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GOVERNMENT OF PAKISTAN
MINISTRY OF ECONOMIC AFFAIRS & STATISTICS
(ECONOMIC AFFAIRS DIVISION)

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Islamabad, the 11th October, 2011


Subject: - **STRENGTHENING RULE OF LAW IN MALAKAND**

I am directed to refer to UNDP letter dated 4th October, 2011 on subject cited above and pleased to attach three signed copies (in-original) of UNDP Project titled "Strengthening Rule of Law Peace & Stabilization in Malakand".

2. UNDP is requested to sign these Project Documents and send one copy (in-original) on priority basis.

Warm Regards.


(Syed Qalab-e-Abbas)


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Cc:-

JS (UN/ China), Economic Affairs Division (EAD), Islamabad



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**United Nations Development Programme
Pakistan**

**United Nations Development Programme
Country: Pakistan
Project Document**

Project Title: Strengthening Rule of Law in Malakand (SRLM)
UNDAF Outcome(s): Empowerment and equity promoted for poor and vulnerable groups in target Areas
Expected CP Outcome(s): Continuous reinforcement of national and local governance, as well as Capacities of rule of law institutions, and ensuring a strong focus on MDG based human development
Executing Entity: UNDP
Implementing Agencies: UNDP/Pakistan

Brief Description

The project would assist promoting Rule of Law through provision of support to the Justice and Security sector in Khyber Pakhtunkhwa Province. The Rule of Law project, being operationalized through this document, aims to promote an enabling environment, which will deepen the ongoing efforts to secure peace and stabilization. Under this project, assistance will be provided for institutional and capacity development to the Rule of Law institutions to ensure effective security services, and speedy provision of justice services. The project will also work with the informal justice institutions so that dispute resolution is trusted, cheap and accessible, and viewed as fair by the local communities. In doing so UNDP will engage with key stakeholders in KP including the Judiciary, Police Department, Local Government Department, prosecution, bar associations, jirgas, CSOs and ongoing justice initiatives. UNDP through this project will ensure linkages with ongoing UNDP programmes and projects. The activities and outputs under the project will enhance confidence and trust of the local communities in the Rule of Law institutions and result in improved law enforcement, speedy justice, including that of informal justice system. The project will help create forums for dialogic and develop a strategy for harmonization between communities, formal and informal Rule of Law institutions.

Programme Period: 2011-2012 and 2013 – 2017
Key Result (Strategic Plan): Effective, responsive, accessible and fair justice system established, promoting both formal and informal rule of law mechanisms with particular attention to women and the most marginalized and vulnerable
Atlas Award ID:
Start date: August 2011
End Date: July 2014
PAC Meeting Date: 17 June 2010
Management Arrangements: DIM

Total resources required: US\$ 15,010,099
Total allocated resources:
• Regular: UNDP/BCPR US\$ 1,000,000
• Other:
Unfunded budget: US\$ 14,010,099
In-kind Contributions: US\$ 0

Agreed by Economic Affairs Division (Government of Pakistan)

Agreed by UNDP

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ACRONYMS

ADB	Asian Development Bank
AM	Anjuman-e-Musalihat
BCPR	Bureau of Crises Prevention and Recovery
CIET	Community Information and Epidemiological Technologies
CBO	Community Based Organisation
CSO	Civil Society Organization
DCO	District Coordination Officer
DFID	Department for International Development
DNA	Damage Needs Assessment
DPO	District Police Officer
DSJ	District and Sessions Judge
DTCE	Devolution Trust for Community Empowerment
FLACs	Free Legal Aid Committees
GJIMAP	Gender Justice Through Musalihat Anjuman Project
HR	Human Rights
IDP	Internally Displaced Persons
IGP	Inspector General of Police
INGO	International NGO
KP	Khyber Pakhtunkhwa
LG	Local Government
LGO	Local Government Ordinance
MA	Musalihat Anjuman
NGO	Non-Governmental Organization
PaRRSA	Provincial Reconstruction, Rehabilitation and Settlement Authority
P&D	Planning and Development
PATA	Provincially Administered Tribal Area
PHC	Peshawar High Court
PCNA	Post Crisis Needs Assessment
SP	Superintendent of Police
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Program
UNDAF	United Nations Development Assistance Framework
USAID	United States Agency for International Development

I. SITUATION ANALYSIS

A. Background

1. Three years of intense extremists activities in the Malakand area adversely impacted the local governance institutions to the extent that local state and its various agencies were either non-functional or physically attacked. The biggest casualty was the formal justice system that virtually broke down. Lawyers were threatened not to entertain the cases and the clients were also prevented from approaching the formal judicial system. The Police staff lost their lives and buildings were ruthlessly attacked and damaged. The courts did not function for most of the time and local government services were disrupted. After the operation by the law enforcement agencies, there was a governance vacuum and the provincial government had to undertake immediate measures to restore the writ of the civilian governance.
2. Restoring access to justice and the rule of law in Malakand division of Pakistan's Khyber Pakhtunkhwa Province (KP) continues to be a challenging task given the complexity of governance structures and the way they have evolved over the last three decades. Malakand is part of the provincially administered tribal areas (PATA) and is subject to the executive authority of the Government of the KP. Provincial laws must be approved by the President and directed by the provincial Governor to be implemented in PATA.

"PATA Regulation of 1975 vested judicial authority in district based deputy commissioners, and empowered jirgas [assemblies] to decide civil and other disputes under the supervision of the revenue officer, thus giving the district bureaucracy and allied local traditional elite's significant authority. As per this law, Pakistan's Criminal Procedure Code was not applicable to PATA. In 1995, the Supreme Court held that PATA Regulation was unconstitutional and decreed that regular courts and mainstream legal system will apply in this area. However, the outreach of formal institutions has remained limited during the last decade thereby causing a governance gap and ineffectiveness of rule of law institutions".
3. Since 2008 efforts to effect peace in this region gained momentum. For instance, in October 2008, the National Assembly passed a resolution laying out principles of government to contain militancy and agreed that political reforms, an increased role for civilian law enforcement agencies in KP and FATA and economic development would be undertaken. However, its implementation has been slow for various reasons. Thus the governance crisis in Malakand, especially Swat, for over a decade became an easy ground for the spread of insurgency. The Nizam-e-Adl Regulation of 2009 a decade later empowered the qazis (Sharia judges) with full powers. This regulation was an ad hoc response to the demand of the militants. However, it gives the implementation powers to the provincial government. The future of this regulation remains unclear.
4. Formal mechanisms involved in delivery of justice in Malakand comprise the following agencies: the formal courts (civil and criminal); prosecution service; the police; and the bar associations. The informal mechanism for delivery of justice entails jirga system. A *Jirga* refers to tribal group of elders nominated by the community and which resolves disputes. The *Jirga* is an old informal legal institution in Pakhtun society since centuries.
5. **Formal Courts:** Justice delivery through the formal lower courts – or “subordinate courts”– is relevant to the citizens of the region. Beneath the Peshawar High Court lie two levels of courts, Civil and Magistrate courts, the courts of first instance for civil and criminal matters respectively, followed

