



Strengthening Access to Justice and Human Security in the Transitional Areas (Abyei, South Kordofan & Blue Nile)

Phase II



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‘The United Nations has learned that the rule of law is not a luxury and that justice is not a side issue. We have seen people lose faith in a peace process when they do not feel safe from crime. We have seen that without a credible machinery to enforce the law and resolve disputes, people resorted to violence and illegal means. And we have seen that elections held when the rule of law is too fragile seldom lead to lasting democratic governance. We have learned that the rule of law delayed is lasting peace denied, and that justice is a handmaiden of true peace. We must take a comprehensive approach to justice and the rule of law. It should encompass the entire criminal justice chain, not only police, but lawyers, prosecutors, judges and prison officers, as well as many issues beyond the criminal justice system. But a ‘one-size-fits-all’ does not work. Local actors must be involved from the start. The aim must be to leave behind strong local institutions when we depart.’

Kofi Annan, Secretary-General of the United Nations, UNDP Access to Justice Practice Note (December 2004)

“A human world where people can live in security and dignity, free from poverty and despair, is still a dream for many and should be enjoyed by all. In such a world, every individual would be guaranteed freedom from fear and freedom from want, with an equal opportunity to fully develop their human potential. In essence, human security means freedom from pervasive threats to people’s rights, their safety or even lives.”

(Human Security Network)¹

¹ Humansecuritynetwork.org

TABLE OF CONTENTS

	Page
ACRONYMS	4
INTRODUCTION	5
SECTION A – CONTEXT ANALYSIS	6
I. THE RETURN PROCESS	6
II. A FRAGILE ENVIRONMENT	7
1. <i>Presence of Armed Actors</i>	7
2. <i>Conflict Over Land & Property</i>	8
3. <i>Gender Based Violence</i>	8
4. <i>Lack of Trust & Confidence</i>	9
III. SHORTCOMINGS IN THE RULE OF LAW SECTOR	10
1. <i>Judiciary</i>	10
2. <i>Legal Aid</i>	11
3. <i>Customary Law vs. Statutory Law</i>	12
4. <i>Law Enforcement</i>	13
IV. ABYEI : SITUATIONAL ANALYSIS	13
1. <i>Political Context</i>	13
2. <i>Restriction of Movements</i>	14
3. <i>Influx of Returnees</i>	15
4. <i>Missiriya Migration</i>	15
5. <i>Judiciary</i>	15
6. <i>Traditional Justice System</i>	16
7. <i>Police</i>	17
V. SOUTH KORDOFAN STATE: SITUATIONAL ANALYSIS	18
1. <i>Political Context</i>	18
2. <i>Judiciary & Legal Administration Office</i>	18
3. <i>Traditional Justice System</i>	20
4. <i>Police & Prison</i>	21
VI. BLUE NILE STATE: SITUATIONAL ANALYSIS	22
1. <i>Political Context</i>	22
2. <i>IDP Movements</i>	23
3. <i>Judiciary & Legal Administration Office</i>	23
4. <i>Police & Prison</i>	24
5. <i>Land Rights & Conflict over Natural Resources</i>	24
SECTION B – INTERVENTION STRATEGY	25
I. INTEGRATED & SEQUENCED APPROACH TO ACCESS TO JUSTICE AND HUMAN SECURITY PROGRAMMING	25
II. LINKAGES TO NATIONAL RULE OF LAW SECTOR PROGRAMMING	27
III. BENEFICIARIES & GENDER CONSIDERATIONS	28
IV. COORDINATION WITH UN SISTER AGENCIES AND OTHER STAKEHOLDERS	28
1. <i>UNHCR, OCHA and UNICEF</i>	29
2. <i>UNMIS Human Rights, Civil Affairs & Rule of Law</i>	29
3. <i>UN Police & DfID</i>	29
4. <i>FAO</i>	29

SECTION C – STRATEGY FOR USE OF UNDP RESOURCES	30
I. UNDP MANDATE	30
II. THE JAM PROCESS	31
III. UNDP, LEAD AGENCY ON RULE OF LAW IN SUDAN	32
SECTION D – SPECIFIC OBJECTIVES, EXPECTED RESULTS & PLANNED ACTIVITIES DURING PHASE II	32
I. INTRODUCTION	32
II. PROJECT DESIGN METHODOLOGY	32
III. SPECIFIC OBJECTIVES	33
IV. EXPECTED RESULTS	33
V. PLANNED ACTIVITIES	33
<i>Activity 1: Awareness Raising on Human Rights & Rule of Law</i>	34
<i>Activity 2: Establish Rights-focused Community Forums</i>	34
<i>Activity 3: Training of Paralegals</i>	35
<i>Activity 4: Construct 1 and support 5 Justice & Confidence Centres</i>	36
<i>Activity 5: Establish 3 Legal Aid / Public Interest Litigation Funds</i>	36
<i>Activity 6: Establish 5 Legal Information Centres</i>	37
<i>Activity 7: Capacity Building on Court Administration and Management</i>	37
<i>Activity 8: Support Community Policing Structures and Procedures</i>	38
<i>Activity 9: Training for Law Enforcement Officials</i>	38
<i>Activity 10: Targeted Rehabilitation and Construction Work</i>	39
<i>Activity 11: Set-Up a Local Review Committee in Each Targeted Area</i>	39
<i>Activity 12: Rule of Law Impact Study</i>	40
<i>Activity 13: Customary Law Research Consultancy and the Establishment of Linkages between Traditional Leaders, Rural Courts and Project Activities</i>	40
SECTION E – RISKS AND PRIOR OBLIGATIONS	41
SECTION F – MANAGEMENT ARRANGEMENTS	42
I. EXECUTION ARRANGEMENTS	42
II. PROJECT MANAGEMENT STRUCTURE	42
SECTION G – MONITORING AND EVALUATION	43
I. MONITORING	43
II. EVALUATION AND REPORTING	44
III. MEASURING THE IMPACT	44
SECTION H – LEGAL CONTEXT	46
SECTION I – WORK PLAN AND TARGETS FOR PROJECT YEAR 1	46
SECTION J – BUDGETS	51
SECTION K – ANNEXES	54

ACRONYMS

CBO	Community Based Organization
CO	Commissioned Officer
CJMC	Ceasefire Joint Military Committee
CSO	Civil Society Organization
CPA	Comprehensive Peace Agreement
DfID	Department for International Development (UK)
DPA	Department of Political Affairs
DPKO	Department of Peace-Keeping Operations
FAO	Food and Agricultural Organization
GBV	Gender-Based Violence
GoNU	Government of National Unity
GoSS	Government of South Sudan
HAC	Humanitarian Aid Commissioner
ICSS	Interim Constitution of Southern Sudan
IDP	Internally Displaced Person
IMU	Information Management Unit
INC	Interim National Constitution
INGO	International Non-Governmental Organization
IRC	International Rescue Committee
JAM	Joint Assessment Mission
JCC	Justice & Confidence Centre
LRC	Local Reviewing Committee
NCO	Non-Commissioned Officer
NCP	National Congress Party
OCHA	Office for the Coordination of Humanitarian Affairs
PSC	Programme Steering Committee
QIA	Quick Impact Activities
ROL	Rule of Law
SPLM/A	Sudan People Liberation Movement/Army
SRRC	Sudan Relief & Rehabilitation Committee
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNMIS-HR	United Nations Mission in Sudan – Human Rights

INTRODUCTION

Decades of war have transformed Sudan into a militarised environment. Legislative, judicial and law-enforcement institutions either suffer severe competence and/or capacity deficits or are severely compromised, while customary mechanisms have been eroded, marginalized or incapacitated. The institutional and operational gaps in the rule of law sector are further compounded by a massive circulation of small arms, continued low-intensity conflict in some parts of the country and a lack of confidence amongst the populace in an impartial justice system.

The signing of the Comprehensive Peace Agreement (CPA) on January 9th 2005, the adoption of the Interim National Constitution and the formation of the Government of National Unity (GoNU) constitute significant milestones in the transition towards a new governance dispensation for the nation. With the support of the international community, Sudan has commenced an ambitious state-building programme that ushers in a new era of transformation.

The general improvement of the security situation in the Transitional Areas has triggered spontaneous return movements, which are expected to increase as the return and reintegration programme² is streamlined and implemented. It is estimated that between 4.2 and 6.7 million displaced persons and refugees will return in the next two years. As identified already in the JAM (and reconfirmed by humanitarian agencies on the ground), the potential danger of large return movements, coupled with the lack of absorption capacity in areas of return pose a clear and distinct threat to human security and sustainable reintegration.³

In addition to immediate protection issues (e.g. physical, legal and material protection) of returnees, which are addressed on an inter-agency basis through, *inter alia*, the Return Working Group, there is a need for more sustainable programming to address the current weakness of local rule of law institutions in areas of return. Given the observed increase in crimes, the revival of land and property claims that have been dormant for the past two decades, and the general lack of trust in state institutions, it is critical to provide returnees and receiving communities with effective mechanisms to resolve disputes and redress their grievances.

Access to Justice is defined as the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards.

International and national stakeholders, alike, concur that the establishment of rule of law is the ultimate remedy for ensuring human security in the return and reintegration for displaced

² The *Joint HAC/SRRC Policy Framework for the return of displaced persons in a post-conflict Sudan* (JPF) of July 2004 recognizes the rights of all displaced people in Sudan and commits the parties to support their return to places of origin. While the UN Country Team is not currently encouraging return because of unsuitable conditions in areas of return, support however is provided to returnees in places of displacement, en route to their places of origin, and in areas of arrival. The last version of *Operational Plan for Spontaneous Return* developed by UNMIS RRR in collaboration with UN agencies and other international organizations provides operational guidance to organisations working in support of IDPs and refugees.

³ OCHA Information Management Unit (IMU) provides regular monitoring and reporting from the field and areas of return. The IMU data provides the more comprehensive cross-section of prospective returns surveys and, in the absence of a system to physically count returnees, offers the most accountable system of numbers based on identified assumptions.

communities in Sudan. This will require a combination of community-based approaches and capacity building of the judiciary and law-enforcement, which in turn must be reinforced by good governance and political action at the national and international level. The absence of effective action on any of these levels could undermine the entire process of peace-building. It is against this background, that UNDP has established this *Strengthening Access to Justice and Human Security* in key strategic areas.

SECTION A – CONTEXT ANALYSIS

I. THE RETURN PROCESS

The main areas of current displacement are Khartoum (2 million), other Northern states (about 900,000), and neighboring countries (450,000). A substantive portion of the estimated displaced population of 4.2 (OCHA) to 6.7 million (JAM) is expected to return to their areas of origin during the interim period - prior to the referendum⁴ scheduled for 2011. In the first twelve months, after the signing of the CPA, the total number of recorded returnees has reached 250,000. According to the projections, 2006 and 2007 will be peak years for returns while the wave will reduce in intensity in the following years. It has been predicted that between 70 to 80% of the displaced will have returned by 2010.

According to OCHA Information Management Unit figures, more than 300,000 persons are expected to return to the three Transitional Areas in 2006, alone. At State level, the single largest return wave is expected to occur to South Kordofan State with a total of 222,069.

State	Most Likely Scenario	Percentage
Western Bahr el Ghazal	21,654	
Northern Bahr el Ghazal	26,886	
Warab	8,590	
Lakes	25,610	
Greater Bahr el Ghazal TOTAL	82,740	12%
Unity	16,040	
Upper Nile	12,204	
Jonglei	28,581	
Greater Upper Nile TOTAL	56,824	9%
Eastern Equatoria	41,810	
Bahr el Jebel	113,321	
Western Equatoria	71,744	
Greater Equatoria TOTAL	226,875	33%
Southern Sudan TOTAL	366,439	54%
Blue Nile	82,727	
South Kordofan	222,069	
Western Kordofan	11,155	
Former Transitional Areas TOTAL	315,951	46%
GRAND TOTAL	682,391	100%

Planned figures 2006 (Source IMU, September 2005) from Operational Plan for Spontaneous Return (19 February 2006), UNMIS RRR.

In the absence of an effective system to physically count returnees, the IMU data offers the most accountable system of numbers based on identified assumptions.

⁴ The term “displaced” encompasses refugees, IDPs and ex-combatants.

The biggest threat to return and reintegration is the lack of human security, i.e. freedom from fear in claiming and exercising physical, legal and material rights. As Sudan embarks on the recovery and reconstruction of the rule of law sector, a multitude of interrelated problems will emerge warranting a holistic and coordinated approach.⁵

II. A FRAGILE ENVIRONMENT

The situation in the Transitional Areas poses a considerable threat to eruption of violent conflict, given the militarization that has pervaded many communities, ready availability of small arms, and competition over scarce resources. The political status of the Transitional Areas remains unsettled due to the gap between written agreements and the reality on the ground, and the transitional nature of these geographical areas may result in ethnic tensions and disputes. At the same time, the Transitional Areas will receive a significant number of returning populations – all with their own expectations. Returnees, who have lived in camps or in urban areas, have acquired values more closely aligned to city life with raised expectations for employment, education, and social services. Levels of expectations and misunderstandings on the part of both the receiving communities and the returnees will require extensive confidence-building and legitimate conflict resolution mechanisms to avoid conflict and coercion.

1. *Presence of Armed Actors*

Factors contributing to increased levels of criminal activity are bound to aggravate the stability in the Transitional Areas - particularly during the period of return and reintegration, and the subsequent growth within the towns and their surroundings. The political situation in the Transitional Areas is strongly influenced by the many years of military rule in general and the armed conflict in particular in large parts of the Transitional Areas. This political situation and the extensive proliferation of small arms are likely to remain until a full-fledged DDR programme has been effectively implemented and democratic elections are held in accordance with the CPA.

An exacerbating factor is likely to be the presence of soldiers and ex-combatants. Studies predict that many ex-combatants are likely to remain in the towns where they are demobilised in the hope of making an urban living, rather than returning to their traditional homes.⁶ The change in status, the restructuring of military structures, and the effect of the trauma experienced can lead to greater difficulties for ex-combatants and militia to reintegrate. Such frustrations, in turn, can lead to resort to violence and crime. There is already abundant anecdotal evidence of soldiers and militia perpetrating drunken assaults.

It is anticipated that violence will continue to plague certain areas in spite of the signing of peace agreement, especially where conflict prevails due to militia, oil interests and ongoing displacements. There is a fear that ex-soldiers returning home or roaming around might take to looting and raping, while disarmed youth and returnee youth may either opt to join the army to obtain benefits or resort to crime. This is particularly risky considering the post-conflict situation

⁵ *Freedom from Fear: Promoting Human Security for the Return and Reintegration of Displaced Persons in Sudan*, by Yasmine Sherif for the International Rescue Committee, May 2004.

⁶ See 'UNDP Southern Sudan Urban Appraisal Study', August 2005, Development Planning Unit, University College London, and 'Freedom From Fear: *Promoting Human Security for the Return and Reintegration of Displaced Persons in Sudan*', IRC, May 2004.

that now prevails coupled with scant educational and employment opportunities. Similarly, many believe that there will be a sharp rise in retaliatory or revenge killings emanating from abuses over the last twenty years. Finally, given the limited socio-economic opportunities for employment, potential conflicts over land ownership, ethnic tensions and weak justice administration, the possibility for criminal activity is considerable.

2. Conflict over Land and Property

Generally, in rural areas land is seen as a right of the community and viewed as a resource as well as identity issue. Land rights are derived from ancestors, often collectively owned by the community/tribe. For the most part, existence of a formal registration or documented ownership scheme is absent, and the right to land is based on ancestral claims. However, in the urban areas, land and property are increasingly viewed as a legal right based on individual claims and documentation.

In this regard, many foresee potential problems in the towns, where the authorities have allocated or leased plots, such as concession for mechanized farms, to traders, prominent individuals, or others who can afford to lease land and property.

