Institutional Development and court administration***

**Achievements in 2013**

***Activity 1:* Establishment of I.T Directorate at the Kurdish Judicial Council (KJC)**

***Activity 2:* Support Court Administration and the Replication of the Case Management System**

The objectives of the above activities are to promote the IT capacity of judicial and administration staff of KJC, also to replicate the existing case management system of Erbil Pilot Court in other courts, UNDP has successfully completed the following:

* Conducted two consultation meetings with the main counterparts; (KJC, MoJ, and KJI), to introduce and review the activity outputs, both KJC and MoJ have approved the project documents. UNDP also coordinated with KJC on the prerequisite requirements for this activity in terms of human resources and the required facility. As such UNDP has requested KJC to recruit the required additional staff to be trained on the I.T, so as to handle the newly established IT Directorate, and to support the Courts Case Management System (CCSM). Four additional IT staff has been recruited by KJC, they are currently working in the computer department in the New Court Palace, they will be trained to operate and manage the proposed IT department that will be established under the project- awaiting for cost sharing funds to be released to start the project implementation.
* Fielded an I.T consultant to Erbil, in November 2013, who carried out the needs assessment for establishing the IT Directorate and the CCSM, the consultant met with the counterpart representatives, and visited the New Court Palace and KJC, he has identified the needs for establishing the proposed IT directorate at KJC and the New Court Palace in terms of the required human resource and equipment’s.
* Needs assessment report and an action plan for establishing the IT directorate and the CCMS for the New Court Palace was prepared by the IT consultant and has been approved by the counterparts, the next step is to train the newly appointed IT staff to operate and manage the CCMS, and some of them will be trained as trainers to train other staff of the courts on the CCMS.

***Activity***

***3:* Establishment of the Legal Database under the auspices of the Ministry of Justice**

In order to implement this activity, UNDP has:

* Contracted and fielded an I.T and legal consultant to the Ministry, in November 2013 to assess the needs for establishing the legal database in terms of the required IT equipment’s and the staff capacity, so as to prepare an action plan accordingly.
* Following assessing the equipment’s and staff capacity of the IT Department of the Ministry, an action plan for establishing the legal database is prepared and shared with the MoJ for review and approval, once approved, UNDP will start the procurement process for the required software and hardware equipment for establishing the database, the database will include all laws and regulations issued by Kurdistan parliament and by different Ministries, MoJ will have an updated archive of all laws and regulations, the citizens of KR will also benefit from this database, they will be able to access the updated regulations issued by different ministries. UNDP will also hire a consultant to train the Ministries relevant staff on operating and maintaining the database.

***Activity 4:* Judicial Institute Capacitated**

In order to provide administration and technical support to KJI, and to facilitate the implementation of this activity, UNDP has successfully achieved the following:

* + - * Contracted and fielded a legal expert to Erbil, the expert visited the KJI and conducted a broad comprehensive assessment of the KJI; including current structure, financial management, training, infrastructure, curricula, reference material and the staff capacity.
      * The consultant hold a three day workshop with the D.Gs of KJI, to identify the institutional needs in terms of administration and curriculum development, the consultant presented examples of Judicial Institute in some countries with advance experience.
      * Following the assessment mission, and in consultation with the key staff of KJI, UNDP’s legal expert prepared a strategic plan for KJI for administration and curriculum development, through capacity building program for the staff, the plan has been shared with KJI for approval, which is expected to be approved within two weeks’ time. The KJI capacity will be improved in administration development, through organizing tour visits to the Judicial Institutes in other countries, and to learn from their advance experiences; also experts will be fielded to Erbil for developing the KJI curriculum.