by the District and Sessions courts, which serve as the appellate courts for each. District judges reach the bench through a qualifying examination, and generally serve their entire careers on the bench. Although salaries and allowances have recently been raised relative to other civil servants, they remain less than sufficient; judges are overworked due to the insufficient number of subordinate judges, and work in poor conditions.

6. The average number of cases instituted in the seven districts of Malakand is almost half of that for the rest of the province. This proves that the communities living in the Malakand districts are around half as litigations as the rest of the province. The average number of cases disposed of in Malakand division during December 2009 was slightly less than the averages for the remaining districts and the province as a whole. Per court disposal in Malakand districts is higher than the rest of the province. However, in terms of average court pendency, Malakand courts had more cases compared to the rest of the courts in the province. Similarly, the average number of judges in the Malakand division was lower compared to the province as a whole.
7. **Police:** In KP, the police operations are governed by the Police Order (2002). Unless and otherwise changes are following the 18th Amendment Police Order 2002 will continue to be in operation. Police Department is an attached department of the Home and Tribal Affairs Department. The provincial police force is headed by Inspector General of Police (IGP), also known as the Provincial Police Officer (PPO). The IG is assisted by Deputy Inspector General (DIG) of Police who heads the divisional or regional police formation and supervises a number of district police officers (DPOs). Malakand Division also falls under the purview of a DIG, who is assisted by district police officers. The DPO is the operational chief of the district police and responsible for law and order, policing and patrolling, investigation and maintenance of public peace and prevention of crime.
8. In Malakand division, the provincial government has deployed almost 8000 police personnel. However, this is below the sanctioned strength and several vacancies are yet to be filled but this is true for police organization across Pakistan. In addition, a special police force (SPF) has also been recruited given the acute need of police force in the conflict zone. Out of 6,525 sanctioned SPF for Malakand, 5,215 officials have been deployed. In total there are 62 police stations in Malakand Division. The police face the usual public sector constraints such as under-resourced operations, shortage of infrastructure facilities and related equipment such as communications and wireless systems. More importantly, the police service requires orientation and special purpose training to cope with the post-conflict situation and extraordinary security environment disturbed due to terrorism.
9. Since the launch of police reforms in 2002, policing and investigation were separated. However, the investigation staff is limited in number and is overburdened. The total investigation staff is 792 with an average case load of 80.7 per officer. The Criminal Procedure Code requires that a challan or investigation report has to be submitted before the court within two weeks. It is clear that achieving this statutory target is next to impossible for every case. In addition, the recent acts of terrorism and violence require specialized expertise for effective investigation.
10. There is no forensic laboratory in the Malakand region, which further impedes the investigation work. Community policing initiatives are also limited in scope and missing in most areas. The public is still not willing to come forward and cooperate with the police, volunteer as witnesses. This situation requires immediate steps to build community trust and confidence in police operations. There is a dire need to improve the numbers of women police given that there are only 36 women police posted in the entire region against a low sanctioned strength of 81. Community policing

initiatives also lack women's participation. Overall, Malakand police will require support in training, equipment, community policing mechanisms and strengthening to ensure security, undertake effective investigation and prosecution and become agents of furthering rule of law in the region.

11. **Prosecution:** Prosecution service in the KP is governed by KP Prosecution Service (Constitution, Functions and Powers) Act, 2005. The Act creates the KP Prosecution Institution led by a Director General and assisted by regional directors, deputy directors, assistant directors, district public prosecutors, public prosecutors, additional public prosecutors, deputy public prosecutors, assistant public prosecutors, etc. The primary function of the prosecutors is to "safeguard the interest of the public in prosecution of cases before the courts of competent jurisdiction." The Director General is also required to keep liaison with Advocate General to ascertain the progress on legal proceedings pending before the superior courts. Thus far a total of 188 prosecutors are posted in the province. The number posted in Malakand region is far lower than required.
12. The Directorate of Prosecution is under the administrative control of the provincial government. The staff members of the Institution are considered civil servants within the KP Civil Servants Act 1973. At the end of each year, the Director General Prosecution is required to submit to Government a report on the performance of the Institution during the year, and Government shall lay a copy of the report before the Provincial Assembly. Prosecution is the weakest link in the justice system and often non-prosecution of cases results in delays within the courts.
13. **Office of the Advocate General:** Article 140 of the 1973 Constitution creates the office of the advocate general for a province. The advocate general should have the qualifications to become a High Court judge. He is appointed by the governor and holds office during his pleasure. His duty is to give advice upon such legal matters, and to perform such other duties of a legal character, as may be referred to him by the Provincial government.
14. Since 2001, the Local Government Ordinance led to the establishment of elected councils at district, tehsil and union levels, headed by an elected Nazim. This structure existed in the districts of Malakand region as well. However, the role of elected local governments (LG) was undermined prior to the conflict reducing the effectiveness of these LGs. The LG staff left the region, service delivery was stalled and local service infrastructure was destroyed. A key feature of the LG system has been the formation of Musalihat Anjumans that are community based mediation and conciliation bodies to provide quick and inexpensive justice to the citizens.
15. Under LGO 2001 (sections 102 – 106), Musalihat Anjumans (MAs) have been constituted by respective Union Councils, consisting of a panel of community mediators (Musaleheen) whose integrity and good judgment are well-known within the community. The Musalcheen are appointed by Insaaf (justice) Committee, a body that is elected by the Union Council under Section 88(n) of the LGO. Under Section 104 of the LGO, cases may also be referred to MAs by Police and Courts, where proceedings of such cases are pending. The LGO is currently being amended by the provincial government and it is likely that the MAs will continue to work.
16. **District Police:** Under the Police Order 2002, policing is headed by a District Police Officer who has an accountability relationship with District Public Safety Commission and the Province Police Officer. Prior to this arrangement, the governance arrangements in Malakand Division have been shifting with inherent instability.
17. The police performance remains sub-optimal due to lack of personnel, resources and effective training. The recent threat posed by militancy and terrorism has further aggravated the situation. At

present, Malakand Division does not have the required number of officers and personnel. In addition, the communications, facilities, infrastructure are also deficient to meet the extraordinary requirements of the local situation. Most importantly, the lack of sufficient investigation managers and staff results in delay of submission of challans to the courts thereby limiting the capacity of courts to deliver judgments in time,