Presently, there are reports of pending or unsatisfactorily resolved cases of ownership in towns like Abyei. In most instances, the legitimate owners of property have to go through lengthy and time-consuming processes to establish their rights, only to be compensated with unattractive plots in the countryside. These initial cases indicate that there will be a need to establish a fair, judicial resolution mechanisms and formal registration of ownership in towns.

Furthermore, with a few exceptions, women do not enjoy the right to own property under customary law. Women in general, and female-headed households in particular (many of women lost their husband during the war), might face acute problems in reclaiming land or property belonging to the husband or other male family members. In cases where there are multiple wives in a household, property rights of wives and children may be disputed. Inheritance concerns are also implicated in this regard.

In view of the above, it is expected that land and property issues will be the flashpoints for conflicts due to the massive return process and expectations that land claims will be recognized. The reality, however, is different and significant land areas have been confiscated and remain in the control of powerful interests in the army, military intelligence, and their personal connections. Multiple land claims to the same property will cause disputes, and a mechanism to resolve such conflicts must be in place prior to the expected returns. These land claims will require an effective and accessible process of adjudication and resolution. FAO, in close consultation with the GoNU/GoSS, will be working with government actors to establish Land Commissions. While the Commissions will attempt to set up a mechanism for land disputes, interim measures will be required to manage the process of land claims and to inform communities about their rights and the process for asserting claims.

3. Gender-Based Violence (GBV)

Women form a significant cohort of the population, many of them serving as heads of households. As such, women often bear the sole burden of providing for themselves and their families, and have been thrust into the public sphere in a highly militarized male-dominated environment. Traditional family and community arrangements that provided physical and

material security for women and children in the past, now afford little protection from nefarious and criminal elements. In fact, families and collective identity group arrangements have in large part disintegrated, are no longer viable or simply non-existent. Thus, women and their families are at greater risk for exploitation.

Returnee women and their families will be acutely vulnerable since they are likely to be unarmed and under-resourced with fewer opportunities for income-generation available to them. Forced to fend for themselves, women may increase their vulnerability to exploitation in seeking income generation opportunities that might expose them to violence. At the same time, the climate of impunity with respect to sexual exploitation and violence cannot continue unabated.

Engendering customary and statutory rule of law institutions and mechanisms in Sudan remains one of the most formidable challenges to administration of justice reform. Men and women are regarded as very different entities in both the formal and informal realms, given the considerable bias that currently exists in allowing women to participate publicly and vocally as members of the social leadership. While the level of participation varies according to the particular ethnic community of which women are members, the tendency has been to exclude women from leadership or significant public decision making forum.

4. Lack of Trust and Confidence

In areas most affected by the decades-long Sudanese conflict, such as the Transitional Areas, the climate of fear is pervasive. Common people have no trust in government structures to provide immediate protection and security, let alone justice.

As ex-GoS soldiers return home, there might be resentment among communities, especially if those returning have been (or are perceived to have been) involved in the killing of their relatives or community members.

Furthermore, some argue that there is a significant potential for tensions as a result of disparity between returnees and resident communities, particularly when refugees/IDPs may return with increased prosperity, better health and higher expectations. Others question this assumption and argue that returnees may also be seen as an asset to their communities, bringing with them not only commodities that can be shared with their kin, but also educational skills that can be utilized for the benefit of the community.

However, there is also a risk that, when the initial euphoria of homecoming has dissipated, a sense of betrayal or abandonment may surface. Moreover, problems of cultural disassociation are expected to increase owing to the large number of adolescents who are less likely to respect and assimilate into traditional systems. It will be particularly difficult for these groups, who will have to suppress their past in order to re-assimilate. This must not be ignored and left to fester, but should be addressed through peace building activities that encourage inter-faith, multi-ethnic and multi-lingual coexistence and tolerances.

III. SHORTCOMINGS IN THE RULE OF LAW SECTOR

In the Transitional Areas, access to justice, including physical protection and due process of law, remains an illusion to the large majority. The Transitional Areas remain highly underdeveloped in the rule of law sector, with weak infrastructure, operational capacity and knowledgebase.

Current community-based and statutory mechanisms to address crimes and violations of human rights are minimal and nascent at best. Women and children are particularly vulnerable. Often not viewed as legal subjects (e.g. right to own property), women enjoy limited guarantees, while a separate juvenile justice system appears non-existent.

Both the statutory and the traditional systems have been undermined by the war and military rule, severely eroding means for peaceful and legitimate conflict-resolution. Moreover, customary law is largely based on oral tradition, and thus justice varies from area to area. While the traditional system can and should be restored, a statutory system is indispensable to establishing rule of law. Translating the aspirations of the CPA into tangible results on the ground will require both patience and imagination. Peace building is not a straight and well-paved path, but rather a bumpy road. Thus, the needs will have to be addressed in a gradual and flexible manner – keeping in sight the long-term vision.

1. *The Judiciary*

With the signing of the Comprehensive Peace Agreement (CPA) and the adoption of the Interim National Constitution (INC) and the Interim Southern Sudan Constitution (ISSC), the Judiciary is expected to play an instrumental role in addressing a number of challenges to translate the principles of the CPA into a functional, decentralized justice system.

As for the judicial system, which is key to the establishment of the Rule of Law, populations in the Transitional Areas (as elsewhere in Sudan) are affected by the following challenges in accessing justice through a functional judiciary:

- The lack of sufficient physical and administrative capacity in order to successfully uphold their constitutional obligations to deliver justice;
- Access to courts is limited, especially during the rainy season, while some areas lack any court facilities;
- Lack of transport and very weak operational capacity;
- Judges and legal professionals lack upgraded skills-training and knowledge of human rights;
- The customary system has been eroded, while the level of education amongst traditional leaders varies, with many lacking any formal training; and,
- Most citizens do not trust state-institutions in general, and rule of law institutions in particular.

Following the adoption of the Interim National Constitution on 9 July 2005, Article 128 (1) provides that: all justices and judges are independent in the performance of their duties; enjoy full judicial competence with respect to their functions; and shall not be influenced in their judgments. Article 128 (2) specifically requires that the justices and judges shall uphold the Constitution and the rule of law and shall administer justice diligently, impartially and without fear or favor. The Judicial Service Commission headed by the Chief Justice of Sudan is mandated to undertake the overall management of the national judicial system, including the coordination of the relationships among judiciaries at the National, Southern Sudan and State levels.

2. Legal Aid

The Department of Legal Aid, located within the Ministry of Justice in Khartoum, operates with very limited capacity. The Legal Aid Department is composed of 18 legal advisors, who provide free legal aid services upon request of the court in death penalty cases. The Department also receives cases from citizens related to civil and personal status affairs, such as family disputes, child custody, divorce, and inheritance. The Department provides services in Khartoum, only, and operates at minimal capacity through the Bar Associations in the States.

Although the objective of the law is to extend legal aid to marginalized groups, who are unable to afford legal fees, the vast majority of the Sudanese litigants or accused persons do not benefit from the system. The causes of inaccessibility to legal representation or legal aid can be explained by the following:

- *Concentration of lawyers/advocates in major cities.* While the bulk of judicial work is discharged by state courts and its branches mostly found in the capitals of the localities⁷ and rural courts in the country-side, the advocates are attracted to lucrative work in major cities where wealthy clients and companies are situated.
- *Inadequacy of the number of advocates.* Although there are several thousand lawyers in Sudan, their number is marginal compared to the volume of work required. In the transitional areas and former GoS-held towns there are hardly any lawyers/advocates.
- *Lack of awareness.* The majority of the people in the rural areas and urban communities are unaware of the availability of legal aid system in Khartoum, and even if so, they do not have access to. The rationale behind the law, and the law itself is unknown to the majority. Most people do not know what is supposed to exist under the law, what prevails in practice, and there is limited popular knowledge of rights. Abuse of authority and powers result in unlawful searches, seizures, detention and imprisonment.
- *Non-appearance of advocates before state and locality courts.* Non-appearance of professional lawyers or advocates before certain courts leaves the parties or accused persons to defend their cases alone. There is a need to restore both skills and incentives amongst defense lawyers, as well as enhancing confidence to pursue cases. Other barriers complained about by the population include the lengthy time the proceedings of a court take at state and locality level.
- *The bias and attitude of administration of justice officials.* The attitude of the officials charged with the responsibility to determine who is entitled to legal aid and who are not may lead to rejection of genuine cases.
- *Gender bias and other barriers in the law and legal systems.* Inadequacies in existing laws effectively fail to protect women, children, poor and other disadvantaged people, including those with disabilities and low levels of literacy.
- *Formalistic and expensive legal procedures.* This applies in particular to criminal and civil litigation and administrative board procedures. There are prohibitive costs of using the system and lack of available and affordable legal representation.
- *Lack of confidence in legal and law-enforcement institutions.* As a result of the armed conflict, militarization and erosion of civil rule of law, people tend to avoid resorting to the legal system.

⁷ State = Arab. Waliyya; locality = Arab. Mahaliyya is the administrative unit(s) in each State.

3. Customary Law vs. Statutory Law

Recognition has been made in the INC, ISSC, CPA and other agreements that customary law is crucial to promoting rule of law in Sudan. Article 5 of the Interim National Constitution stipulates that sources of legislation include Islamic Shari'a (in the North where it remains applicable, including the Transitional Areas), and "popular consensus, the values and the customs of the people of the Sudan, including their traditions and religious beliefs, having regard to Sudan's diversity".

Given that traditional institutions will remain an integral part of the 'justice system', efforts must be made to strengthen the customary system, while at the same time creating viable linkages between the customary system represented by the rural courts and the state and locality courts and their administration of justice⁸. The experience of people in the Transitional Areas with respect to 'the state' as an institution has not been positive and it will take time, if not decades, to build trust in institutions of the state to deliver services to the people. This confidence building process lies at the heart of the challenge to building a rule of law culture and can be addressed by linking traditional governance institutions with those emerging from the CPA and constitutional arrangements.

Customary laws possess a firmly recognized legitimacy and remain the main governing mechanism for justice for ethnic groups in the Transitional Areas. Traditional leaders have primary jurisdiction over land issues and family disputes. Statutory courts often refer cases to the rural courts⁹ and vice versa, where arrangements (involving compensation) can be reached between the parties. Even in towns where a formal judicial system is in place, roughly 80% of the cases are resolved at rural court level. The level of trust of local populations in the customary system and the success of compliance with court rulings are higher than in the statutory system.

Customary institutions and leaders will need to reflect the evolution that has taken place within their communities brought on by conflict and violence. Traditional leadership does not operate in a time-determinate vacuum. Greater attention to gender and age equity discrimination that has existed in some informal as well as formalized governance structures and inclusion of communities previously absent from public discourse will require sensitive and responsive management. Customary practices that positively enhance community cohesion, and are consonant with domestic and international legal standards, need to be supported and negative or harmful practices abolished.

In the Transitional Areas, traditional justice systems are preferred for their "conciliatory approach and a perception that they preserve social cohesion and accommodate cultural freedom".¹⁰ The reverence for customary systems can affect the climate for broad acceptance of rule of law principles. It will also facilitate the disposition of justice for the overwhelming majority of community members seeking resolution of disputes, particularly where they are intra-ethnic in nature. Customary legal systems are not only a pivotal element for promoting human security but also means of preserving or re-establishing social cohesion and harmony.

⁸In order to establish the viability of the different court systems and entry points for the linkages between customary and statutory law and the mechanism of paralegal established by the project, the project entails an in-depth analysis/study on customary law (currently conducted) institutions and practices..

⁹Rural courts is the preferred term for traditional courts and called *mahkama rif'iyya*.

¹⁰ See *Access to Justice. A Practical Note*, UNDP, March 9, 2004, p. 11

4. Law Enforcement

During the war, security was controlled by the armies, the militias and other security services. The police force has mainly been trained to serve the state apparatus, as opposed to the citizens, while small arms have been used by many communities as a means of protection in the absence of a legitimate police force. Against this background, it will be imperative to promote restructuring, training, operational capacity and attitudinal change, along with concrete programmes on the ground, such as community policing.

Under the newly established Government of National Unity, the former powerful security services - which reported directly to the Presidency and whose power was regulated by the National Security Act – will not have any executive power and serve only as intelligence services. The army will not have an internal mandate. Constitutional provisions of the INC establish the basis for the police institution to reassert its authority and to regain its monopoly on public security and criminal issues. This new normative centrality of the police institution in the security sector should be matched by significant investments in the training, salaries, and operational capacity as “empirical” conditions to assert its authority locally.

In the Transitional Areas, the GoS has maintained a relatively sizable police force. In Blue Nile, the respective figures for the NCO and CO are 2,079 and 157 CO, which corresponds to a ratio of 1 police officer for 330 inhabitants. In South Kordofan, the corresponding figures are 1,909 NCO and 109 CO or a ratio of 1 police officer for 580 inhabitants. The Abyei area is still largely under military and militia control. Currently, there is a marginal force of 16 officers based in Abyei town operating without a police station, uniforms or any equipment.

The challenge for law enforcement with vast territories to be covered, transportation difficulties (especially during the rainy season), and limited resources and communications constraints are just some of the impediments. The service delivery capacity of the police is expected to remain modest during the interim period and preceding the referendum in 2011. A significant challenge for achieving appropriate police trainings in the Transitional Areas is the lack of police training facilities and trainers.

IV. ABYEI: SITUATIONAL ANALYSIS

1. Political Context

The political situation in Abyei remains cloudy. The existing tensions primarily stem from the unresolved boundary dispute and lack of any implementation of the Comprehensive Peace Agreement (CPA). The tensions primarily exist between two tribes – the Ngok Dinka (aligned with the Government of Southern Sudan) and the Missiriya (aligned with the Government of Sudan or other northern political parties, such as the Umma Party).

The Abyei Boundary Commission presented its finding (ABC report) to the Presidency on 14 July 2005; however the Presidency has yet to acknowledge or act upon the findings. Under the ABC report, Abyei Area includes the following population centres:

- Abyei Town and the surrounding villages; and then from Abyei:
- South to Agok,
- West to Sitep and Meiram,

- North through Debab and the oil towns of Diffra and Nyama,
- East to the oil town of Heglig.

UN Police corresponding Sector VI includes the above mentioned area but extends further north to include the population centres of El Muglad, Babanusa, and El Fula, but the Government is now protesting this demarcation.

With the formation of the Government of National Unity on 21 September 2005, and the formation of the Parliament for the Government of South Sudan on 30 September 2005, it was expected that the Special Administrative Status of Abyei would result. However, Abyei remains an area without any appointed representative, neither by the North or South. This issue, coupled with the boundary ambiguity, leaves Abyei without a defined boundary and without an acting government, as called for under the CPA (Chapter IV).

The President of Sudan issued a decree on 17 August 2005 which dissolved Western Kordofan. This decree placed the Abyei Area within the boundaries of South Kordofan State. In principle, this should mean that until the Special Administrative Status of Abyei comes into effect, Abyei Area falls under the administration of the South Kordofan State. In reality, the acting administration in Abyei continues to come under the authorities from the former Western Kordofan state, centred in El Muglad and in El Fula. Abyei County, the portion of Abyei Area south of the River Kiir, remains as part of Northern Bahr el Ghazal, under the Government of South Sudan)¹¹.

According to the CPA, both the Sudan Armed Forces (SAF) and the Sudanese Peoples Liberation Movement (SPLM) have already moved to a designated assembly areas specified in the CPA. The SPLM has completed all such movements, while the SAF has objected. The matter has been referred to the Ceasefire Joint Military Committee (CJMC). The Southern Sudan Defence Force (SSDF) militia in Abyei has joined the SAF.

Finally, Human Rights violations are prevalent, and for the most part go unpunished. The arrival of UNMIS Human Rights Officers and Child Protection Officers have brought some monitoring and reporting capacity, but the current ability to address and correct human rights violations is minimal.