***Activity 5:* Support to the Establishment of Arbitration Tribunals in KR-I**

The objective of this activity is to establish an independent arbitration centre in Erbil to settle investment disputes. To achieve this, first; UNDP must reach agreement with the KJC, MoJ, and the Board of Investment (BoI) on the technical and legal requirements for establishing the proposed centre. UNDP has successfully carried out the following:

* UNDP contracted an expert in arbitration, who visited Erbil in September 2013, and met with the relevant counterpart officials for assessment. The expert assessed the existing arbitration environment in KR and met with investors and the counterpart officials, including the head of Investment Board. A common understanding was agreed with KRG officials regarding the mechanism for establishing the proposed arbitration centre, and discussions of the legal and technical challenges have been held with the KJC, MoJ, BoI, and the Investor’s Union, the participants were not in favour of establishing Arbitration Court due to legislative constrains, instead they all agreed on establishing Independent Arbitration Centre in Erbil
* UNDP organised a symposium on arbitration in Erbil on 21 November 2013. This symposium was hosted and chaired by the Minister of Justice, both UNDP consultant and expert introduced arbitration to the participants that are the representatives of the relevant stakeholders; (KJC, MoJ, KJI, Shura Council, the Bar Association, the Board of Investment, Ministry of Trade and Industry, the Chamber of Commerce and Industry, and the Investors Union) explaining the relations of arbitration centre with the judiciary, so as to identify next steps for establishing the proposed centre.

* The symposium concluded with a list of recommendations by the stakeholder representatives for establishing the proposed arbitration tribunal centre, such recommendations will be considered by UNDP during the implementation phase of this activity.
* The arbitration consultant prepared an action plan on the mechanism for establishing the proposed arbitration centre in Erbil; the plan included the scope of works and the required timeframe for implementation, the action plan was shared with MoJ for approval. The action plan is a road map for the establishment of the proposed Arbitration Centre which will be dealing with, and settling all investment disputes that may arise between foreign investors and the government as a result of the large scale investment deals in KR, as such reliable and secured investment environment will be created in KR, which attract the foreign investment to the Region. The proposed centre will be provided with legal experts (judges and lawyer), and can also receive arbitration cases from neighbouring countries.

***Output 2: Protection of Citizen's Rights Enhanced through Support to Access to Justice Mechanisms***

Activity 1: Provision of legal assistance services, strengthening and institutionalizing legal aid:

In order to implement this activity, UNDP has successfully carried out the following:

* A MoU signed between Kurdistan Bar Association KBA and UNDP that provides a framework for cooperation and collaboration with KBA as a leading entity to provide legal assistance in KR-I. The MoU enables the KBA to provide free legal assistance services to the victims of GBV and DV, and to create capacity within the KBA to manage provision of free legal assistance and to support the adoption of the draft Legal Aid Law initiated by the KBA. As a result, three legal help desks have been established in Erbil, Duhok and Sulaimany, located within the premises of the courts, supporting the work of the Directorate for Combating Violence against Women DCVAW in Kurdistan as well work very closely with CSOs to promote legal aid in the region. Within the framework of the MoU, KBA provided free legal assistance services through three legal help desks in KRG and mobile legal outreach, also the organizational strategy and structure of KBA for legal aid work have been developed through establishment of legal aid supervision committee inside KBA and the project standard operating procedures and documentation system has been developed, also technical support initiated to move forward with the draft of the Legal Assistance Law submitted by KBA.
* A contract was signed with local NGO “Women Empowerment Organization” (WEO) to provide operational and management support to KBA for the provision of legal assistance.
* During the reporting period, free legal assistance (legal consultation and representation) was successfully provided by KBA through the legal help desks inside the court premises to the project beneficiaries, plus legal awareness provided through mobile legal outreach. UNDP continued to follow up and support the work of the three legal aid help desks in Dahouk, Sulaimany and Erbil. The total number of cases received by the legal aid help desks, during 2013 was 816 cases, out of which are 665 legal consultations and 151 legal representations.
* The planned operational, management and capacity development support provided by the local NGO to KBA to ensure successful implementation of the activity, the legal aid supervision committee has been established and the required project standard operating procedures and documentation system has been developed.
* UNDP started discussion with the KBA to move forward with the draft of the Legal Assistance Law submitted to the regional Parliament for approval and adoption. The adoption of the law will assist the KBA to get the required financial allocation from the Regional Government for the provision of free legal assistance services.
* To ensure that vulnerable women, children and victims of domestic violence (DV) and gender based violence (GBV) are the among the main target group, UNDP facilitated the signing of an agreement between Directorate for Combating Violence against Women DCVAW and KBA in Duhok. The agreement stipulates a referral mechanism between the two institutions for DV and GBV cases. Similar agreements will be signed in Sulaimanya and Erbil. This is to be considered as a remarkable step, propelling the KBA beyond its traditional role of administrating legal professionals to an institute that actively and meaningfully contributes to policy reform on combating violence against women and promoting women rights.