18. **Access to Justice:** Various models of delivering legal aid include (a) Judi care delivery by way of private practitioners funded on a case by case basis, often through some form of validated certificate (b) In-house duty counsel; (c) Public defenders and (d) Contracted services. The concept of legal aid is a novelty in Pakistan. Only a few public or private initiatives exist to provide access to justice to the unprivileged. In Malakand, three types of legal aid mechanisms can be identified:

- Federal Government –Public Defenders and Legal Aid Ordinance (PDLAO) 2009 (tehsil level and above): The PDLAO 2009 introduced the officers of public defender at the Tehsil level and above. The Public Defenders are required to represent an aggrieved person in a court and to provide him free legal assistance or advice in criminal cases.
- Bar Associations: Pakistan Bar Council established Free Legal Aid Committees (FLACs) down to the Tehsil level in 1999. National Judicial Policy 2009 requires district bar councils to maintain a list of the advocates for provision of legal aid to accused person who cannot afford to hire the services of Counsels. However, prior to appointing any Counsel option of selection from that list should be given to the accused in the interest of justice. Under Rule number four of the High Court Rules Criminal Parts C (1) provides that proper counsel who shall be appointed by the District & Session Judges for providing legal services for the defense of the accused at the Government expenses
- Others NGOs – specific relief: Various human rights NGOs in Malakand facilitate particular sections of society, especially women and minorities, in asserting their rights in courts.

19. In view of the above, the UNDP–supported Strengthening Rule of Law in Malakand (2011-2014) is carefully designed to address related gaps in the justice sector. The project seeks to promote Rule of Law and creates environment that is conducive for peace and stabilization. The project will extend its support for institutional capacity development of the Rule of Law institutions to provide adequate security services, and ensure effective and speedy provision of justice service. The project will as well support efforts to ensure justice system is speedy, trusted, cheap and accessible, and viewed as fair by the local communities. In doing so UNDP will be engaging all actors in KP including the Judiciary, Police Department, existing Alternative Disputes Resolutions Mechanisms, Bar Association, CSOs and all relevant institutions and local initiatives. Furthermore, it is expected to create and strengthen synergies with already existing or nascent initiatives by UNDP, such as the Gender Justice programme, support to Legal Empowerment of the Poor programme and the Devolution Trust for Community Empowerment (DTCE) for improved community-police liaison and community policing. The project will also strengthen the existing Alternate Dispute Resolution mechanism envisaged in the Prosecution Act 2005 Section 4.

20. In summary the factors that affect the performance of justice system can be summarized as below:

- a. Weak capacity of judicial and prosecutorial institutions;
- b. Under-trained and under-resourced Police force;
- c. Absence of effective legal aid mechanisms;
- d. Different legal frameworks operating in the Malakand region;
- e. Limited scope and outreach of community policing;
- f. Poor access to justice at local and grassroots level;
- g. Limited access of women and vulnerable groups to formal or informal justice systems;

B. On-going Initiatives

21. UNDP is currently implementing Sustainable Development through Peace Building, Governance and Economic Recovery in Khyber Pakhtunkhwa funded by Japan. The programme aims at: (i) Strengthening capacities for early recovery coordination; (ii) Support sustainable livelihoods and local economic recovery; (iii) Peace building and social cohesion; and (iv) Strengthening local governance. It identified the need to conduct detailed Rule of Law assessment and programme development. This project complements the objectives of the on-going project.
22. UNDP is currently implementing programs related to the existing different forms of community policing, gender justice and empowerment of the poor. The Gender Justice through Musalihat Anjuman Project (GJTMAP) is an attempt to seek relief for the vulnerable by promoting community based alternative dispute resolution (ADR) systems. ADR platform provided in the Local Government Ordinance (LGO) 2001, in the form of Musalihat Anjuman (MA), is accessible and cost free forum and, therefore, expected to effectively dispense justice to victims of gender violence and address other issues as prescribed by LGO and the Rules of Business (RoBs).
23. The Devolution Trust for Community Empowerment (DTCE), a leading agency formed after the devolution reforms of 2001, is also undertaking community policing efforts by formation of Union Council Public Safety Committees (UPSC). Currently, it is working in several districts across the four provinces of Pakistan and intends to extend the scope of community policing work in the KP and Malakand region. A key dimension of the program is to improve community-police relations that lead to a responsive and citizen oriented police structure at the local level.
24. Supporting Democracy through Parliamentary Development (SDPD –Phase II) is supporting capacity development of parliamentarians, parliamentary officials and civil society partners to strengthen parliamentary oversight and policy guidance. Strengthening parliamentary oversight and women parliamentarians' caucus on peace, security and stabilization would complement this project's objectives.
25. The Asian Development Bank and the World Bank undertook a comprehensive Damage Needs Assessment (DNA) immediately after the conflict in Malakand was over. The results of the DNA have enabled the government to prepare a plan to reconstruct the damaged or destroyed infrastructure including that of the justice sector institutions. As a sequel to this activity, a Post Conflict Needs Assessment (PCNA) has been undertaken and it is identified that actor will focus on the policy domains related to governance and the justice sector. Therefore, UNDP's initiative will be a complementary intervention by working in the field and strengthen the district-based agencies.

C. Institutional Capacity and Public Trust

26. The Police force in Malakand has been the hardest hit by during the conflict; and is still trying to fully recover its former capacities. Scores of police personnel were killed during the conflict and extensive damage to police stations and check-posts took place in the last three years. Furthermore, the lack of effective community-citizen liaison meant that the public does not trust the formal policing agency and is unwilling to come forward with evidence and information against the militants. In view of the need to advance access to justice across Malakand, particular attention needs to be given to the Police. Therefore, capacity development support will be required to increase the citizen trust in the police as well as enable the police to better coordinate with other rule of law institutions.