2. Restriction of Movement

The north of Abyei Town is still a no-go area and travel is not allowed at the present time by UN Security. Abyei National Security continues to restrict movement north of town, insisting on National Security travel permits that the UN will not request. The UN Abyei Area Security Committee has raised the issue with UN Security in Khartoum.

UNMIS military observers and police are prevented from moving north of Abyei Town. SAF maintains that it falls out of the sector monitoring zone and the matter has also been referred to the CJMC for clarification.

¹¹ Interviews (UNDP/Danida) with prison administration and the judiciary in Kadugli, April 2006, indicate that e.g. the judiciary and the prison administration now count the locality courts and prisons in the former Western Kordofan as part of the South Kordofan State.

There are no restrictions traveling south of Abyei Town into Abyei County. However, recently UN Mine Action detected the presence of land mines along the River Kiir and along the road into Abyei County. These areas have been cordoned off and are undergoing de-mining.

3. Influx of Returnees

IOM continues to monitor returnees, with assistance from the SRRC/HAC office, NGOs and OCHA. IOM registration is limited to returnees arriving at the Abyei Town bus station, from the north. Returnees coming from the south, to or through Abyei, and returnees transiting through Meirem, are not included in the statistics due to a lack of monitoring capacity. Eight hundred eighty (880) returnees arrived to Abyei from the North during February 2006 alone. Most returnees proceed directly to the outlying villages of Abyei, or south to Abyei County, without staying in town. The total number of displaced who have returned to or through Abyei Town in 2005 is not known.

The promotion of human security is central to creating conditions conducive to return and sustainable reintegration. In a major field-based study on the return and reintegration process, international and national stakeholders across the North and the South concluded that the rule of law underpins the return and reintegration process. The findings of this study are particularly relevant in an area like Abyei, where a massive influx of returnees is expected over the next few years. In this regard, Rule of Law engages in an interagency approach, lending its support to the protection component of the returns strategy. In close coordination with OCHA and UNMIS RRR and HR units, the Rule of Law team is providing guidance on protection issues and is currently in the process of setting up the first return's workshop to be held in late April 2006, in conjunction with OCHA and UNMIS. In Abyei, UNDP Rule of Law participates in the UN Task Force on Returns, chaired by the UNMIS RRR Unit. Joint activities entail sensitizing chiefs and communities, addressing the increase in minor crimes attributed to returnees, and ensuring respect for the physical, legal and material safety of the returnees and transitees. Working closely with community leaders, UNDP Rule of Law and UNMIS Civil Affairs have also planned a number of joint activities to promote peaceful dispute and conflict resolution. UNMIS Civil Affairs will conduct a comprehensive conflict resolution programme at community level.

4. Missiriya Migration

The annual migration of the nomadic Missiriya into Abyei Area and further south is in progress. Disputes over cattle looting, migration routes, and resource competition have occurred, although no major incident has been reported. As the Missiriya leaders vehemently oppose the ABC findings, it is conceivable that some Missiriya may take advantage of this movement to assert their control over land that runs counter to the findings of the ABC.

5. Judiciary

There continues to be minimal formal legal infrastructure in Abyei, due in large part to the delay in creating the Executive Council and the subsequent ambiguity in local authorities. With the delay in the creation of courts for Abyei, all legal matters continue to be decided either through local mediation or through a local town court, with serious cases being referred to the Muglad courts. The traditional chiefs' court continues to function as the primary means of settling most local disputes. A local town court composed of a two-judge panel handles cases brought by the police. These third-class magistrates - selected locally with no formal legal or judicial training, and limited, if any, formal education - hear cases twice a week. This panel, despite claims to be applying the Sudanese Criminal Code, in reality, performs a mediation function. Most of the

cases are financial or property disputes, simple assaults, and public drunkenness violations. The information on uniformity of sentences is unclear although the use of corporal punishment is meted according to the fitness of the accused.

The judicial system has been technically part of the state judicial system of South Kordofan State, under the Minister of Justice in Kadugli. There are a number of jurisdictional and other issues that remain outstanding in terms of how the courts will function in this area. Such issues include the choice of law to be applied, i.e. Shari'a or secular; jurisdictional authority to decide on applicable law; existing legal framework in effect prior to the establishment of a formal court system; relationship of the new courts with the judicial system of the South Kordofan State and Blue Nile State (where Shari'a is applicable) and Bahr el Ghazal (where secular law applies) during the interim period.

The CPA, in Chapter II, calls for the establishment of courts at both national and state level. Chapter IV (the Abyei Protocol) calls on the Presidency, through the Judiciary, to establish courts for the special administrative status of Abyei as deemed appropriate. This provision is very ambiguous and does not link the judicial system for Abyei to any other judicial system detailed elsewhere in the CPA.

The JAM, in its section on the Judiciary (para. 42), notes the absence of physical infrastructure as a principal obstacle to a functioning justice and judiciary system, and lists as one of its priorities - the provision of support for the rehabilitation of physical infrastructure. If the CPA is to be implemented, and courts established, there would need to be some infrastructure in place to support the judiciary, and it is on this basis that UNDP Rule of Law is undertaking the construction of proper courthouse for Abyei Town for use by the formal justice sector.

The benefits of building a courthouse are threefold. First it would provide a very symbolic message to the community about the concept of law, which is noticeably lacking. Second, the construction of such a building will have a positive psychological impact and will show that UNDP is intent on working with and developing the government operational capacities. Third, when judges are appointed to serve under the special administrative status The local authorities (from Abyei, Muglad, and El Fula) have allocated land and granted permission to the Rule of Law Team to construct this courthouse, and this project has been officially endorsed by the Office of the Chief Justice in Khartoum.

6. Traditional Justice System

The traditional/customary law system of the Ngok Dinka and the Missiriya has a rich history that has been researched and codified (to a degree) by several consultants. However, this customary law system seems to have lost its cohesion and its administration now lacks consistency and structure. UNDP Rule of Law has begun a two track approach to strengthen the customary law system in Abyei. We have agreed with the village chiefs and elders to conduct a follow-up survey to the 2004 UNDP-sponsored report, "*The Traditional Systems of Justice and Peace in Abyei*" This follow-up will complete the first report which was limited geographically and tribally. The new report will cover all of Abyei Area and the entire resident and nomadic customary law. The result will be a thorough documented study of customary law systems in Abyei that will preserve customary practices and identify entry points to harmonized relevant aspects of the law with modern human rights standards. UNDP Rule of Law has hired a consultant who has begun this documentation project. The second step is to construct a chiefs'

court, where mediation of the customary law can occur. The construction of the chiefs' court started in March 2006 and is now almost complete.

7. Police

The Major General of the Police in South Kordofan State currently has jurisdiction over police matters in Abyei, as does the regional Police Commander in El Fula. The exact relation between them is unclear. There remains no prison in Abyei Town, only two holding cells, without any proper oversight or minimal standards. The police force is woefully under trained and ill-equipped to carry out policing functions.

The police force in Abyei Town currently stands at 20. The current police station in Abyei Town is hardly functional, having been built during the colonial period and never renovated. The holding cells are far below any minimal standards. In order for the Special Administrative Status of Abyei to effectively provide security services to the people of Abyei in this post-conflict period and exercise its police functions (as called for in the Comprehensive Peace Agreement, Chapter IV Paragraph 7), the emerging police institution in Abyei has to be rebuilt, re-equipped and reorganized from the ground up.

The institution-building process involves all dimensions of a police force. The network of police stations dating from the colonial time needs to be restored and equipped; policing processes have to be redesigned to meet the standards and best practices of democratic policing; police officers have to be recruited in mass, trained or retrained, to reach a reasonable ratio and exercise police functions effectively and fulfil community's expectations with regard to security services of the new administration.

In fact, UNDP has begun construction of a new Police Station and is now planning renovation of the holding cells and the old police station. The benefits of building a police station are twofold. First it will provide a very symbolic message to the community about the concept of law enforcement, which is noticeably lacking. Second, the construction of such a building will have a positive psychological impact and will show that UNDP is intent on working with and developing the government operational capacities.

Also, because of the limited role of the Police in administering law and order in Abyei over the recent past, citizens do not seem to fear the police in Abyei, as they do in other areas, primarily because of the very limited role they have played in law and order. Consequently, there is an opportunity to build up the capacity of the police force in line with the policing mandate outlined in the CPA (Annex 1, Paragraph 22) without the obstacle of being seen as supporting an oppressive institution. UN Police has begun a police training programme to help the GoSS & GoNU produce a competent police organization through effective police trainings; to assist the local police force to develop a professional police institution operating on the democratic policing principles; to impart new knowledge, techniques and ideas of policing system under the international standard; and to update and upgrade skills and initiatives of the police.

UN Police Sector VI have reached an agreement with the Ministry of Interior in Khartoum to commence training of the Abyei Town police force, and have reached a similar training agreement with the SPLM and their police trainees in villages of Wunchuei and Manyang. UNDP has already purchased extensive training materials/equipment and agreed with UN Police on a six-month basic training programme, which began end of March 2006. UNDP has also

begun planning a comprehensive community policing with the Abyei County police (SPLM police) that will train and equip the police in accordance with community policing good practices.

V. SOUTH KORDOFAN STATE: SITUATIONAL ANALYSIS

1. Political Context

The South Kordofan State is one of the States that experienced an almost three decade conflict that left untold human suffering, displacement, destruction of property and human rights violations. The conflict caused communities to fear and lack confidence in state institutions as the State, through its security forces, maintained an atmosphere of repression, suspicion and capricious violence.

The signing of the Ceasefire Agreement in the Nuba Mountains and later the CPA and the monitoring of the ceasefire for two years by JMC, ushered in a new hope to restore the dignity and freedoms of the communities. However, there are still social and institutional constraints to the enjoyment of the new freedoms that underpin the importance of strengthening the rule of law in South Kordofan State.

The CPA provides that the SPLM will appoint the first Governor of the State to head the Government for the first eighteen months of implementing the agreement. The NCP will then appoint its Governor thereafter, also for eighteen months after which elections will be held to choose a Governor for the State for a period of three years. The SPLM appointed Ismail Khamis Jalab as Governor and he assumed power (after some considerable delay) in August 2005. The Government consists of nine (9) Ministries namely, Finance; Investment and Development; Agriculture; Education; Health; Social Affairs; Youth, Culture and Information; Urban Planning; Rural Development and Water Resources. The National Congress Party heads five (5) Ministries and the SPLM controls the remaining four (4). Ministers were appointed only in March 2006 to form a care-taker Government.

14 Commissioners are also spread over the State, nine (9) appointed by the NCP and five (5) by the SPLM. The CPA stipulates that the NCP would have 55% representation in the Legislative Council and the SPLM 45%. The Chairperson of the Legislative Council is from NCP whilst the Deputy is SPLM. There are 54 seats, 30 for NCP and 24 for the SPLM. The Council has never sat as the two parties are engaged in a dispute over the rotation of the chairmanship. NCP argues that the CPA does not provide for rotation of the position and hence its candidature cannot be removed after 18 months. This has also become a sticky issue that is delaying the finalization and promulgation of the State Constitution. The Legislative Council will have the responsibility among other functions, to pass laws for the State. After three years a referendum will be held to determine whether the State will become part of the South or North.

2. Judiciary & Legal Administration Office

The South Kordofan State is characterized by two different legal systems, namely *Sharia* based laws in former GoS areas and a common law system in former SPLM controlled areas. The SPLM have a different judicial structure and administer the laws of the “New Sudan” however yet with a minimum of written materials available in the SPLM dominated areas. A High Court

is found in the SPLM dominated area whilst the Supreme Court is situated in Rumbek. The State will continue to have two systems operating until such time when the new State Constitution enacts laws to merge them. The judiciary in the former GoS areas reports to authorities in Khartoum, who allocate a meager budget for the operation of the courts and is not clear when and how this structure will change. In both systems the judiciary either suffers severe competence and/or capacity deficits or is severely compromised. Statutory courts exist in the administrative localities of the State. These courts are located mainly in towns and their independent role is less understood by the public. Public access to the courts is limited by high user charges, cumbersome and very lengthy formal procedures and their distance from the people, especially poor rural communities. Limited operational budgets prevent courts to hear cases in rural areas or for judges/legal administration officers to monitor and guide the courts in the localities on points of law and procedures.

With the inclusion of part of West Kordofan State into South Kordofan State there are eight (8) statutory courts in the State located in each locality of Kadugli, Dilling, Lagawa, Abu Gubeiha, Rashad, Talodi, Al-Muglad and Fula. The Kadugli statutory court handles an approximate 40 - 45 cases per week. The locality courts handle an average of 15 cases each every week. The cases that are mostly heard are petty larceny, land disputes, family law cases, hashis smoking, murders, disputes between nomads and farmers.

The distribution of legal professionals across the South Kordofan State is as follows:

Judges: six (6) in Kadugli, eight (8) in Dilling, one (1) in Lagawa, one (1) in Abu Gubeiha, one (1) in Rashad, one (1) in Talodi, ? (number) in Al-Muglad, and ? (number) in El Fula.

Prosecutors: two (2) in Kadugli, two (2) in Dilling, one (1) in Lagawa, one (1) in Abu Gubeiha, one (1) in Rashad, one (1) in Talodi, ? (number) in Al-Muglad, and ? (number) in El Fula.

Lawyers: Kadugli has six (6) lawyers, Dilling ten (10), Lagawa two (2), Abu Gubeiha two (2), Rashad, two (2) and Talodi two (2). The number of lawyers in al-Muglad and El Fula is not known at the time of writing.

Paralegals identified and trained by the project: 37 paralegals (20 in Lagawa and 17 in Dilling) have already identified and trained by UNDP/IRC.

The independence of the judiciary remains under threat as judges are vilified at rallies as having been serving the old regime. And both SPLM and NCP politicians try to influence the independence of the judiciary. Recently in Kadugli the Governor (nominated from the SPLM) issued orders to a judge to drop some criminal charges against certain people resulting in the judges going on strike.

The whole State experiences an extreme absence of the most basic physical infrastructure and operational equipment. In the former SPLM controlled areas - now SPLM dominated - its de facto laws and decrees are undermined by severe lack of judicial facilities and lack of trained personnel in the judiciary and law enforcement institutions. There are less than 30 well-qualified judges and about 50 lawyers in the whole State. In the SPLM areas, since 1996, the system relied on the services of paralegal judges who in most cases were not well educated. In situations where these were legally qualified, their qualifications were in Arabic and yet the laws they are called

to administer are either not yet written down or will be written in English. Apart from the problems of poor working conditions for judicial personnel in former GOS controlled areas, in the SPLM, judicial personnel are not remunerated.

The lawyers in the State belong to the National Bar Association in Khartoum that is far removed from the daily needs and challenges of the local conditions. There is a less understood State legal aid system to provide legal assistance to the poor. The CTA to be based in South Kordofan from 2nd quarter of 2006 will describe and access this system.

Priorities identified by the UNDP, South Kordofan Office together with stakeholders for the Judiciary:

- a. Reconstruction and rehabilitation of statutory court infrastructure and the provision of operational equipment.
- b. Rights education for court officials, judges and prosecutors on human rights, gender justice, etc.
- c. Support to court administration reform, especially procedures that obstruct public access.
- d. Review procedures that discourage efficiency in court processes.
- e. Deploy technical judicial experts to train, mentor court officials and assisting in developing appropriate court management systems, procedures and technologies.
- f. Role out the Legal Aid and Justice and Confidence Centres established by under the Access to Justice and Confidence Building Project.
- g. Support the establishment of a private lawyers' forum that would eventually lead to a South Kordofan State Bar Association. Support continuing legal education programmes for lawyers, judges and prosecutors.
- h. Capacity building other civil society stakeholders and human rights organizations involved in the criminal justice sector.