***Output3: Enhancing protection for vulnerable women and girls among IDPs and the Syrian Refugees from SGBV and trafficking***

As per the reporting requirement from the donor, one final joint report with other UN agencies will be submitted, covering the whole period of the project implementation.

# Challenges

# 4.1 Cost sharing

There exists a significant delay in the signing of the cost sharing agreement between UNDP and the KRG with regards to project funding. While the agreement to implement this project with KRG funds was reached in 2012, official signing of the cost sharing agreement has yet to take place. Consequently UNDP is using its own funds to initiate the implementation of the project. Such delay had significant impact on the project time line, and the relationship with the counterparts, as they start to lose confidence in UNDP with regards to the implementation of activities and the compliance to the commitments under the project.

# 4.2 Lack of Facilities

The implementation of project activities requires office spaces and facilities for the equipment’s and training sessions, particularly for the CCMS and the establishment of the IT Directorate, all these activities will be conducted in the New Court Palace in Erbil which will accommodate all courts. The palace building is completed and is being furnished now; further delay in furnishing will cause delays in the implementation of the aforementioned activities.

# 5.0 Lessons Learned

Initiating the project activities and raising expectations of the counterparts on project outputs, without securing the funds proved to be quite challenging, as such delays in the provision of funds will delay the implementation of activities, having a negative impact in terms of losing interest and confidence by the counterpart. For future projects; funds should be secured first, before the project is initiated.

# 6.0. Future Plans

* UNDP will follow up with KJC on the provision of the required facilities in the New Court Palace, to implement project activities, and the recruitment of additional IT staff to support the establishment of IT directorate and the CCMS.
* The implementation of the provision of legal assistance services in KRG in cooperation with KBA as a leading entity and with the support of the local NGO will continue to provide free legal assistance services, completion of the required institutional arrangements and capacity development, to ensure the institutionalization process of the legal assistance; and to enable KBA to take the full responsibility. The institutional support will include also following up on and providing support when necessary to the KBA to ensure the adoption of the draft Legal Assistance Law.
* In regards to funding of the project, discussions are continuing with KRG officials, and it is hoped that funds will be allocated before the end of the year, so that the implementation of project activities can continue.
* While waiting for the release of the project funds by KRG, UNDP will coordinate with the counterparts, to priorities the project activities and explore the possibility to start implementing the prioritized activity using the limited remaining amount of UNDP’s contributed fund for the project.

# 7.0 Financial Section

Table 1: Funding Overview

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Donor** | **Commitment**  **(Currency of the Agreement)** | **Received**  **(Currency of the Agreement)** | **Received (USD)** | **UNORE** | **Balance  (Currency of the Agreement)** |
| **TRAC** | 100,000  200,000 | 100,000 | 100,000 |  |  |
| 200,000 | 200,000 |  |
| **Total** |  |  |  |  |  |

Table 2: Expenditure Status (by activity)

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Activity** | **Budget**  **(A)** | **Donor** | **Cumulative Expenditure Status at [Date,i.e. end of preceding quarter]** | | **Expenditure in 2013** | | **2013 Total Expenditure**  **(F=D+E)** | **Total Expenditure**  **(G=B+C+F)** | **Budget**  **Balance**  **(H=A-G)** | **Delivery**  **Rate**  **(% I =G/A)** |
| Commitment  (B) | -Expenses + full asset cost  (C) | Commitment  (D) | Expenses + full asset cost  (E) |
|  | 100,000 | 00012 | N/A | N/A | 1,802 | 90,150 | 91,952 | 91,952 | 8,048 | %91.95 |
|  | 200,000 | 00012 | N/A | N/A | 0 | 199,980 | 199,980 | 199,980 | 20 | %99.99 |
| **GMS** |  |  |  |  |  |  |  |  |  |  |
| **Total** | 300,000 | 00012 | N/A | N/A | 1,802 | 290,130 | 291,932 | 291,932 | 8,068 | %97.31 |