27. The KP government has also increased the number of local government units and police stations.¹ Therefore, the challenge facing the government is to develop the basic infrastructure of the justice system– including building courthouses, supplying necessary equipment and providing support to the judiciary. Similarly, the prosecutors require specialized training and equipment to strengthen the justice system.
28. The lack of confidence and public trust in institutions is often stated as one of the key impediments to reform. Recent surveys reveal that the tendency is not to trust in the capabilities and the work of their local governments and justice sector agencies. Earlier, the Social Audit has also showed the lack of public trust in police, judiciary and the formal institutions of the state. For instance Social Audit showed little evidence of increased public willingness to contact the police. It stated that in 2004-5, “The police continue to have a bad reputation among the public and this will be hard to change, even as the service from the police improves.” However, the public supported police incentives scheme, for better performance. The use of courts was low and citizens preferred alternative dispute resolution (ADR) mechanisms at the union councils rather than going through the conventional legal system.²
29. Culturally, the informal system of jirga in KP is far more trusted and therefore a useful entry point for linking the community-based mediation and dispute resolution through the MAs created under the LGO provisions.

II. STRATEGY

A. Project Strategy

30. This project deals with the formal and informal justice domains of the justice sector and will support the interplay and harmonization within the context of Malakand division. It should be noted that interventions will be launched to promote security, ensure justice and secure entitlements for the citizens especially the poor and the disadvantaged. The approach will entail working with the formal justice agencies such as the Courts, Police, and the Prosecution at the provincial and district levels. To enhance access to justice, legal aid support will be extended through legal aid clinics and increased legal awareness and literacy. At the same time, paralegals will be identified and trained under this project to bridge the citizen-legal system gaps. Interventions with the prosecution department of KP will further strengthen the paralegal initiative and it’s linked with Pauper Council. In the informal justice domain, support to jirgas (traditional council of elders) will be designed and an assessments will be undertaken leading to a provincial strategy to increase the harmonization between the formal and informal delivery of justice services. Similarly, for increased responsiveness of the police to citizens, workable models and strategies will be devised that will lead to the preparation and approval of a provincial (including Malakand-specific) community policing strategy that is sensitive to a post-crisis context. Coordination will be ensured with ongoing and planned interventions of UNDP and other development partners working on Rule of Law. The project will as well inform the law, judicial and legal reform identified by RoL PCNA report.
31. The Government of KP in August 2009 approved the Malakand Comprehensive Stabilisation and Socio-Economic Development Strategy that sets out to address the “underlying grievances fuelling the severe unrest and to realise human rights for women and men through partnerships between the

¹See, ‘Conflict Early Recovery Initial Needs Assessment (CERINA) – Addressing the Governance Challenges in KP and FATA’, UNDP, 2009

²Social audit of governance and delivery of public services - Pakistan 2004/05 (National report)

government, civil society and the private sector.” The overarching goal of the government for the next five years aimed to improve the security environment, rule of law and improved system of governance for post conflict social and economic recovery in the Malakand Division. Pillar one of this strategy underscored the need for security, justice, and service delivery. The government and its development partners acknowledge that governance issues were at the heart of the militancy and no effort at peace building and stabilisation can succeed without tackling the rule of law and the efficacy of the justice system in the troubled region.

The PCNA framework endeavours to address peace-building issues by responding to four strategic objectives, (i) Build responsiveness and effectiveness of the State to restore citizen trust (ii) Stimulate employment and livelihood opportunities (iii) Ensure the delivery of basic services (iv) Counter radicalization and foster reconciliation.

32. The project contributes to achieving the PCNA vision in a way that the “voices of all people are being heard, the rule of law is deepening, and the State is increasingly accountable”. Hence, peace building is largely achieved through building the capacity and enhancing the legitimacy of public institutions in particular the Rule of Law institutions. The legitimacy of Rule of Law institutions as well citizens’ trust and confidence will be strengthened through responsive and accountable delivery of justice and security services. UNDP’s Rule of Law Programme is aligned to the PCNA strategic objectives and provides a good platform for additional interventions in the Rule of Law sector in post-PCNA phase. It would increase responsiveness of security service providers to citizens’ needs and also enhance the absorptive capacities of communities and CSO to engage in post-PCNA activities. It would also provide evidence base for influencing RoL related policies and actions in the future. With the ultimate goal of ensuring peace and stabilisation through strengthening of Rule of Law in KP and FATA, UNDP envisions the expansion of the Rule of Law programme after its first year in order to fully address and respond to the PCNA’s strategic objectives while building constructive partnerships with national stakeholders, and the development partners.
33. Furthermore, this project will also build upon UNDP’s vast experience in supporting rule of law and justice sector programmes thereby utilizing UNDP’s global comparative advantage in this practice area. The project will help national counterparts in formulating strategies and actions plans and a sound programme implementation approach to ensure national ownership and long-term sustainability based on the lessons learnt from other programmes. The rule of law intervention links its activities with the on-going work under the UNDP Pakistan’s Governance and Poverty focused programmes especially projects relating to community based gender justice and community policing. Synergies will also be created with emerging practice areas within UNDP. Through support to Rule of Law, Peace and Stabilization in Malakand, UNDP will further contribute to promoting peace and security throughout the KP and Pakistan as a whole.
34. The rule of law intervention builds on Pakistan’s National Judicial Policy, which was announced in 2009.³The Policy provides strategy and plans for the clearance of backlog, expeditious resolution of disputes and quick dispensation of justice. The policy gives specific attention to timely disposal of criminal cases especially the cases of under-trial prisoners, languishing in jails. Its targets have been communicated to the provincial and district courts and provide a useful framework for establishing the case disposal targets in Malakand. The Policy also sets out short and long term goals of achieving efficiency and effectiveness in the delivery of justice.
35. In line with UNDP’s Strategic Plan, UNDP/BCPR’s Rule of Law, Justice and Security Unit developed and approved its Global Programme on Strengthening the Rule of Law in Conflict and

³*National Judicial Policy: A year for focus on Justice at the Grassroots Level*, National Judicial (Policy Making) Committee National Judicial Policy 2009, Supreme Court of Pakistan, Islamabad.