3. Traditional Justice System

There are many different customary practices in the State. Some of these customary practices relates to conflict resolution. Part of the conflict resolution takes place through the direct intervention of a single traditional leader (shaykh (lowest level) - umda (intermediate level) and amir (highest level) and the conflicting parties without the involvement of the rural courts - but still often with filing of both the case and the verdict by the traditional leader. Other cases are referred to the rural courts in the local area. A rural court are composed of a jury of 12 traditional leaders of different "rank" and headed by a judge (*qadi*). All are supposed to be elected by the respective community and representing its different ethnic groups and/or intra-lineages of a specific ethnic group in the area. However, state government interference in the jury composition does happen. An appointed jury representative can be removed but most hold office until they die. There are more than 40 rural courts across South Kordofan State according to the Natives Administration Director in Kadugli and traditional leaders' representatives. It is estimated that over 80% of all disputes are handled by the traditional leaders and the rural courts through reconciliation and through the provision of compensation for wrong-doing. A rural court maintains a procedure of case/complaint filing and filing of verdict. However, the consistency and effectively of this procedure is unknown.

During the conflict the traditional rule of law system has been abused for political purposes and the lack of codification of customary practices makes its application inconsistent. At the same time the official role and rules allowed to be played by the traditional structures and customary

law, have been affected by numerous changes to the Native Administration Act. This has partly altered the official importance and role of the traditional leaders, as their role and responsibilities have been altered and as a consequence they have been losing some of their authority and recognition by government. Moreover, high levels of illiteracy and the absence of free legal aid make general awareness of legal and human rights and access to justice a huge challenge to the communities. But for most rural citizens the traditional system still represents the primary - and by many seen as the fastest - mechanism through which disputes are settled and restitution agreed, especially in the realm of family disputes, land and other resource-based conflicts. Therefore traditional systems of dispute resolution continue to have legitimacy and are often viewed with esteem by local citizens.

Priorities identified by the UNDP, South Kordofan Office together with stakeholders for the traditional rule of law system:

- a. Clarification and simplification of the jurisdiction and procedures of the rural courts due to numerous alterations of the Native Administration Act.
- b. Improving coordination between rural customary based and statutory systems and improving consultation and mediation procedures to enhance the accessibility of local rights.
- c. Discuss the possibility without too much romanticizing, to come up with some form of codification of various customary practices to ensure consistency in their application.
- d. Support a rights education programme to create awareness of rights and how to exercise them. Support training of traditional leaders on human rights and gender justice. Prepare a strategy and plan for linking up the training and function of paralegals and establishment of Justice & Confidence Centres with the customary rural justice system, in order to provide people with advice on the law, rights and referral to relevant service institutions. Explore the viability and legal possibilities for attaching paralegals to traditional courts, for paralegals to clarify on procedures and monitor deliberations.
- e. Link these initiatives with other local governance efforts to strengthen the capacity of traditional authorities.

4. Police and Prisons

In South Kordofan State, the estimated figures for the police are 1,909 NCO and 109 CO or a ratio of 1 police officer for 580 inhabitants in the GOS areas. The SPLM on its own initiative trained about 750 “police officers” in 2005. A four week training by the UNMIS and UNDP Rule of Law, Kadugli included an equal number of GOS and SPLM police officers was planned to take place in last quarter of 2005. Due to administrative circumstances the GOS police did not nominate its candidates, and the training was successfully undertaken 17 November - 11 December 2005 in Kauda for 40 SPLM non-commissioned police officers out of whom all passed and received a certificate. The UNMIS has not conducted any training for the SPLM police and GOS police since then. UNMIS together with the UNDP Rule of Law, South Kordofan State work hard with the authorities to be permitted to develop and undertake a SPLM/GOS joint police training.

Most of the officers are untrained in effective law-enforcement, codes of conduct and international standards. In the former SPLM controlled areas, the police are not paid any wages and do not even have uniforms. The situation is further compounded by the existence of two systems and different policing structures. The slow deployment of UN Police also presents its own challenges to policing transformations. However, interview conducted with the Governor in

April 2006 suggests that an opening may exist for integrating the SPLM/GOS and their respective police and prison system.

Also, the prisons' conditions in South Kordofan State are far from satisfactory and fall below all international standards. Most of the prison infrastructure is in a state of disrepair, prison conditions are poor, staff is inadequately trained or not trained at all, prisons are overcrowded and sanitation situation is appalling. Urgent interventions to improve wellbeing, safety and security for both staff and inmates are required.

Priorities identified by the UNDP, South Kordofan Office together with stakeholders for the Police:

- a. Rehabilitation and construction of model police stations and posts as well as training centers.
- b. Rights and Gender (including GSBV) education.
- c. Community policing - link this up to the traditional justice component and other resource and land based conflict resolution mechanisms.
- d. Support with the transition from a militarized mentality of *force* to a democratically run police as a *service*.
- e. Support the police to focus on victims of crime especially women and children who are victims of rape or other sexual abuse.

Priorities identified by the UNDP, South Kordofan Office together with stakeholders for the Prisons:

- a. Rehabilitation of prison workshops and agricultural facilities, including the development of a business and management plan for the workshop to ensure its sustainability.
- b. Rights and Gender Justice Education on handling of prisoners in accordance with international standards.
- c. Model prison construction in former SPLM areas.
- d. Penal reform and juvenile justice.
- e. Capacity building on Good Prison Management.

VI. BLUE NILE STATE: SITUATIONAL ANALYSIS

1. Political Context

The Blue Nile State is characterized by ethnic and cultural heterogeneity as a consequence of its diverse indigenous ethnic groups and the influx of immigrants from all over the country. Some forty different groups inhabit the Blue Nile State. These groups can be divided into three categories: Indigenous population, Non-indigenous old-timers and the New Comers. Among indigenous groups are: Berta/Ragrage, JumJum and Maban, Uduk, Koma and Ganza. The non-indigenous groups mainly Muslims who migrated to the region at the time of Funj sultanate in the 15th century. These groups seem to have full control over the productive resources in the region, especially in terms of land ownership and mechanized rain fed agricultural schemes. The new comers entered the region when rain fed agricultural schemes had been expanded in the area and labour force was required. This group included different ethnic groups from western Sudan who managed to settle in the region and gain access to administrative positions and control land resources.

The GOS and SPLM have contested control over the Blue Nile State since 1997. This led to division into two separately administered units, the Funj region under the control of SPLM (formerly Southern Blue Nile region, renamed in 2003), and the Blue Nile State which is controlled by the GNU.

The CPA considers Blue Nile State as one of the three areas where power shall be shared between representatives of SPLM and the NCP during the transition period. According to the peace protocol signed in June 2005, it has been agreed that power sharing should be divided as follows: 45% for SPLM, 55% for NCP. The Blue Nile State is currently divided into four localities: Damazin (hosting the State capital), Rosseires, Kurmuk and Bau. The GNU actually dominates three-quarters of the State, while SPLM/A dominates Kurmuk and Gaissan that have been unilateral renamed by the SPLM as Funj region.

The areas controlled by the GNU are administered by a Governor who has recently been appointed by the President. Mr. Abdel Rahman Abu Median, who has strong tribal roots in the area (from Wataweet clan). Furthermore the Governor was elected in the 1986 democratic elections to parliament representing the then National Islamic Front (NIF). He was also the governor of the state from 1997 to 1999.

2. IDP Movements

Displacements within and outside the State began in 1987 when fighting broke out between the government and SPLM/A. Some sheltered in the neighboring states in northern Sudan and others moved to Damazin and Rosseires towns inside the Blue Nile State, while a remarkable number fled to Ethiopia where UNHCR set up refugee camp in Gambella. Approximately, between 100,000 and 160,000 citizens have been displaced internally or left the State since 2001, representing about 17% of the entire State's population.

This number of displaced people will certainly cause a great concern of security and involve human rights issues that need to be addressed, if they decide to return. There already exists a security problem in the State because of spontaneous movements according to the Chief of Police in Damazin.

3. Judiciary and Legal Administration Office

A total of 12 trained judges are working in the State Judiciary, supervised by a senior and experienced judge with 18 years of work experience. The statutory courts in Damazin are composed of a Preliminary Court (First Instance Court), General Court and Court of Appeal. At the present time, only one Court of Appeal is functioning, staffed by three senior judges. The remaining judges are assigned to the Preliminary and General Courts. Customary, Statutory and Shari'a laws are applied in the proceedings depending on the jurisdiction governing the dispute. The State Judiciary also lacks sufficient physical and administrative capacity in order to successfully uphold their constitutional obligations to facilitate the administration of justice.

Bau and Geissam have no judges and all disputes are settled by rural courts headed by an appointed traditional leader. The rural courts are recognized by the Government and according to Mr. Azhari, Head of the Judiciary, these courts handle 60% of the cases in Blue Nile State. There are a total of 32 rural courts active throughout the State. Yet more of these need to be established to address the increasing number of cases being handled. There is no formal training for traditional leaders and the quality and standard of the decisions rendered and enforcement

response varies. Additionally, there are not enough traditional leaders to adjudicate on the cases being brought to them. During the rainy season, access to the courts in Damazin is limited for rural dwellers.

The Attorney General Office is functioning in a small building with four rooms, having three senior legal advisers. The office is poorly equipped. The Attorney General represents the Ministry of Justice in the State, acting as legal adviser and prosecutor for the Government.

4. *Police & Prison*

The total number of the Police force in Blue Nile State amounts to 2,000. The Police is administered by a Chief, Lt. General Saddiq, who is assisted by two deputies (i.e. Security Affairs and Criminal Affairs). According to Lt. General Saddiq, the formal level of education for police officers is a secondary school certificate. Fifty-three (53) police stations are disseminated across the State. This number is inadequate to provide acceptable security to the people. It is estimated that an additional 700 new forces are required to reach and meet reasonable standard and 15 additional police stations are needed to be constructed to properly cover the State. Only 25 women police officers are serving in the Blue Nile State. Given the large number of returnees, the current structure cannot absorb the security requirements.

The State prison is located in Rosseires near the Nile river bank. The prison is managed and administered by officers assigned from Khartoum. Around 300 inmates are currently being detained. A small adjacent building is allocated for women prison where 5 women were imprisoned. A vocational training centre exists next to the prison but the equipment is out of order, thus inactive.

The conditions of the police detention centres (Arab. *harasa*) are far below the acceptable standards and detainees are kept in a very precarious situation. Outdated/old infrastructure and facilities, poor prison management/administration and untrained officers are current issues of concern. Providing training to police officers and engaging in rehabilitation of infrastructures will be needed to improve the situation.

5. *Land rights/property and conflict over natural resources*

Competition over natural resources, especially land has become an issue of major concern in Blue Nile State. Conflict emerge through intensified competition over dwindling natural resources, commoditization of land, increased access to small arms, appalling human poverty and distorted local governance, increased population and difficult climatic conditions.

Blue Nile State suffers from protracted conflicts between farmers and pastoralists, especially in the period following the rainy season, especially with regard to mechanized agriculture scheme that reduces the percentage of pasture land.

In addition to the competition between pastoralists and farmers, there are increasing conflicts between the various pastoralist groups themselves. The non-indigenous pastoralists such as the Emboruru ethnic group and the White Nile Baggara ethnic group are intensifying the pressure on the grazing areas. Often, these groups do not abide by the migratory arrangements accepted by other pastoralist groups, nor do they pay taxes to the locality authorities.

Also, the SPLM presence in the southern part of the State has constrained the movement of the pastoralists. Pastoralist groups used to spend the dry season in the Kurmuk area and could go South as far as Khor Yabus. Since the SPLM took control of the southern part of Blue Nile State, such movements became risky since both the SPLM fighters and some other indigenous groups started looting the pastoralists' herds. Though arrangements among the SPLM leaders to allow pastoralists' seasonal movements had been reached, they are no longer in place since the SPLM now suspects the Government to use the pastoralists to limit SPLM expansion in the region.

SECTION B – INTERVENTION STRATEGY

I. INTEGRATED AND SEQUENCED APPROACH TO ACCESS TO JUSTICE & HUMAN SECURITY PROGRAMMING

The UNDP Rule programme is carefully tailored to address the post-peace agreement realities on the ground. This entails paying attention to a number of dynamics that require a field-oriented, flexible and constantly evolving approach. These dynamics pertain to: political instability and slow progress in the CPA implementation; the central role played by the security and armed forces; lack of adequate physical infrastructure; and, absence of adequate educational and professional training. These elements are further compounded by the grievances experienced by the people of Sudan including lack of trust, confidence and severe trauma. Unless all these elements are taken into account in a mutually reinforcing manner, notions like justice, respect for human rights and peaceful conflict resolution will remain noble ideals – without transformation and concrete impact on the ground.

Against this background, the UNDP Rule of Law programme has adopted a holistic approach that addresses the multi-faceted layers of challenges facing the peace building process in the rule of law sector and will comprise the following activities:

- **Policy Dialogue.** Through pro-active engagement with the GNU at central level and at state level, the UNDP Rule of Law Programme has built an unprecedented operational and political space to implement rule of law activities across Northern Sudan, including in the Three Areas (which are considered particularly sensitive). These policy dialogues also serve to bridge the gap with civil society and communities, so to ensure joint consultations in addressing the needs, e.g. the JAM and the UN Work Plan, which lay the basis for the Rule of Law Programming. Furthermore, political policy dialogue at central level serves to reinforce state-level interventions - so to allow and expand access and political support across the North. In the same vein, major capacity-building projects of central institutions, such as the MDTF funded Judiciary Project (18 million) are geared at promoting decentralization, revenue distribution and national political support to state level institutions.
- **Deployment of International staff.** By deploying international lawyers to work along- side national staff, the programme ensures objectivity and impartiality, and prevents exposure of national staff in a highly ethnically and politically charged environment. At the same time, and given the lack of adequate education over the past 20 years, international staff have a mentoring role. This entails guiding national staff towards UN standards and implementation modalities, and, gradually building their capacity to take over project implementation.
- **Confidence- and Trust building:** Given the break down of trust in the state apparatus, as well as in traditional leaders and neighboring communities, confidence- and trust building

constitute the basic premise for any engagement in the Rule of Law Sector. To this end, the Rule of Law programme provides informal and formal forums for debate and discussion on rule of law and human rights. To allow a Sudanese driven debate, UNDP takes on a catalytic role, as these workshops are largely driven by the Sudanese, themselves. The workshops target all segments of the society, either separately or jointly (depending on the context and subject), and are primarily intended to ‘break the ice’, allow freedom of speech, stimulate attitudinal change and mobilize stakeholders to take on pro-active engagement.

- Paralegal Training and Legal Aid (Justice & Confidence Centers): In view of the lack of access to justice and the absence of legal counseling, legal representation and legal information, UNDP will empower communities and civil society to fill the existing vacuum until state institutions have build an adequate capacity and earned the trust of the people to shoulder state responsibilities. By addressing immediate- and medium term needs, the paralegal training and legal aid fills the gap between relief and development, while UNDP – at the same time – builds the capacity of rule of law institutions at state and national level.
- Capacity Building of Institutions, Legal Professionals and Law Enforcement: Working in strategic partnerships with a number of national and international NGOs and institutions, such as IRC, IBA, IDLO, and universities, UNDP ensures a wide outreach and professionally developed training seminars. These address lawyers, judges, prosecutors, law-enforcement and civil society. Given UNDP’s credibility with national stakeholders, including the GNU, UNDP provides legitimacy for international NGOs and institutes to engage on Rule of Law in Sudan. To reinforce training seminars and promote ‘learning-by-doing’, UNDP seeks to deploy Chief Technical Advisers in key Rule of Law institutions, such as the Judiciary, Legal Affairs/MoJ and the unified Police. This allows in-house training and mentoring over a longer period of time (minimum 12 months). To further ensure sustainability, training centers are reconstructed and/or rehabilitated.
- Support to Communities & Customary Law: Since approximately 80% of cases at state level are resolved through the customary system, and given the priority recommendations that emerged out of the JAM, the Rule of Law programme provides support to upgrade customary law in accordance with international standards and to codify the same. Based on in-depth studies (which form a part of the programme), entry points are identified in close consultations with communities, followed by sensitization and awareness raising.
- Minor Rehabilitation: In addition to confidence building and awareness raising, and support to building a knowledge-base, UNDP also provides minor rehabilitation of rule of law infrastructure to offer incentives and to enable institutions and communities to operate and function. This entails rehabilitation or construction of rural courts, the judiciary, the legal affairs/MoJ, police, corrections/prisons and training centers.

All state level interventions revolve around the premise that development cannot be conducted via remote-control, but requires an active, permanent presence on the ground. Given the post-peace agreement conditions on the ground (mentioned above) must be geared at early recovery, straddling between relief and development during the first years of project implementation – so to address immediate needs, while at the same time bridging the gap the between relief and development in a meaningful and realistic way (note: IASC assigned a lead role to UNDP on Early Recovery in December 2005). Based on a flexible approach, a continuous consultative

process and gauging the political progress on the ground, activities may shift form or be expanded, while new entry points may arise.

When the peace-agreement has solidified and political progress (including implementation of a number of CPA-based mechanisms and DDR) allows the Sudanese people to move from recovery to a development phase, the Rule of Law programme will adjust accordingly and be in a position to assume its more traditional development activities. Thanks to its current engagement, by which UNDP timely and incrementally paves the way for long-term development, UNDP will be in a position to effectively support Sudanese stakeholders and institutions to move from relief and recovery to sustainable human development.

II. LINKAGES TO NATIONAL RULE OF LAW SECTOR PROGRAMMING

The UNDP Rule of Law Unit has recently submitted a project proposal entitled *Capacity Building of the Judiciary* to the Mutli-Donor Trust Fund, which has been approved by the MDTF Oversight Committee.

In tandem with institutional capacity building of the Judiciary at the GoNU level, this project seeks to build the capacity of the Judiciary at state level to ensure that central capacity building cascades down to communities, and strengthens the delivery of legal recourse at grass-roots level. This will include modern legal analysis and application, constitutional law, international human rights and comparative international experiences, along with Sudanese cultural values and traditions, as well as management and administration of judges at state-level and minor rehabilitation of court houses.

The *Capacity Building of the Judiciary* project will target 800 state judges of the state Judiciary, and will replicate the GoNU Judiciary training programme, while also taking into account the specific needs at state level and lessons learnt at central level. By building the knowledgebase and operational capacity of the state judiciary, the project will directly interact with the *Strengthening Access to Justice and Human Security in the Transitional Areas, Phase II* project especially with regards to the capacity building of legal practitioners at local level.

In South Kordofan, for instance, the Chief Technical Advisor/Legal Specialist (CTA) - located within the Judiciary - will have the primary responsibility to ensure proper linkages between the national programme and the proposed project. In addition to train and mentor court officials, and provide assistance in developing appropriate court management systems and procedures, the CTA will also provide continuous support to newly trained judges. In addition, the Justice and Confidence Centre will provide a space for refresher courses and access to legal information for legal practitioners, including paralegals, lawyers and judges.

During Phase I, UNDP has approached Ministries (Ministry of Justice, Ministry of Interior) at national and state (Governors' offices) levels to obtain planning strategy in the Rule of Law Sector but the available information was limited. For instance, the Head of the Police in South Kordofan State confirmed that a strategic plan has been developed for the Police and the Prison but the document needs first to be approved at Khartoum level before being circulated. In Abyei, no development plan/strategy has been developed and the Executive Council still need to be appointed.

III. BENEFICIARIES AND GENDER CONSIDERATIONS

An integrated approach to the return and reintegration process is favoured over one that would focus exclusively on returnees and IDPs at the expense of receiving communities. The programme intervention cannot create new divides and sources of discrimination. The vast majority of the host communities have greatly suffered from the war and lack education and employment opportunities. The project will, therefore, address host-communities alongside vulnerable groups (women, children, disabled, elderly) and displaced persons and returnees.

An integrated approach will also address wide range of rule of law actors including tribal leaders, legal professionals (lawyers, judges, prosecutors, paralegals), prison officers and police officers, and, where applicable, security and military (in close coordination with DDR).

Furthermore, gender-mainstreaming will be particularly important. Response to war and conflict has precipitated an evolution in gender dynamics in Sudan. Able-bodied males joined the military, were killed, or fled their homes in fear of losing their lives or being forcibly conscripted into the civil war. Women's roles evolved as a result of the war and destabilization obliging them to assume positions of authority within what remained of their family units.

The project will take into consideration the fact that, according to UNHCR figures, 45-50% of returnees and IDPs are comprised of women-headed households – very likely to settle in towns, rather than return to their original rural homes. Displacement, poverty and social alienation have combined to weaken or destroy kinship ties, leaving women in the new position of being solely responsible for providing for the household that they head. Female returnees and IDPs will face specific problems in places of return, particularly vestiges of a tradition that excluded women from acquisition of land. Women-headed households must be afforded the same rights of access to land and services as those headed by men. A second issue that may affect women in the relative anonymity of the urban areas is the problem of Sexual-Gender-Based Violence (SGBV).

In conclusion, women are commanding through their perseverance and their strength of fortitude that they deserve, and are capable of, exerting power and leadership for the benefit of their families and communities. Legal safeguards prohibiting non-discrimination based on gender mandate that women have the right to equality of treatment in Sudan. Women must be allowed to assume positions in both the formal and informal arenas in the rule of law sector and their concerns must be equitably addressed. Women do play leadership roles in some of the communities targeted by this proposal and will be highlighted and shared as examples of how women's leadership skills can be utilized for the betterment of the entire community.

IV. COORDINATION WITH UN SISTER AGENCIES AND OTHER STAKEHOLDERS

Under the 'unified mission' approach that applies to the UN Mission in Sudan (UNMIS), there is a clear division of labour between UNMIS units and UN agencies. While the former focuses on political analysis and policy development, including legal reform, the latter conduct programmatic interventions and capacity building projects. As such, the project is not aimed at 'integration', but rather focuses on clearly defined programmatic responsibilities. This division of labour does not exclude collaboration across the board, but defines the complementary roles of UN actors. With UNDP being the lead actor on Rule of Law programming, close coordination

and collaboration is enjoyed with UNMIS and UN sister agencies, so to create synergies and avoid overlap.

1. UNHCR, OCHA, UNHCR and UNICEF

UNDP Rule of Law is an active member of the Return Working Group chaired by UNMIS RRR and liaises with member agencies, such as OCHA, UNHCR, UNICEF, IOM in the field to provide training and awareness workshops on rule of law. While the humanitarian agencies have a stronger focus on protection activities, UNDP's added value is its capacity-building programme of formal training, technical advisory services, including mentoring, and minor rehabilitation – bridging the gap between relief and development.

2. UNMIS Human Rights, Civil Affairs and Rule of Law

UNDP has established excellent working relationships with UNMIS Human Rights, UNMIS Civil Affairs and UNMIS Rule of Law, both at Khartoum and field level. In Khartoum, these UNMIS components (together with UNMIS Police) are members of the UNDP-DFID chaired Donor Group on Rule of Law & Governance, which jointly pursues policy reform at central level. At the field level, UNDP and UNMIS Human Rights and Civil Affairs hold joint awareness raising events/seminars on the concept of rule of law and basic human rights. UNDP and UNMIS Civil Affairs are also exploring other areas of collaboration, particularly on confidence-building and reconciliation. While UNMIS Human Rights conduct monitoring and reporting, UNDP takes on a more long-term capacity building role for traditional rule of law institutions at local and state level, when they exist. Since UNMIS Rule of Law is currently only planning to deploy one Rule of Law Liaison Officer in Juba, the UNDP Rule of Law deployment fills a gap and contributes with substantive function in the overarching unified mission approach of UNMIS.

3. UN Police and DfID

In the policing sector, the UN Police works closely with DFID and UNDP Rule of Law in the reform process in Sudan. In conjunction with a monitoring and mentoring mandate, the UN Police has been mandated a role on training by the Security Council (SC Resolution 1590). The deployment rate of the UN Police force, however, has been relatively slow in 2005 and it is anticipated that it will reach not reach its full strength of 715 personnel until mid-2006. Consequently, while the training activities of the UN Police were modest in 2005, the training plan for 2006 includes about 100 courses (refresher, basic and specialised courses) to be held with an output of about 3,000 officers trained in the transition areas and the South. During Phase I of the *Access to Justice and Human Security* project, UNDP has been partnering with the UN Police and the Rule of Law officers have substantively contributed to the training courses organised by the UN Police in the Transitional Areas. UNDP has also covered the running costs of training organised by the UN Police in many locations such as Kadugli and Kauda. In addition, UNDP and the UN Police have strengthened their partnership for 2006 agreeing to jointly mobilize funds to implement a police training programme in the Transitional Areas, which will result in the training and refresher courses of 1,500 police officers.

4. FAO

FAO is the lead agency for land issues in Sudan. At Khartoum level, FAO is an active member of the UNDP-DFID chaired UN/Donor Group on Rule of Law & Governance, and works closely with UNDP in providing technical advice and support to the CPA commissions. FAO is currently addressing recognition of legal claims, adjudication, and prevention. To address the

current legal gap in the land issue, FAO is collaborating with the Commission Preparatory Team (CPT) to establish the National Land Commission and State Commissions. Through the CPT, FAO supports a proposal for the creation of a new administrative body specifically addressing land issues. This specialized body will channel land claims to avoid burdening court systems that cannot adequately hear land claims. FAO and UNDP Rule of Law will collaborate on the problems of the land disputes in coordinating the provision of legal aid, information, and representation.¹² Rights that are acquired and subsequently exercised need protection. This can be achieved in contexts governed by customary law, statutory law or some combination of the two, provided, at a minimum, that there are *clear and recognized “rules of the game.”* It should be clear what rights land owners have, and what powers government or traditional authorities have regarding the allocation of land and regulation of its transfer and use. There also needs to be freedom from fear that land rights will be arbitrarily taken away or diminished. In other words, there needs to be both an expectation that the “rules of the game” will be enforced, and freedom from fear that the rules will be unilaterally changed without resulting damages being fully compensated. There need to be accessible, affordable, fair and effective avenues for seeking protection of rights and for solving disputes. The Justice & Confidence Centers, through the provision of legal assistance will address these issues.

SECTION C – STRATEGY FOR USE OF UNDP RESOURCES

I. UNDP MANDATE

UNDP adopts an integrated, multidisciplinary approach that places people at the centre of the development process. The promotion of the rule of law, access to justice and human rights is conceived by UNDP as one essential component of its mandate.

Following the Secretary General's Reform Programme, UN departments at the UN Secretariat in New York (e.g. DPA, DPKO, OCHA), UN agencies/programmes/funds, including UNDP, set out to incorporate human rights in their respective areas of responsibility. More specifically, UNDP produced a policy document to situate human rights within sustainable human development, “Integrating Human Rights with Sustainable Development” in 1998.¹³ The policy document highlights the particular relevance of human rights in UNDP core-strategies:

- Sustainable human development programming with a focus on eradicating poverty.
- Targeting disadvantaged or excluded groups (women, children, minorities, migrant workers, people with HIV/AIDS), thereby linking social justice, discrimination and development.
- Promoting partnerships with NGOs and civil society organizations (including social and political advocacy groups), thereby encouraging people's participation at all stages of programme initiation, formulation and design, implementation and evaluation.

¹² Discussions between UNDP and FAO are ongoing. The latter is currently developing its project and it is anticipated that this will guide collaboration between UNDP and FAO on the ground.

¹³ The development of this policy document was led by Management Development and Governance Division of the Bureau for Development Policy, in cooperation with the Regional Bureaux, the Human Development Report Office and the Emergency Response Division of UNDP. Preliminary papers by UNDP Resident Representatives, the Office of the High Commissioner for Human Rights, and human rights policy experts and organizations served as a basis for discussion by staff at headquarters.

- Addressing governance issues (such as corruption, the rule of law, participation, democratization and accountability) in which human rights have been integral but, all too often, not explicitly spelled out.
- Strengthening institutions of governance and developing human rights capacity within such institutions.

II. THE JAM PROCESS

The Joint Assessment Mission (JAM) has identified the promotion of the rule of law as a priority area to secure sustainable peace in Sudan. The JAM was a strategic planning exercise conducted jointly by the parties of the Comprehensive Peace Agreement (CPA), the World Bank and the UN, in preparation for the Oslo Conference where donor countries pledged over \$US 4 billion to support the Sudanese peace process. Limiting the presentation to the activities identified by the JAM, the participants identified, *inter alia*, the following rule of law activities as immediate priorities through 2007:

- Empower national stakeholders, rights holders and duty-bearers alike, to help prevent violations of domestic and international human rights law provisions, and to restore confidence in rule of law and governance institutions;
- Conduct capacity building of rule of law and governance actors and structures;
- In the South and three Transitional Areas, action plans for the court system, police and prisons agreed upon¹⁴;
- Review statutory law/practice in order to ensure compatibility with the constitution and international norms, specifically pertaining to human rights, and to address gender bias;
- Conduct capacity building of non-government stakeholders, particularly civil society; and,
- Empowering traditional authorities, marginalized groups and the private sector to play a proactive role in the democratization process.

The proposed project covers several of the priorities mentioned in the JAM (i.e. respond to immediate need for protection of civilians, particularly women and children; build the capacity of police, judges, prosecutors, lawyers, prison administration; reconstruct physical infrastructure; provide operational equipment and communication)¹⁵ and complements UNDP's ongoing Rule of Law activities at reforming rule of law institutions at central level. For instance, the JCCs directly support the implementation of the CPA and closely follow the JAM. The CPA vests the citizens of Sudan with significant human rights and fundamental freedoms and obliges the State to promote and protect these rights and freedoms (Chap II, 1.4-1.6). For these provisions of the CPA to succeed, we must ensure a bridge between the people with their rights and the judiciary designed to protect these rights. The JAM (JAM Report, Volume III, Rule of Law Cluster, Para 68), recognizes this need and lists as a priority action, "*the establishment of Legal Aid Centers to enhance immediate access to justice by serving communities, returnees and displaced, women and other vulnerable groups like people living with HIV/AIDS. The Legal Aid centers will act as a mediating force between communities and authorities, provide legal representation and advice, and promote linkages to support the statutory system*".

¹⁴ The CPA, Chapter II, calls for the establishment of courts at both national and state level.

¹⁵ See JAM Report, Volume III, Rule of Law Cluster, p. 47, 18 March 2005

With adoption of a human-rights based approach for the access to justice process, the project is in line with the overall policy of UNDP to promote human rights and access to justice for the poor and most vulnerable, and responds to the needs identified in the JAM.

III. UNDP, LEAD AGENCY ON RULE OF LAW IN SUDAN

UNDP Rule of Law was an active participant of the JAM process. UNDP Rule of Law established the JAM Reference Group and consolidated all input for the JAM Report on Rule of Law & Governance (Cluster 2). UNDP Rule of Law is the co-founder and co-chair of the UN/Donor Group on Rule of Law and participates in the North-South Protection Working Group. UNDP is also the Sector Lead for the UN Work Plan on Rule of Law & Governance. Through active engagement with all relevant UN stakeholders, government partners and line-ministries (Ministry of Justice, the Judiciary, Ministry of Interior and the Ministry for International Cooperation, as well as the Joint National Transitional Team/JNTT), NGOs, communities and civil society, the UNDP Rule of Law Unit has been able to position itself as a major actor on the Rule of Law sector. Over the past 18 months, UNDP Rule of Law has also acquired an accurate and in-depth understanding of the needs and expectations in the Rule of Law sector, which, in turn, laid the ground for the design of the proposed project.