Post-conflict Situations, 2008-2011.⁴This project follows the objective and approaches identified by the approved UNDP's Global Programme on Strengthening the Rule of Law in Conflict and Post-conflict Situations.

36. UNDP will ensure that gender related issues are well integrated throughout the implementation of the work-plan. UNDP sets up indicators to monitor the inclusion of women in trainings and all other activities as set out in the Results and Resources Framework.

B. Deliverables

The project will provide support and services in four main areas through the following outputs:

Output 1: The capacity of district courts to provide effective and timely justice services to the people in Malakand developed and strengthened.

37. This output contributes to strengthen the capacity of the courts at district level, in Malakand division. The project, through its interventions on developing capacities of the courts will help improve the delivery of justice services in the region. The rule of law institutions in Malakand require a holistic approach, long-term planning and deeper commitment to ensure that justice institutions are able to effectively deliver justice to the conflict affected areas. Special focus will be paid to gender-based violence (GBV) and domestic violence against women
38. The baseline study notes that the district courts are understaffed and not trained in case management and delay reduction techniques. Furthermore, the training of judges is also lacking in the conflict-specific issues and with regard to the Sharia'a laws and the Islamic provisions of the Constitution of Pakistan. To address this gap, the project will support the Peshawar High Court in the development of a strategy to enhance the skills of court staff on certain areas such management of cases, evidence and witnesses. More importantly, in a post-crisis context, the courts have limited capacity on public information, communication, outreach materials, and information technology tools. This output will help address this gap and provide support Malakand courts information centres. The managerial capacities of the PHC, with special focus on Malakand division need to be strengthened. Through this output the project will provide trainings on case filing and management, developing training materials and create a pool of trainers. Further the Project will also establish officers of District Courts Administrator to strengthen the administrative and management capacity of the court houses. This will be conducted on a pilot basis.
39. As per the request made by the PHC, the project will support the PHC to revive and operationalize the concept Amicus Curiae at provincial and district levels. Amicus curiae is an independent person, non-party to the case, who volunteers to offer information to assist a court in deciding a matter before it. The information provided by amicus curiae may be a legal opinion in the form of a brief, a testimony that has not been solicited by any of the parties, or a learned theory on a legal matter that bears on the case. The decision on whether to admit the information lies at the discretion of the court. The revival and application of the concept of Amicus Curiae was identified as a need by the PHC during discussion with UNDP and by operationalizing this concept PHC expects to enhance the capacity to deliver justice expeditiously. It was also noted that the PHC will support the institutionalization of this concept and has significant prospects of sustaining same.

⁴Strengthening the Rule of Law in Conflict- and Post-Conflict Situations: A Global UNDP Programme for Justice and Security, 2008-2011. New York

40. Translation of laws and procedures into Urdu and/or Pashto (native language in the KP) will also help advance greater access to formal courts. It has been noted that legal professionals at district level experience difficulties applying English drafted laws, which contribute to further delay in the process of the cases. The project will facilitate the translation of selected laws into Urdu. This project will also contribute to focused judicial education with a view to increase the disposal of cases in the Malakand courts and the expected conflicts that may have emerged from returnees in that sense the project will provide training on Criminal, Civil jurisdiction and Islamic law, land and property rights as stipulated in the Constitution. The project will work closely with the existing Judicial training facilities, sub-contract construction firm, deploy national and international trainers and recruit consultants for the implementation of this output.

41. Specific deliverables will include:

- a. 10 court houses in Malakand renovated and equipped.
- b. Support to 10 courts information centres to enhance public information and outreach capacity
- c. 10 facilitation centres to facilitate witnesses attending court cases
- d. Managerial and administrative capacities of the Malakand courts strengthened.
- e. Review and operationalize the Amicus Curiae mechanism at provincial and district level.
- f. Selected laws drafted in English translated into Urdu.
- g. Judges' knowledge on Criminal, Civil Jurisdiction and Islamic law, land and property rights in accordance with the constitution enhanced

Output 2: Access to justice, legal aid and representation mechanism for men, women and other vulnerable groups in Malakand improved.

42. The people of Malakand face critical barriers to access to justice, such as: (a) the inadequate recognition of rights within the scope of the formal or informal justice systems, (b) the lack of knowledge of their legal rights and therefore inability to claim them, (c) the lack of free or subsidized legal advice and counsel at local and grassroots level, (d) NGO-provided legal services are small in scale and do not meet demand in districts and towns of the division, and (e) court cases are expensive.

43. Under this proposed output, the project will support the provision of free legal aid services including court representation and legal advice through the establishment of legal aid clinics in collaboration with the Bar Association and community organizations. The clinics will address the immediate legal needs of the most disadvantaged groups (women, children/juveniles, disabled, elderly, remanded prisoners and returnees) in Malakand. To empower the community, the project will support legal awareness raising campaigns to enable communities to claim their rights and demand legal services from both the formal and informal legal systems. The Pauper Councils in consultation with the Director General prosecution will also be used to provide legal aid. This output will manage legal clinics where a wider section of litigants, complainants and aggrieved persons will receive assistance in matters relating to GBV, domestic violence, land, property, tenancy and basic rights.

44. Under this output, interventions will be designed to increase the number of legal professionals with enhanced legal skills, particularly to provide adequate legal aid services to the most vulnerable, through training organized in partnership with bar association and NGOs. The project will provide support for traineeships for newly qualified female lawyers to work with NGOs and legal firms in Malakand. Regular training for existing legal professionals is of paramount importance to achieve

sustainability of this output in doing so legal aid training materials will be developed, given that the numbers of judges, prosecutors and lawyers have increased significantly over the past few years. Support to legal education institutions will also be extended to achieve this output.

45. The project will conduct a review exercise to identify the success stories and analyse project interventions in providing legal aid. The review will be conducted in the second year of the project and will guide the project on steps forward in devising methods and modules to make legal aid sustainable. The report will also propose policy interventions needed to ensure legal aid is available to most vulnerable and advocate it to be part of fundamental human rights. The review will be used as a guide to devise the provincial action plan on legal aid.