SECTION D – SPECIFIC OBJECTIVES, EXPECTED RESULTS AND ACTIVITIES DURING PHASE II

I. INTRODUCTION

Following a decision from the United Nations Country Team, the United Nations Development Programme in Sudan is now operating under the modality “one country, two offices”. In concrete terms, it means that the UNDP Country Office, in Khartoum, covers project implementation in the northern states of Sudan as well as the Transitional Areas, while the UNDP South Office, in Juba, covers project implementation in South Sudan, including the former garrison towns. This strategic decision explains why this proposal only covers the Transitional Areas. It is expected that the UNDP South Office will also submit a proposal to the Danish Government to take forward the *Strengthening Access to Justice and Human Security* project in the former GoS-held towns.

II. PROJECT DESIGN METHODOLOGY

In partnership with local authorities and non-governmental organizations as well as with other development partners, UNDP Rule of Law has developed unique working relationships with the rule of law actors to design a project that is receptive and adequately applies to a post-conflict scenario. The Rule of Law officers, both national and international, have managed to engage in sensitive areas, gaining the trust of local authorities and communities alike. Successfully managing the realities on the ground, UNDP has been able to gradually progress in promoting rule of law policies and establish an operational space. The project has been discussed at length with all stakeholders through face-to-face meetings and workshops, leading to consensus based priority interventions.

Having established a viable presence and operational space, and building on ongoing activities of awareness raising, initial capacity building and minor rehabilitation, the second phase of the project will expand the outreach and substance of current achievements and will strengthen its multi-faceted approach through inter-related activities at both institutional and community levels. The expected results and activities will have to be adjusted to the factual situation on the ground in the Abyei, South Kordofan and the Blue Nile states, and consequently the tempi and sequence of activities and the expected result will differ accordingly. The annual work plans to be developed will therefore contain specific targets for each of the Transitional Areas as shown below in the workplan for project year 1.

III. SPECIFIC OBJECTIVES

The main objectives can be summarized as follows:

- Build the capacity of state rule of law institutions to provide access to justice for receiving communities, displaced, returnees and marginalized groups.
- Empower communities to exercise their rights, resolve conflict through both customary and statutory mechanisms and enjoy protection by the State.

IV. EXPECTED RESULTS

Result 1: People's awareness of their rights according to national and international law enhanced;

Result 2: People have access to an operational legal aid system;

Result 3: The judiciary's capacity to provide justice is enhanced;

Result 4: The capacity of the rural courts and the traditional leaders to provide justice is enhanced;

Result 5: Training capacity of law-enforcement institutions is enhanced;

Result 6: Community policing structures and procedures have been established and are in operation;

Result 7: Local ownership and support to rule of law activities is enhanced and sustained.

V. PLANNED ACTIVITIES DURING PHASE II

Building on and expanding the activities implemented during phase I, the following activities are expected to be undertaken in the Transitional Areas during the next two years and as mentioned above in varying tempi and sequence, which will be specified in the work plans for each of the three Transitional Areas:

Activity 1: Awareness Raising on Human Rights and Rule of Law

One of the main priorities of the project is to make all citizens enjoy the protection by the state and under the law. Law promotion and human rights out-reach underpin re-vitalizing the rule of law principles in Sudan. This undertaking would achieve the creation of awareness of individual rights and freedom as well as the corresponding obligations and responsibilities; developing knowledge of existing and relevant laws, and international human rights instruments; giving special focus on the rights of women and children; creating awareness of vulnerable groups, such as IDPs, minority groups; building-up an understanding of cultural and tribal diversity; and empowering individuals with knowledge and mechanisms to enforce their rights.

Methodology: Due to high illiteracy levels among the general rural population awareness approaches should first and foremost be adopted to this particular situation. Moreover, awareness approaches should include an array of participatory methods and tools including, case studies, present-future scenario assessments, field visits, community service, preparation of audio-visual materials, theatre, music, workshops, radio phone-in programmes, etc.

Implementation: Local CSOs and NGOs are better placed to implement this activity because they are already working with these communities and have access to remote and rural communities. UNDP should support the capacity building of these organizations through training to enable them to engage in law promotion and human rights advocacy. Capacity-building initiatives should include training on project management, strategic planning, report writing, advocacy, training of trainers, human rights' investigation and monitoring, proposal preparation and project cycle management including evaluation, financial management, networking, etc.

Activity 2: Establish Rights-Focused Community Forums

As confidence between existing social cohesion mechanisms and the project established structures evolve into a complementary, solid and transparent partnership, the Project through the JCC's will support the establishment of rights-focused community forums in selected project intervention areas. The Rights-Focused Community Forums will include representatives of community-based organizations, traditional leaders, returnees, IDPs, local judiciary, law-enforcement and military authorities, national and international NGOs and relevant UN actors present in the project intervention area. The objectives of rights-focused community forums will be to:

- To continuously deepen and nourish awareness on human rights and justice through a catalytic process;
- To serve as a permanent mediation mechanism for collaborative partnership between all local stakeholders on rule of law and protection;
- To engage communities and authorities in a transparent dialogue;
- To develop joint policies and responses to address insecurity and violations; and,
- To exercise a monitoring function and trigger intervention where necessary.

In addition, specific workshops targeting traditional leaders will also be conducted. This will entail: workshops on the judiciary possibilities of customary law and a possible development of traditional legal structures; the role of traditional governance and customary law and

harmonization with statutory law and human rights principles. Dissemination of the CPA and the INC will also be conducted, along with catalytic consultations with traditional leaders and community-based organizations on a possible harmonization of customary and statutory legal structures, while initially focusing on streamlining the legal procedures of the rural courts.

By forging partnerships between communities and authorities to jointly address human security needs, local rule of law initiatives stand a greater chance of leading to institutional reform and collective attitudinal changes.

Activity 3: Training of Paralegals

The paralegal scheme will close a legal information and knowledge gap and form an invaluable, but informal part of the legal system, providing services to the communities. While various empowerment strategies will help to increase legal knowledge and awareness, such alone will not be sufficient to equip citizens to enforce their rights. Paralegals will generally be laypersons with specialized legal and social skills' training. They will offer various forms of legal and human rights education, advice and assistance to disadvantaged groups among others. Paralegals will also play a mediation and intermediary role, representing community interests in formal and informal legal processes. They will empower citizens to directly engage in administrative and other legal processes.

These paralegals will work on a voluntary basis and will be selected from community associations, professionals or NGOs and will work through the JCC. They will be selected on the basis of an aptitude for and interest in law and human rights work. The paralegal approach will consist in establishing a core group and a support group of paralegals in each targeted location. The members of the core group will receive extensive training as well as allowance and incentives to serve as full-time paralegals. The members of the support group will receive an orientation training course to provide basic legal aid in assistance of full-time paralegals and will receive incentives for part-time services.

Paralegals will undergo training to equip them with knowledge and skills to objectively handle diverse problems in the community. The training, delivered by organisations specialised in paralegal training, will cover definitions of law and types of law in Sudan (i.e. criminal law and civil law); applicable law (i.e. INC), human rights, conflicts in the community and response to those conflicts, roles and responsibilities of law / enforcement authorities, investigations into human rights violations, arrest and detention of suspects, criminal investigations, trial and post trial processes, conviction, sentencing and imprisonment. They will also be trained on reporting and liaison with law enforcement and justice officials.

During the first phase of the project paralegals were selected and trained by the International Rescue Committee. The training comprised 2 days basic of human rights training and 5 days paralegal training. In the beginning of phase II the training will be reviewed by an international expert in paralegal training to propose improvements in the training curriculum. In addition, the expert will develop a practical manual for the field-based paralegals in cooperation with the UNDP RoL national and international staff based in the respective Transitional Areas.

Activity 4: Construct one and Support five Justice and Confidence Centres (JCC)

To be effective, trainings need to be reinforced and sustained through concrete means of accessing justice and continuous efforts to strengthen accountability. Trainings are, therefore, closely linked to the establishment of viable mechanisms that can fill the rule of law vacuum during a transition period - until the traditional and statutory rule of law structures can sustain on their own. In this vein, UNDP has supported the establishment of two JCCs in Dilling and Lagawa in South Kordofan and will actively support the establishment of three additional JCCs; one in Kadugli in South Kordofan; one in Damazin in the Blue Nile State; and one in Abyei. The JCCs will engage in representing clients (communities and individuals) before the authorities, and, at the same time, enter into a dialogue with the latter on how best to improve the administration of justice in the Transitional Areas.

The project will provide support to construction of a building for the JCC in Kadugli, and support operational budgets for all the JCCs during the project period including rent for the JCCs in Dilling, Lagawa, Damazin and Abyei.

The JCCs, like the courthouses, not only need to be established, but must also be furnished and equipped with essential resources necessary to provide access to justice. USAID/OTI has already committed in-kind contribution to the JCCs in Abyei, Dilling, Lagawa and Kadugli. Staffed by trained paralegals and working in concert with lawyers, the JCCs will serve as an initial entry point for clients to be advised on their legal options and rights. The JCCs will provide a diagnostic service for community members who have little understanding of how to obtain assistance for resolving their problems and can then provide referrals to the rule of law network that may encompass traditional or more statutory legal options.

To ensure the continuity and sustainability of the JCCs, training-of-trainers workshops on managerial skills and leadership will be conducted targeting representatives from CSOs as well as lawyers. Communities at rural and urban levels will be informed on the services provided by the JCCs so as to mobilise them and build ownership. UNDP will also ensure that a sustainable financial system be developed to sustain the JCCs (i.e. membership contribution, financial support from the local authorities, partnership with universities, etc...).

The JCCs will be an independent, community based and locally owned entity that will be registered under the laws that govern welfare or other community based organizations. The management structure will comprise a board of trustees drawn from lawyers, judges, legal administration, paralegals and human rights NGOs or civil society. The number of trustees will be at least six and will serve for up to one year terms consecutively not exceeding five years. Elections to the board of trustees will be held at every annual general meeting. The head of the paralegals will be an automatic member of the board of trustees.

Activity 5: Establish 3 Legal Aid / Public Interest Litigation Funds (Abyei, South Kordofan State & Blue Nile State)

This will involve expanding pro bono provision of legal services to poor, marginalized and indigent groups or communities without a fee or at a reduced cost in order to enhance access to justice for such persons who cannot afford to pay for legal services. This will address both civil

and criminal cases and will involve both representations in formal court proceedings as well as rendering advice and assistance that pertains to administrative matters that can be determined in quasi-judicial tribunals.

Public interest litigation will be part of the JCC's broader effort to use legal liberalism as a way to change existing patterns of power and privilege. This kind of litigation will involve lawyers taking up cases on behalf of interest groups or communities, who are largely vulnerable and powerless, like prisoners, women, the poor and IDPs. This legal innovation has its basis among other things, on the need to provide juridical space in which those who lack formal access to power become more visible and find expression. It can also become a political practice that affords marginalized groups and interests an entry point into contested issues. The outcome of public interest litigation will benefit the communities as a whole and hence is sometimes referred to as "social litigation" action.

The JCC will therefore provide the local lawyers with an institutionalized and organizational framework and resources to practice public service law – performing legal aid work and public interest litigation.

The JCCs will provide a full range of legal aid to beneficiaries from responses to quick queries to the provision of more extensive assistance including legal representation and will not limit themselves to cases of IDPs, but will also be available to other vulnerable and marginalized groups. To cover the cost of investigation and meetings a small fund to be operated by the UNDP RoL State Project Manager will be established.

Activity 6: Establish 5 Legal Information Centres (Damazin, Dilling, Lagawa, Kadugli & Abyei)

UNDP Rule of Law is committing itself to establish 5 Legal Information Centres in the project areas. The establishment of Legal Information Centres will aim to provide legal practitioners and academics with the resources they need to improve the quality of the services they offer and the legal studies they undertake. Having participated in UNDP training, it is expected that the legal practitioners will have the capacity to make use of the resources effectively. The Legal Information Centres will be established within the JCC. UNDP will provide legal material, furniture and salary for hiring of a librarian, while the JCCs will provide the venue and be responsible for the day-to-day management and operation (librarians, cleaners, rent, electricity, etc.) of the facility.

Activity 7: Capacity building on Court Administration and Management

In addition to the reconstruction and rehabilitation of courthouses and provision of operational equipment, the UNDP will support court administration reform, and especially procedures that obstruct public access and procedures that discourage efficiency in court processes. In Kadugli, UNDP Rule of Law will deploy a Chief Technical Advisor/Legal Specialist to train and mentor court officials, and provide assistance in developing appropriate court management systems, procedures and technologies. Due to the geographical proximity, and the uncertainty concerning the judicial system that will apply in Abyei, the CTA will also cover Abyei. UNDP has already contacted the International Bar Association regarding training of the lawyers. Two legal experts

from the IBA will undertake a two-week assessment mission in Sudan in early June 2006 to make recommendations on how to enhance the capacity of lawyers in the Transitional Areas. Costs for this activity will be covered from phase I.

In addition, judges will benefit from the *Capacity Building of the National Judiciary* project - mentioned above – through training and participation in study tours to promote international exposure.

Activity 8: Support introduction of Community Policing Structures and Procedures

In order to ensure the successful implementation of the CPA and achieve peace and development, there is a need to create a post-conflict environment that protects individual rights and guarantees the safety and security of citizens and communities. This entails protecting all but in particular marginalized citizens from violence and intimidation, and securing their property rights. Introducing community policing means protecting citizens from violence and intimidation, and e.g. including the security of their property rights. Community policing strategies would allow initiatives that involve state and non-state policing, as well as crime prevention and victim support to be established.

Community policing refers to policing structures that are close to the people in the community, and may include satellite posts, bicycles, etc. Community liaison fora and local dispute resolution committees become integral to policing. Crime prevention mechanisms that rely on the building of community support, awareness and communication are also part of community policing. Community policing is different depending on the local circumstances.

The UNDP will enter into a close cooperation with the UN Police to implement the activities. The role of the project will be to provide; (i) support to the Sudanese Police, the local communities and the UN Police in reaching an agreement on the modalities for introducing community policing in selected pilot areas and; (ii) support to implementation of the agreed pilot activities.

Activity 9: Conduct Trainings for Law Enforcement Officials

Law-enforcement constitutes the very base of an effective justice system. Major responsibilities to promote the welfare of the people of Sudan and protect human rights in post-conflict Sudan will rest with the police force. In addition, the police force is also expected to absorb a large number of demobilized individuals, who have no previous training in policing. Thus, training of law-enforcement officials is an important aspect of the project.

In the transitional areas the de facto existence of two police forces constitutes a major problem for the integration of the police force in the former SPLM controlled areas into the national police. So far it has not been possible to gather members of both forces in the same training and the UN Police has decided to conduct separate training until a political solution on integration has been reached in at state level or nationally in Khartoum.

In the Transitional Areas, the training and type of operations have been quasi-military in style, focusing on maintenance of public order at the expense of human rights, democratic principles, or criminal investigation. Illiteracy rates among the police force are believed to be up to 80%. Training will, therefore, focus on reorientation towards a social contract, based on human rights and code of conduct.

UN Police has identified a number of crucial needs in the policing sector. These include, *inter alia*, the need to expose police officers to international thinking on policing, especially with regard to their role in providing safety and security; awareness raising on human rights and statutory laws; policing strategies; crime prevention; investigation and interrogation techniques; relationship with other security sectors, prisons, and the judiciary. UNDP Rule of Law already works closely with UN Police in this field. To optimize the consolidated output, the UNDP Rule of Law Unit has recruited an international police expert with experience in post-conflict situations and UN peacekeeping operations.

Besides rehabilitation of the Unified Police Training Centre, which took place during Phase 1, the project will provide assistance to initiation of a discussion of integration of the SPLM /GoS police, prison, and judiciary initiated jointly by UNMIS, UNDP RoL South Kordofan State in accordance with the CPA and INC and help the UN Police organising the training.

Activity 10: Targeted Rehabilitation and Construction Work

The project will entail minor rehabilitation of rule of law institutions (courthouse, chiefs' court, police station, police training centre, detention facilities, etc...). The rule of law institutions (both formal and traditional), will also be furnished and equipped with essential resources necessary to administer justice and enforce the law, such as communication equipment, IT equipment, libraries, law books and stationeries.

In most of the Transitional Areas, infrastructure is weak and the police force operates without being properly trained. The project will, therefore, focus on the rehabilitation of existing training infrastructure (i.e. Prison in Damazin and Kadugli) and on the construction of necessary training infrastructure (i.e. Police Training Centre in Damazin).

Activity 11: Set up a Local Steering Committee (LSC) in Each Targeted Area

To provide overall guidance and oversee the programme implementation, a Local Steering Committee will be established in each of the Transitional Areas. The Committee, including UNDP Programme Officer, UNDP Head of Office, UNDP Project Manager, a representative of the Governor's Office, a representative of the Legal Administration Office, a representative of the Judiciary, a representative of the Local Administration Office, a representative from the Police, a representative from the Prison, a representative of local NGOs, a representative of the JCC, and a UNMIS representative will closely review programme progress, identify bottlenecks and offer corrective measures on a bi-yearly basis. The bi-yearly meetings should precede the bi-yearly meetings of the Project Steering Committee. This mechanism will help ensure transparency and timely delivery. Terms of Reference for the LSC will be developed at the inception of Phase II.

Activity 12: Rule of Law Impact Study

UNDP rule of Law recently entered into partnership with the Institute for Security Studies (ISS) in Pretoria and the University of Khartoum to undertake a Rule of Law Impact Study. A questionnaire will be adapted from the International Crime and Victimization Survey (ICVS) and will cover access to justice related questions (behaviour and attitudes with regard to formal and informal justice) to produce a baseline study against which progress will be measured. This study is a separate project and should not be considered as a project activity.

Activity 13: Customary Law Research Consultancy and the Establishment of Linkages between Traditional Leaders, Rural Courts and Project activities of e.g. the JCC.

UNDP Rule of Law Unit has together with its development partners recognized the importance played by the traditional leaders and the rural courts linked to these. Rural courts represent the lowest level of a partly formalized court facility and network in South Kordofan, Abyei and Blue Nile states. These rural courts are to a large extent based on customary practices of rule of law and are accessible to the majority of the rural citizens, as the courts are widely spread over the South Kordofan (having more than 40 traditional courts in the state) and Blue Nile states. All parties agree that the traditional leaders and the rural courts take care of the majority of cases in the rural as well as town areas of the three Transitional Areas. Likewise all parties agree that more than twenty years of conflict and war combined with several changes and amendments to the Natives Administrative Act have played a major role in transforming the customary legal system itself *and* the citizens' usage of that system. What the development partners - including the UNDP - do not know, is the nature and extent of the transformation and the feasibility of the customary justice system to the majority of the citizens today

The UNDP Rule of Law Unit has therefore already in the first quarter of 2006 completed a Customary Law Research Consultancy for Abyei (draft report ready in May 2006) and is about to start a similar research during the 2nd and 3rd quarters of 2006 in the South Kordofan and Blue Nile states. The consultancy is intended to study the customary practices, its laws and the tribal structures in the Abyei as well as the South Kordofan and Blue Nile states. The research will establish an understanding of the issues around the delicate customary/tribal arrangements and its internal decision makings and its linkages to the statutory law and stat/locality administration. Moreover, the research will conduct an institutional capacity assessment of the tribal leaders' and customary law institutions' ability to effectively contribute in re-establishing social order and peace building in South Kordofan, Abyei, and Blue Nile states including e.g. cross-border mediation between the SPLM dominated areas and the GOS dominated areas. Most importantly the research should recommend viable institutional arrangements, work relation and structural linkages between the customary justice system and the rule of law activities of the project e.g. structural institutional links and common activities between the customary justice system represented by rural courts and the institution and functions of planned and initiated JCC.

The UNDP Rule of Law Unit envisages that initial workshops for traditional leaders will be held to sensitize them on rule of law and access to justice issues in post-conflict Sudan. These could be followed by an assessment of the interest of traditional leaders in participating in the project activities. Thereafter, based on the findings and recommendations of the research, a mode of operation and linkages between the JCCs and the local courts should be jointly developed and

worked out into a more formalized set-up. Once the working relationships are fully established between the customary justice system, its representatives and the project, avenues for discussing a possible harmonization between the statutory judicial system and the customary law system could commence - if the interest and mutual understanding of all involved parties agree to embark on such exercise.

SECTION E – RISKS AND PRIOR OBLIGATIONS

While recognizing that the Transitional Areas enjoy a relative peace, the project is based on the assumption that the security situation in these areas will not deteriorate and impede the presence and operational activities of international organizations. In case of deterioration in the security situation, and on request by UN Security, UNDP will relocate its staff on a temporary basis.

Interference from local authorities could be seen as a potential de-stabilizing factor, which may impede full implementation of the project. Therefore, a strong, open and transparent collaboration with local authorities is being built in each targeted area. Over the past few months, local authorities have shown strong support to the UNDP Rule of Law activities and it is unlikely that UNDP faces any major drawbacks during the project implementation. To sustain the progress, the UNDP and its implementing partners have to continue to be aware of the highly political and much politicized power sharing arrangements in the Transitional Areas. These arrangements will continue to cause delays in the envisaged integration between the two parties in accordance with the CPA and the INC. And tensions and lack of trust still exist between the two major political forces in the Transitional Areas - the GOS (NCP) and the SPLM - each with dominance in specific areas in the three states. It is therefore key to a sustained implementation of the project that the UNDP and its partners maintain the highest integrity and an approach, which equally focus and share activities between the two parties, including e.g. collaboration with CBOs/NGOs and other non-state actors from both SPLM and GOS dominated areas and among the citizens from both sides living within these areas.

The UNDP Rule of Law Unit has not yet been faced with a high-turnover of international staff. This is fortunate since, during the initial years of the peace building process, the rule of law concept – which should not be assimilated with other human-rights related activities such as monitoring and reporting of human rights violations – is very sensitive with local authorities. In order to minimize the negative impact of a possible turn-over of international staff, locally/nationally recruited staff are being trained and mentored to gradually take over management of the project.

The recruitment of international staff has a direct impact on the proposed budget but it should be considered as a necessity to achieve successful results in an environment that remains unstable and authorities may be reluctant to cooperate with national staff. In fact, a combination of national and international staff will further ensure the success of the programme. As for the logistical costs (vehicles, communication equipment and office set-up), they will drastically decrease during phase II since the main investments have been made during phase I – except in Damazin.

Finally, in case of an emergency situation in the targeted locations (i.e. rise in tensions, low intensity conflict, etc...), UN Security Standard Operating Procedures will apply. The

Designated Security Officer in each location will closely monitor the situation and if need be, all necessary precautionary measures will be taken to minimize the risks against the project staff, both national and international.

SECTION F – MANAGEMENT ARRANGEMENTS

I. EXECUTION ARRANGEMENTS

The project will be directly executed by UNDP, according to the Direct Execution (DEX) modality and in compliance with existing rules and regulations. This modality has demonstrated advantage in countries emerging from crisis especially where the capacity to nationally execute projects is lacking. It provides for a flexible and responsive relationship with national entities in the management of the project, while not undermining core capacity building and ownership objectives.

In order to ensure national ownership, adequate outreach and maximal quantitative output for awareness raising activities, international and national implementing partners will be utilized. In this regard, UNDP has during phase I engaged the International Rescue Committee (IRC) to co-manage the Justice and Confidence Centres *where UNDP has not been present*. During phase II UNDP will strengthen its management capacity and will directly manage the JCCs in cooperation with the local boards of the JCCs.

The role of the Strategic Partnership (SP) and the UNDP Monitoring and Evaluation Unit (MEU):

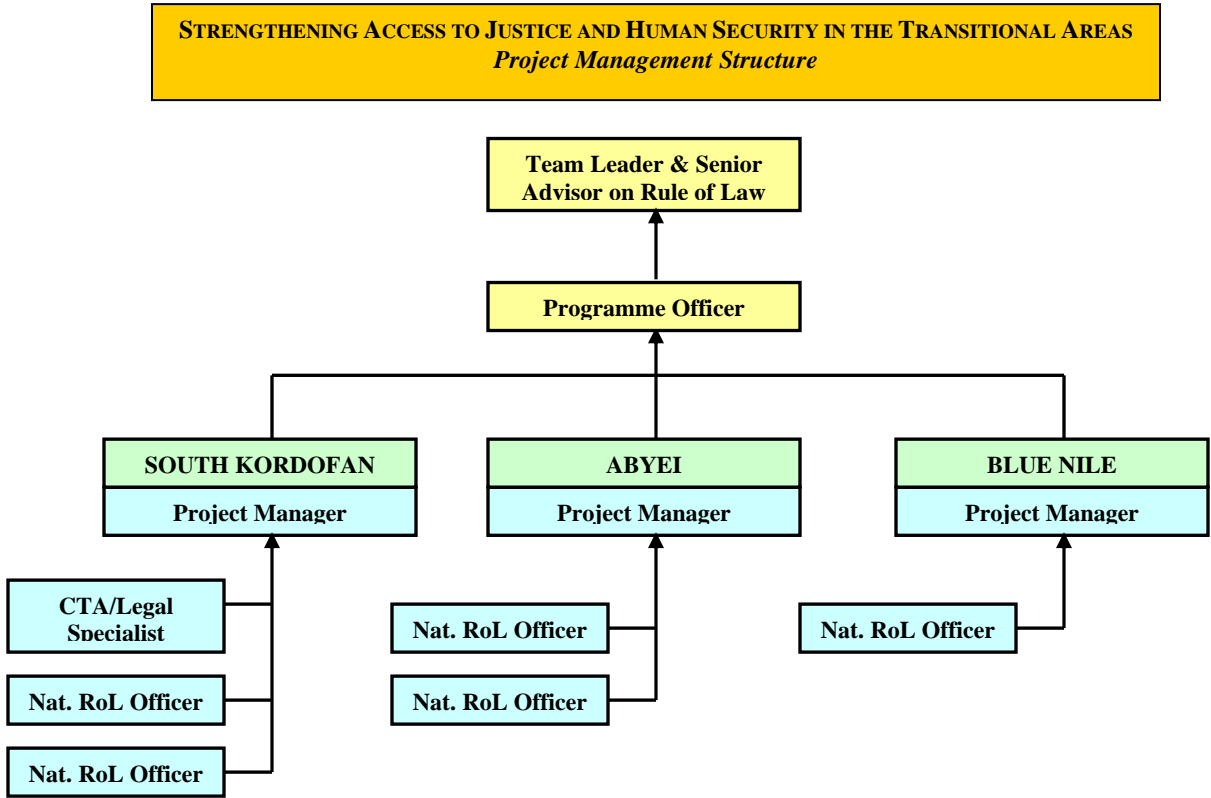
The Strategic Partnership (SP) between the UNDP - DFID - Netherlands and Denmark, which came into being 31st October 2005, will have a crucial supportive role to play in the review and evaluation arrangement of this project, as in accordance with the SP agreement made regarding management arrangements and monitoring and reporting. Key in the SP is the already budgeted for establishment of a UNDP Monitoring and Evaluation Unit. The MEU is as of May 2006 yet to be established and start undertaking its key functions in the SP.

II. PROJECT MANAGEMENT STRUCTURE

Given the UNDP operational structure at country and field levels, the Transitional Areas – Damazin, Abyei and Kadugli – will be managed from Khartoum (UNDP Country Office). A Programme Officer will ensure overall quality control of project implementation and will be accountable for the coordination and consistency across the three areas, and will be directly reporting to the Team Leader & Senior Advisor on Rule of Law. At the field level, three project managers (international staff) - Kadugli, Abyei and Damazin - will be responsible for the day-to-day implementation of the project and will be working in team with the national rule of law officers. In each targeted area, the Rule of Law team is responsible for ensuring and promoting cooperation with all stakeholders including government authorities and to facilitate overall programmatic coherence and cross-fertilization.

In the below organigram, the staffing difference between the different geographical is explained by the size of the area, and the actual implementation stage of the project. Indeed, the Rule of

Law team in South Kordofan State is already well established and the CTA position has already been decided upon with the Judiciary & Legal Administration Office to respond to immediate needs. Once a functional judiciary system is established in Abyei, it may be necessary to establish a CTA. Having two national Rule of Law officers in Kadugli and Abyei warranted by the increasing activities in these two areas. It could also be envisaged to have a CTA and an additional national Rule of Law Office in Blue Nile, where presence is just being established, but this will be determined at a later stage with our counterparts from the Judiciary and Legal Administration Office in Damazin.



Consistent with UNDP goals and objectives, the proposal also aims at providing mentoring and capacity building for National Rule of Law officers in preparation for handover of management activities after completion of the project.

SECTION G – MONITORING AND EVALUATION

I. MONITORING

The monitoring and evaluation of the project should be guided with by the institutional arrangements and timeframe made for monitoring, review and evaluation of the overall programme in the SP agreement. This includes joint annual review of the programme with a possibility for SP partners' participation in project specific review sessions and missions, as wished by the SP partners.

The UNDP programme officer in Khartoum will continuously oversee and monitor implementation. Through field missions, he/she will conduct regular monitoring to review progress of the project and identify corrective actions if necessary.

In addition, the Local Steering Committees (LRC) will provide overall guidance and will oversee the project implementation.

II. EVALUATION AND REPORTING

The evaluation of the project will be conducted on a six-month basis by the Project Steering Committee (PSC) composed of the Team Leader and Senior Advisor on Rule of Law, the programme officer, the three project managers and representatives from the beneficiaries including the Local Review Committee and coordinated by the MEU of the UNDP. The programme officer will prepare and submit a monitoring and evaluation report every six months to be reviewed by the Project Steering Committee and with copies for SP to be discussed at its regular meetings.

In addition, the three project managers responsible for project implementation at state level will produce a weekly situation report according to an agreed report format, and a monitoring report every three months to describe progress made in their respective location against the set benchmarks in the project LFA. These reports will be compiled by the UNDP programme officer to produce one single monitoring report every six months. The report will be forwarded to the members of the SP

Upon completion of the project, UNDP will call for an external evaluation, which might include the participation of the SP members to assess the effectiveness and relevance of the project to beneficiaries. The MEU of the UNDP will play a major role in the end of project evaluation, which will include:

- Ascertain the degree to which the project has met its objectives and the results based on the established benchmarks;
- Ascertain the continued relevance and appropriateness of the programme's objectives, aim and activities to the beneficiaries; and,
- Provide UNDP and its partners, including the SP, with tools for evaluation of the impact of the project.

III. MEASURING IMPACT

At the heart of the problem lays the need for physical, material and legal safety for individuals and communities. The impact of the programme will, ultimately, be measured by the degree of safety/protection, rights and justice experienced by local communities. Given that human security is a chief factor in the return and reintegration process, the number of people and communities who return and reintegrate in a sustainable manner will constitute a main indicator of success. Thus, extensive consultations will be designed to identify threats to human security and access to justice, and measure progress against the larger UN return and reintegration programme.

The overall impact will be measured on the basis of:

- Security situation in targeted areas;
- Increase in human rights violations reported to law enforcement institutions;
- Response by law-enforcement officials, including recording, action and apprehension;
- Drawing up and establishing internal complaints systems and codes of conducts ;
- Existence of legal aid and legal counsel accessible to the target groups; and;
- Statistics on sustainable return and reintegration in the selected project sites.