46. Specific deliverables will include:

- a. Legal aid services developed, institutionalised and strengthened.
- b. Legal awareness for communities at all levels and duty bearers enhanced.
- c. Support to legal education institutions to strengthen training on legal aid for young legal professionals
- d. Increase number of legal professionals, in particular, among women and disadvantaged groups through support for legal practitioners for long-term investment and sustainable development of Rule of Law in Malakand.
- e. Conduct a review on legal aid initiatives to identify possible areas of sustaining legal aid
- f. Develop a Provincial action plan on legal aid

Output 3: Informal justice mechanisms provide fair and effective services, in accordance with the Pakistan Constitution and human rights standards

47. It has been noted that limited capacities of the justice system and civil society constrain them from meeting the justice needs in Malakand region. The project will therefore work closely with the stakeholders in the informal justice system such as jirgas and MAs to identify and train a network of paralegals who will assist the poor and the marginalised to assist in dispute resolution.

48. One of the key constraints in delivering quick and inexpensive justice is the traditional duality between the formal and informal domains of justice sector. Informal justice mechanisms are inexpensive but are not harmonized with the formal justice institutions. The challenge is to achieve harmonization between the two sides and ensure that they work alongside in an efficacious, complementary manner adhering to the Constitution and the fundamental rights guaranteed by the same. Achieving this critical balance is difficult but essential in a cultural environment such as Malakand where the Pashtun norms of tribal justice are strong and accepted by the communities.

49. The formal justice system suffers from a number of problems including long delays in cases being brought before the court, limited capacity of court administration, lack of accessibility to population living in mountainous areas, insufficient resources and a general lack of legal literacy. As a result there is an excessive demand on the informal system because it is seen as an efficient method of resolving conflicts, able to deliver decisions on cases rapidly and more accessible and comprehensible to the rural population.

50. Despite numerous inadequacies, the individuals still seek services from the informal mechanisms. At the same time, it is viewed by a number of legal professionals as discriminatory against women and lacking in organised coordination with the formal system. Thus, it is crucial to create linkages

between informal mechanisms and formal justice system incorporating benefits/advantages and shortcomings/disadvantages of each method.

51. The project will study, conceive and develop comprehensive interventions for potential linkages between formal and informal justice systems in the Malakand. This study will need to be endorsed by the two sides, and mechanisms will be established to ensure proper implementation of the recommendations, for example, with the participation of university law faculty students to allow them to build hands-on experience. It is anticipated that given the huge quantum of unmet justice needs, as the conflict phase of past few years indicates, multiplicity of justice mechanisms will empower local populace provided that there is harmonization between such mechanisms.
52. Selected individuals from communities as paralegals will be trained to support the jirgas and achieve improved outcomes of their deliberations. Paralegals will also work as referral mechanism; they will link communities with legal aid clinics to maximize the legal aid services. In doing so UNDP will outsource trainings at community level through competitive process. International and national consultants will be recruited to develop the study on the harmonization of the formal and informal justice system.
53. Specific deliverables will include:
 - a. Conduct a comparative analysis / study between formal and informal justice systems and implement recommendations of the study.
 - b. Improve dispute resolution at community level through paralegal network.
 - c. Provision of support to local alternative mechanism to provide fair and justice services to community members in the Malakand.
 - d. Harmonisation and complementarities of different justice systems promoted, according to Pakistan Constitution and human rights standards.

Output 4: The police provide effective security and protection to the Malakand people, citizen's trust and confidence is enhanced, criminal investigation and prosecution are improved and civilian oversight mechanisms are in place.

54. The goal and principal objective of any criminal justice system is the effective and efficient delivery of justice. The administration of the Police and Prosecution; the central players, in the criminal justice system must be guided by the cardinal maxim that justice must be manifestly seen to be done at all times. To achieve this status in service delivery the central players in the system needs to be well equipped and geared to serve in a manner upholding rule of law. Thus the state agencies have to ensure that the police service is well staffed, adequately equipped and trained, citizen-responsive, and accountable.
55. The role played by Police is particularly important in the aftermath of crisis in Malakand. Presently among other functions, the Police have also been entrusted with the arduous task of instituting judicial processes to try suspects detained under the charges on terrorism. The numbers of such cases remain high and requires considerable amount of time to prepare the relevant documents including the FIRs.
56. Similar, to the sub-continent, conviction rate of Pakistan is very low. Many reasons can be attributed to the current situation of high acquittals. Lack of specialized investigation skills, lack of training opportunities, lack of equipment, under staff , low capacity of prosecution and the lack of

coordination between the police and the prosecution are some of the key attributes that results in high acquittals ,leading to low conviction rates. Furthermore, in the context of Pakistan and KP, the law requires the police to effectively analyse information and investigate criminal cases within a prescribed time (14 days) limit. Such specialised skills including knowledge on forensic are missing from the Police. Thus the state of the policing, prosecution, investigation and the criminal justice system as whole in Malakand require urgent attention.

57. In the post-conflict scenario, support to the components of the criminal justice system is vital. In this context, output 4, will enhance the capacity of the police in information analysis, advisory support training on interviewing skills, crime scene management and search techniques. The project will support the KP police Department's comprehensive training strategy, titled 'Human Response Development Initiative' (HRDI), maintaining a special focus on investigations and related techniques. The HRDI takes a very inclusive approach, covering all concerned and related areas on human resource development. The initiative was developed by the KP police Department and is supported by the Home Department of KP.
58. The prosecution yet another weak link in the system, currently functions with bear minimum capacities. The project will support the prosecution to develop an action plan to enhance capacity of its offices in line with the Establishment of the Directorate of Human Rights & its District Based Resource Centers with Integrated Facility for Public Prosecutors, Government Pleaders & Probation Officers of KP .The strategy will include and identify areas for in-service training and other specialized trainings as well as overall support to the district prosecution offices to create better working environment. The project will create a provincial electronic monitoring cell linking district prosecution offices with provincial one.
59. The deficiencies and lack of capacities related to investigations of crime, needs urgent attention. Due to gaps in the systems and capacity a considerable number of criminal cases fail. Thus the project will focus on developing a specialized training curriculum along with the other trainings for police and prosecution which would have a specific focus on investigations and supervision related to investigation. The training curriculum will be designed taking into deliberation, aspects of investigation relevant police and prosecution. It will entail a common session for the two constituents which would be used as a forum to enhance coordination. This initiative on a longer term will support the concept of establishing a Provincial Investigation Institute/School envisaged by the Police and Prosecution of KP.
60. The training package designed for the Police and the Prosecution will be well informed by the Training Needs Assessment (TNA) conducted by the project. The TNA which will be a common tool for the project, will assess the training needs of all project target sectors, including the police, prosecution, judiciary, the Bar Association and CSOs. Training modules will be developed under close guidance of the project and in close consultation with the relevant counterpart departments. The TNA will serve as a clear guide to devise the training modules. The project will work with the state training faculties and use existing training infrastructure. During the initial phase of the training, expert national and international trainers will be deployed, to create a pool of master trainers, this group will be then positioned to conduct trainings for the respective departments .The project envisage that the process of creating a pool of master trainers, will contribute strongly to institutionalize the training modules and ensure sustainability.
61. To bridge the current coordination gap between the police and the prosecution the project will work closely with the police and prosecution to strengthen the Criminal Justice Coordination Committee (CJCC). This committee derives its mandate from the Police order 2002, and is currently convened

at the district level. The committee will be the entry point for the project to expand and enhance coordination between the two entities.

62. Community-citizen liaison is essential to ensure the demand is matched by supply of police services. Furthermore, to ensure institutional links between police and communities, the project will provide the technical advisory support to establish a unified community-policing concept in KP. The project will also help the provincial government and district government to devise community policing strategies that are particularly tailored to meet the institutional and governance needs of a post-crisis situation. Developing, testing and adopting such a strategy would be essential at strategic level to ensure a unified approach to community policing and at local level enhance citizen confidence in police services. Community policing expert will be deployed to assess of the existing community police practices, introducing unified concept and to advise on how to positively build collaborative partnership between law enforcement officers and communities in problem solving. Given the public perceptions on Police, this project will also deploy an expert to develop and strengthen an internal oversight mechanism to process corruption allegations against police officers that include development of codes of conduct.

63. Specific deliverables will include:

- a. Review and redesign the police in-service training curriculum in line with HRDI
- b. Devise a comprehensive training mechanism on investigation including forensic investigation tools targeting police and prosecution with special focus on post-crisis needs*
- c. The capacity of the prosecution strengthened through training and provision of other support.
- d. Centralize monitoring data base installed at the Prosecution office in Peshawar
- e. Coordination among key stakeholders in the criminal justice system strengthen
- f. Confidence and trust in the police by the communities enhanced and oversight mechanism is in place.
- g. Community policing concept defined and operational/pilot tested.

C. Partnership Strategy

64. This project will be implemented and delivered in support of the government's Malakand Reconstruction Strategy. The Project will follow the Direct Implementation Modality (DIM) which has been already agreed by the key provincial stakeholders. It will be executed in coordination and cooperation with relevant partners including KP Judiciary, KP Police Department and Law, Planning Department, DCOs, Local Government Departments, Commissioner Malakand, Home and Tribal Affairs Departments, including Directorate of prosecution at provincial level, academic and training institutes, Bar Associations as well as with Non-governmental Organisations (NGOs) and Community Based Organisation (CBOs) working on justice and security issues.

65. In addition, it will seek to consult stakeholders and ensure their feedback is channelled efficiently into the project Results & Resources Framework. The Rule of Law project will partner with Friends of Democratic Pakistan and other UN Agencies and service providers (NGOS and INGOs) to maximize in-country resources for delivery of specific outputs.

66. The project will as well rely on close working relationships with other initiatives such as ADB's forthcoming support for access to justice and UN programmes active in the targeted areas. The UNDP Regional Centers such the Justice Team in Bangkok Regional Centre and UNDP's Bureau of Crisis Prevention and Recovery can be called upon to provide technical inputs to key phases of the project and its components. UNDP through the Programme Management Team will ensure effective and efficient implementation of the programme. Partnership with internal and external actors will be

instrumental to the project's success. The programme will rely on close working relationships with other UNDP initiatives in the areas of Governance, Poverty and Crisis Prevention.

67. The project will also work in close collaboration with other development partners based in KP. To ensure, interventions remain unduplicated and cohesive the project will established a working group consisting of donors including USAID, ADB and the key government stake holder such has the Planning and Development Department. The working group would be convened once a month and will be maintained as a forum to share information and mutual interests
68. The security situation in KP and in particular Malakand division requires sub-contracting modality and recruitment of UNDP national staff , which allow fulltime presence in Peshawar in addition to UNDP management and full control of administrative issues. Since enhancing the capacity of the justice system is the main objective, provision of technical advisory support will be imperative. Thus the Project will be instrumental to deploy short-term international and national advisors and expert in trainings, community policing, legal aid and institutional development during the implementation period.

D. Exit strategy

69. UNDP through this project will ensure the sustainability of its interventions. It will develop training materials, create a pool of national trainers, and develop strategy to be adopted by the state organizations working with the project. The international and national experts will closely work with respective departments to enhance in-house training and technical capacities. The training programs will commence with a Training of Trainers (TOT) program which would be designed to create an in-house training pool. The experts would then phase off and the master trainers will take over the role of training and conducting capacity building programs. The Project will facilitate refresher programs for the trainers to ensure and maintain quality of the training. The Project will also collaborate with professional organizations and national / provincial level civil society organizations; through which it will enhance and strengthen the capacity of the CSOs.
70. Measures to sustain interventions initiated by the project will be inbuilt in all project activities. Project Review Board will be informed of the progress in the quarterly meetings to be held in Peshawar. This will provide further opportunities to the project to strengthen its efforts to ensure sustainability of its interventions.
71. The midterm review report will serve as the base document to craft the exit strategy of the Project. Followed by intensive consultations with relevant counterparts, donors and development actors working in the justice sector to further enlighten the process of designing the exit strategy. The review report will also clearly spell the lessons learnt and best practices of the project and will set out unequivocally the recommendations and steps forward.

III. RESULTS AND RESOURCES FRAMEWORK

RESULTS AND RESOURCE FRAMEWORK

OUTCOME INDICATORS AS STATED IN THE COUNTRY PROGRAMME RESULTS AND RESOURCES FRAMEWORK, INCLUDING BASELINE AND TARGETS:

Improve security and access to justice for men and women in the Malakand division

Baseline:

- Security and breakdown of the Rule of Law
- Delay in the delivery of justice and security services due to the limited capacity of the Rule of Law institutions
- Lack of swift access to justice resulted in lack of confidence and trust in the formal Rule of Law institutions.
- Increased access to the informal systems
- Limited knowledge on Islamic Laws (Sharia'a) as per the Pakistan Constitution
- Limited capacity of case management.
- Limited investigation and prosecution capacity due to the lack of trained law enforcement officers
- Limited analytical capacity to threats and lack of strategic response to emergencies.
- Lack of gender sensitization

Indicators:

- Filing and case management system in place
- Number of functioning court houses
- Legal aid strategy in place
- Amicus Curiae mechanism at provincial and district level developed and adopted
- Number of police stations
- Number of law enforcement officers, judges, prosecutors and lawyers trained
- Community policing strategy in place
- Number of criminal and civil cases processed
- Number of women trained

PARTNERSHIP STRATEGY:

This project will be implemented and delivered in support of the government's Malakand Reconstruction Strategy. It will be executed in coordination and cooperation with relevant partners including KP Judiciary, KP Police Department and Law, PaRRSA, DCOs, Home and Tribal Affairs Departments at provincial level, academic and training institutes as well as with Non-governmental Organisations (NGOs) and Community Based Organisation (CBOs) working on justice and security issues. It will work closely with other duty bearers such as the Bar Association at provincial and district levels as well as other institutions working on justice issues. In addition, it will seek to consult stakeholders and ensure their feedback is channelled efficiently into the project Results & Resources Framework. The Rule of Law project will partner with Friends of Democratic Pakistan and other UN Agencies (UNHCR, UNICEF, UNIFEM, UNDOC and UNHabitat) and service providers (NGOs and INGOs) to maximize in-country resources for delivery of specific outputs. The Project will as well rely on close working relationships with other initiatives such as ADB's forthcoming support for access to justice and UN programmes active in the targeted areas. The UNDP Regional Centers such as the Justice Team in Bangkok Regional Centre and UNDP's Bureau of Crisis Prevention and Recovery can be called upon to provide technical inputs to key phases of the project and its components. UNDP through the Programme Management Team will ensure effective and efficient implementation of the programme. Partnership with internal and external actors will be instrumental to the project's success. The programme will rely on close working relationships with other UNDP initiatives in the areas of Governance, Gender and Crisis Prevention.

PROJECT TITLE AND ID (ATLAS AWARD ID): STRENGTHENING THE RULE OF LAW, PEACE & STABILIZATION

INTENDED OUTPUTS	OUTPUTS	INDICATIVE ACTIVITIES	OUTPUT TARGETS (YEARS)	RESP. PARTIES	BUDGET
<p>1. The capacity of courts to provide effective and timely justice services to the people in Malakand built and strengthened.</p> <p><u>Baseline:</u></p> <ul style="list-style-type: none"> - Courts houses and facilities in Malakand heavily damaged. - More than 10 years of case backlog in the district courts in Malakand. - Lack of proper case management system in place. - Lack of trained staff or judges on filing system and case management. - Limited information on justice services in rural 	<p>1.1 Functioning court houses in Malakand.</p> <p>1.2 Outreach to rural areas expand through information centres</p> <p>1.3 Case management and administrative capacities of the KP Judiciary, with special focus on Malakand division strengthened.</p> <p>1.4 concept of Amicus Curiaerivived and functioning at district level.</p>	<p>1.1.1 Rehabilitation of 10 court houses and provision of IT equipment in selected areas in Malakand.</p> <p>1.2.1 Support to the information centres to enhance public information and outreach capacity targeting all levels of communities in Malakand.</p> <p>1.2.2. Renovation and equipment of 10 facilitation centres for litigants.</p> <p>1.3.1 Conduct trainings on case filing and case management targeting Judges and court staff.</p> <p>1.3.2. Provision of transport facilities to the court staff</p> <p>1.4.1 Review and</p>	<p>Year 1:</p> <ul style="list-style-type: none"> • Baseline study and research • 3 district courts and information centre and facilitation centres renovated and equipped • Review Amicus Curiae mechanism at district level. • Operational support to Amicus Curiae at selected districts. • 2 trainings on case filing and management targeting 100 judges and courts' staff organised and conducted • Case monitoring and evaluation system in place. • Public information materials developed and available in all courts and public facilities. • 15 motorcycles provided to courts staff. <p>Year 2</p>	<p>Judiciary, District Coordination Office, training institutes (to be identified) NGOs and UNDP.</p>	<p>Renovation & Rehabilitation of court houses \$1,200,000</p> <p>Consultancies \$170,000</p> <p>Furniture & IT equipment \$215,000</p> <p>Research, training materials & translation \$350,000</p> <p>Support to Amicus curiae \$150,000</p> <p>Trainings \$620,237</p> <p>Workshop & conferences \$65,000</p> <p>Transport equipment \$15,000</p> <p>Mic & sundries \$75,000</p>

<p>areas</p> <p><u>Indicators:</u></p> <ul style="list-style-type: none"> • 10 Functioning court houses in Malakand division • Operationalized strategy to reduce criminal and civil cases backlog. • Launch of 3 training courses on filing and case management targeting judges and courts' staff. • Amicus Curiae mechanism operationalized. • Knowledge of judges in criminal, civil & Islamic laws enhanced. 	<p>1.5 Selected laws drafted in English translated into Urdu.</p> <p>1.6. Judges' knowledge on Criminal, civil jurisdiction & Islamic laws enhanced.</p>	<p>operationalize the Amicus Curiae mechanism at provincial & district level.</p> <p>1.5.1 Support to translation of laws into Urdu language.</p> <p>1.6.1 Conduct training on criminal and civil jurisdiction, procedure and Islamic laws targeting judges</p>	<ul style="list-style-type: none"> • 5 district courts and information centre and facilitation centres renovated and equipped • 3 training on filing and case management, targeting 150 numbers of judges and courts' staff are organised and conducted. • Reducing criminal and civil cases backlog through, Amicus Curiae mechanism, is implemented • Review report on the work of the courts and case processing, issued and shared with all partners to the project for improvement and recommendations. <p>Year 3</p> <ul style="list-style-type: none"> • All 10 district courts and information centre and facilitation centres renovated and equipped • Public perception of courts performance improved • Amicus Curiae mechanism at district and provincial level is functioning. • Evaluation and review report on the work of the courts throughout the 3 years of the programme lifespan published and shared with all partners.
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