In specific, progress will be measured *inter alia* by the number of cases reported, registered and resolved by official law-enforcement and judiciary authorities special focus will be given to gender related issues in particular women cases, strengthened security and protection of target groups. After completion of the project, expected results are *inter alia* a global rise of trust and satisfaction of individuals and communities, especially among the most vulnerable groups; a significant increase in the use of criminal justice processes – whether formal or informal – by claimants as well as a decrease in the number of crimes and violations in the targeted geographical areas.

Gender mainstreaming will also be ensured in all aspects of the project. Women will be encouraged to participate in the training, workshops, and seminars. Focal points will be identified to monitor gender issues throughout the implementation of the project activities. This approach will enable UNDP to create a data-base of the number of women participated in training activities. UNDP will record women cases adopted by the legal aid centres which could be an indicative of gender based approach in the project.

Measuring impact at the micro level and with a methodology that allows a good degree of confidence in the results is a timely and costly undertaking, especially since this programme covers three different geographical areas. Therefore UNDP will create linkages between this programme and the Rule of Law Impact Project in Sudan (RIPS)¹⁶, which and will allow an impact analysis with the best scientific available tool of the moment.

The RIPS is a UNDP (Bureau for Crisis Prevention and Recovery) financed study that uses the public opinion survey methodology with a large representative sample at analysis location (1,200 interviews per location) in a selection of four states. The current states selected are Kassala, Khartoum, South Kordofan and Malakal. The first wave of the survey is expected to be conducted from April to July 2006 in all states; a second wave will be conducted in 2008. Public opinion surveys have the comparative advantage over qualitative studies to be comparable across locations and time.¹⁷

The questionnaire used is an adapted version of the well-known and widely used International Crime and Victimization Survey (ICVS) with a significant expansion on access to justice related questions (behaviour and attitudes with regard to formal and informal justice). The Institute for Security Studies (ISS) in Pretoria, of international reputation and specialised in African studies in security and the criminal justice process, has been mandated to support the process of design of the

¹⁶ Rule of Law Impact Project in Sudan (RIPS), project document, UNDP Sudan, August 2005.

¹⁷ Victimization surveys have also the comparative advantage to provide valid data on criminality in the absence of reliable criminal statistics and to obtain information on cases not reported to the police. Other tools existing in Sudan, such as the CMPT statistics, depend on reporting and offer only a partial image of the cases and need to be interpreted at best as trend.

new questionnaire. The RIPS will be conducted by an independent scientific institution (the University of Khartoum in partnership with local universities).

At no additional charge for this project, the RIPS will produce a base-line study in the form of a 100 pages report for each location elaborated by experts at the University of Khartoum. A specific analysis of a number of indicators of impact will be mandated for the specific purpose of this programme to the experts in charge of the RIPS. These will be the only costs charged to this programme.

SECTION H – LEGAL CONTEXT

This project is initiated within the legal context of Article (1) of the Initial Standard Basic Assistance Agreement (ISBAA) between the Government of Sudan and the United Nations Development Programme, signed by the two parties on 24 October 1978, and ratified by the Government of Sudan on 1 January 1981. The following types of revision may be made to this programme document with the signature of the UNDP Resident representatives:

- Revision in, or addition of, any Annex of the Programme Document;
- Revisions that do not involve major changes in the programme immediate objective, inputs, outputs, or activities, but minor changes that are brought about by necessary re-arrangements of inputs already agreed on or by cost increase due to inflation and/or unforeseen expenses; and,
- Mandatory annual revisions that re-phrase the delivery of agreed upon programme inputs, increased expert cost, or other costs to inflation, or any mandatory revision that takes into consideration agency expenditure flexibility.

SECTION I – WORK PLAN AND TARGETS FOR PROJECT YEAR 1

Work plan and targets for each of the project results have been developed for the first year of the project period for each of the project areas.

I. ABYEI

TARGETS		
No.	Results	Targets for year 1
1	Peoples' awareness of their rights enhanced.	a) Assessment survey to establish an indicative baseline on people's present awareness on human rights carried out in Abyei. b) The JCC and local NGOs and CBOs actively informing people about their rights through workshops, meetings, rallies, theatre, etc.
2	People have access to an operational legal aid system.	a) The JCC in Abyei established, in full operation providing legal aid services to the communities and increasingly taking responsibility for carrying out activities. b) A curriculum for training of paralegals and a field

		<p>manual for paralegals developed.</p> <p>c) A Public Interest Litigation Fund established and utilized. This benchmark will depend on the existence of an operational statutory court in Abyei, which is under establishment.</p>
3	The Justice systems' capacity to provide justice is enhanced.	<p>a) Abyei Courthouse established and in operation.</p> <p>b) Advocacy efforts led to appointment of Judges in Abyei.</p>
4	Capacity of the rural courts and the traditional leaders to provide justice is enhanced	<p>a) The customary law study is completed in Abyei and findings and the recommendations fed in to a work plan for creating linkages between statutory courts and rural courts.</p> <p>b) The rural court is in operation and properly managed by the chiefs.</p> <p>c) Rural court procedures are established.</p> <p>d) Discussion on Customary Law codification is engaged.</p>
5	Training capacity of law enforcement institutions is enhanced.	<p>a) Local training capacity is strengthened through UNDP/UN Police joint training of trainers activities.</p> <p>b) Initiation of a discussion of integration of the SPLM/GoS police in Abyei in accordance with the Abyei Protocol.</p>
6	Community policing structures have been established and are in operation	<p>a) The police in South Kordofan State has accepted the principle of community policing and developed a plan for its implementation.</p> <p>b) Following the development of a plan procurement of basic equipment for community policing will take place.</p> <p>c) Community policing services is in operation in Abyei County (Agok) and in targeted communities in Abyei locality.</p>
7	Local ownership and support to rule of law activities is enhanced and sustained	<p>a) A Local Steering Committee formed and in operation.</p>

TIMEFRAME													
Activities	Year 1											Responsible Agent	
	J	J	A	S	O	N	D	J	F	M	A		M
Awareness Raising on Human Rights & Rule of Law	●		●		●		●		●		●		UNDP
Establish Rights-Focused Community Forum													UNDP
Training for Paralegals	●		●		●		●		●		●		UNDP
Support 1 JCC													UNDP
Establish 1 Legal Information Centre													UNDP
Support Community Policing Services													UN Police,UNDP
Training for Police Officers													UN Police,UNDP
Construct 1 Courthouse in Abyei													UNDP,Contractor
Construct 1 Rural Court in El Muglad													UNDP,Contractor
Establishment of Local Steering Committee	●	●											UNDP
Rule of Law Impact Study													UNDP.Uni. of Khartoum
Monitoring of IDP return and refugees													UNDP,UN Agencies,NGOs

II. SOUTH KORDOFAN STATE

TARGETS		
No.	Results	Targets for year 1
1	Peoples' awareness of their rights enhanced.	<p>a) Assessment survey to establish an indicative baseline on people's present awareness on human rights carried out in the Kadugli, Lagawa and Dilling localities.</p> <p>b) The JCCs and local NGOs and CBOs actively informing people about their rights through meetings, rallies, theatre, etc.</p>
2	People have access to an operational legal aid system.	<p>a) All three JCCs (Kadugli, Dilling and Lagawa) established, in full operation providing legal aid services to the communities and increasingly taking responsibility for carrying out activities.</p> <p>b) A curriculum for training of paralegals <i>and</i> a field manual for paralegals developed.</p> <p>c) A Public Interest Litigation Fund established and utilized.</p>
3	The Justice systems's capacity to provide justice is enhanced.	<p>a) The CTA/Legal Expert has completed an assessment report and started implementing a six months' work plan for improvement of the functioning of the judiciary system of South Kordofan State, which is approved by the judiciary.</p> <p>b) The six month's working plan includes a process and tools to enhance better interaction and transparency among all the justice sector actors.</p>
4	Capacity of the rural courts and the traditional leaders to provide justice is enhanced	<p>a) The customary law study is completed in South Kordofan State and findings and the recommendations fed in to a work plan for creating linkages between statutory courts and rural courts.</p>
5	Training capacity of law enforcement institutions is enhanced.	<p>a) Training activities undertaken at the Unified Police Training Centre.</p> <p>b) Initiation of a discussion of integration of the SPLM /GoS police and prison, initiated jointly by UN Police, UNDP RoL South Kordofan State in accordance with the CPA and INC.</p> <p>c) Prison vocational workshop on full operation.</p>
6	Community policing structures have been established and are in operation	<p>a) The police in South Kordofan State has accepted the principle of community policing and developed a plan for its implementation.</p> <p>Following the development of a plan procurement of basic equipment for community policing will take place.</p>
7	Local ownership and support to rule of law activities is enhanced and sustained	<p>a) A Local Steering Committee formed and in operation</p>

TIMEFRAME														
Activities	Year 1												Implementers	
	J	J	A	S	O	N	D	J	F	M	A	M		
Awareness Raising on Human Rights & Rule of Law														UNDP
Rights-Focused Community Forum Meetings		●		●		●		●		●		●		UNDP
Training for Paralegals	●		●		●		●		●		●		●	UNDP
Construct 1 JCC in Kadugli														UNDP, Contractor
Support 3 JCCs (Kadugli, Dilling, Lagawi)														UNDP
Establish 3 Legal Information Centres														UN Police, UNDP
Establish 1 Legal Aid/Public Interest Litigation Fund				●										UNDP, IBA
Preparing for Community Policing Services														UNDP, UN Police, SD Police
Capacity building of Judges, Prosecutors and Lawyers														UNDP, IBA
Training for Police Officers	●			●		●		●						UNDP, UN Police
Training for Prison Officers		●	●		●	●		●	●	●	●			UNDP, PRI
Construct Chief's Court in Kadugli, Dilling, Lagawa														UNDP, Contractor
Rule of Law Impact study														UNDP, Uni. of Khartoum
Set-up Local Steering Committee		●												UNDP, local stakeholders
Monitoring IDPs and refugees return														UNDP, UN Agencies, NGOs

III. BLUE NILE STATE

TARGETS		
No.	Results	Targets for year 1
1	Peoples' awareness of their rights enhanced.	<p>a) Assessment survey to establish an indicative baseline on people's present awareness on human rights carried out in Damazin.</p> <p>b) The JCC and local NGOs and CBOs actively informing people about their rights through workshops, meetings, rallies, theatre, etc.</p>
2	People have access to an operational legal aid system.	<p>a) JCC in Damazin established, in full operation providing legal aid services to the communities and increasingly taking responsibility for carrying out activities.</p> <p>b) A curriculum for training of paralegals <i>and</i> a field manual for paralegals developed.</p> <p>c) A Public Interest Litigation Fund established and utilized.</p>
3	The Justice systems's capacity to provide justice is enhanced.	<p>a) The CTA/Legal Expert from Kadugli has completed an assessment report and developed a six months' work plan for improvement of the functioning of the judiciary system of Blue Nile State, which is approved by the judiciary.</p> <p>b) The six month's working plan includes a process and tools to enhance better interaction and transparency among all the justice sector actors. The working plan also includes recommendation to undertake recruitment of a CTA/legal specialist in Blue Nile State if found necessary.</p>
4	Capacity of the rural courts and the traditional leaders to provide justice is enhanced	<p>a) The customary law study is completed in Blue Nile State and findings and the recommendations fed in to a work plan for creating linkages between statutory</p>

		courts and rural courts.
5	Training capacity of law enforcement institutions is enhanced.	<p>a) New Police Training Centre constructed, equipped and in operation.</p> <p>b) Training activities undertaken at the Blue Nile State Police Training Centre.</p> <p>c) Initiation of a discussion of integration of the SPLM /GoS police and prison, initiated jointly by UN Police, UNDP RoL South Kordofan State in accordance with the CPA and INC.</p>
6	Community policing structures have been established and are in operation	<p>a) The police in Blue Nile State has accepted the principle of community policing and developed a plan for its implementation.</p> <p>b) Following the development of a plan procurement of basic equipment for community policing will take place.</p>
7	Local ownership and support to rule of law activities is enhanced and sustained	a) A Local Steering Committee formed and in operation

TIMEFRAME														
Activities	Year 1												Implementers	
	J	J	A	S	O	N	D	J	F	M	A	M		
Awareness Raising on Human Rights & Rule of Law														UNDP
Rights-Focused Community Forum Meetings		●		●		●		●		●		●		UNDP
Training for Paralegals		●		●		●		●		●		●		UNDP
Construct 1 JCC in Damazin														UNDP, Contractor
Support 1 JCC in Damazin														UNDP
Establish 1 Legal Information Centre														UNDP
Establish 1 Legal Aid/Public Interest Litigation Fund														UNDP, IBA
TNA of Judges, Prosecutors, Lawyers														UNDP, CTA(?)
Training for Police Officers														UNDP, UN Police
Training for Prison Officers		●	●		●	●		●	●	●	●	●		UNDP, PRI
Rehabilitation of Police Station in Damazin														UNDP, Contractor
Construct /equip Police Training Centre in Damazin														UNDP, Contractor
Rule of Law Impact Study														UNDP.Uni. of Khartoum
Set-up Local Steering Committee	●	●												UNDP, local stakeholders

SECTION J - BUDGET

BUDGET (June 2006 – May 2008)					
A – PROJECT MANAGEMENT & OPERATIONS	Unit	Cost (USD)	Year 1	Year 2	TOTAL
<i>KHARTOUM</i>					
Programme Officer (ALD-3)	1	10,600*	63,600 (6 months)	127,200	190,800
R&R for International Staff	3 per year	1,350/Unit	4,050	4,050	8,100
Thuraya Phone (Communications)	1	50*	600	600	1,200
Mobile Phones (Communications)	1	50*	600	600	1,200
Travel & Transport	Lumpsum	N/A	2,500	2,500	5,000
Sub-Total A			71,350	134,950	206,300
<i>ABYEI</i>					
Project Manager (ALD-3)	1	10,600*	127,200	127,200	254,400
R&R for International Staff	9 per year	1,350/Unit	12,150	12,150	24,300
National Rule of Law Officer – NOB	1	2,500*	30,000	30,000	60,000
Driver	1	450*	5,400	5,400	10,800
Desktop Computer	1	2,000/Unit	2,000	-	2,000
Thuraya Phone (Acquisition)	1	500/Unit	500	-	500
Thuraya Phone (Communications)	2	100*	2,400	2,400	4,800
VHF Radio (Acquisition)	1	200/Unit	200	-	200
Mobile Phones (Acquisition)	1	100/Unit	100	-	100
Mobile Phones (Communications)	2	50*	1,200	1,200	2,400
Travel & Transport	Lumpsum	N/A	5,000	5,000	10,000
Cost-sharing for Operation, Maintenance & Running costs of UNDP Field Office in Abyei	Lumpsum	N/A	20,000	20,000	40,000
Sub-Total B			206,150	203,350	409,500
<i>NUBA MOUNTAINS</i>					
Project Manager (ALD-3)	1	10,600*	127,200	127,200	254,400
Chief Technical Advisor (ALD-4)	1	11,600*	139,200	-	139,200
R&R for International Staff	9 per year	1,350/Unit	24,300	12,150	36,450
National Rule of Law Officer – NOB	2	2,500*	60,000	60,000	120,000
Driver	1	450*	5,400	5,400	10,800
Laptop Computer (CTA)	1	3,000/Unit	3,000	-	3,000
Desktop Computer	2	2,000/Unit	4,000	-	4,000
Thuraya Phone (Acquisition)	2	500/Unit	1,000	-	1,000
Thuraya Phone (Communications)	4	100*	4,800	4,800	9,600
VHF Radio (Acquisition)	2	200/Unit	400	-	400
Mobile Phones (Acquisition)	2	100/Unit	200	-	200
Mobile Phones (Communications)	4	50*	2,400	2,400	4,800
Travel & Transport	Lumpsum	N/A	10,000	10,000	20,000
Cost-sharing for Operation, Maintenance & Running costs of UNDP Field Office in Kadugli	Lumpsum	N/A	30,000	30,000	60,000
Sub-Total C			411,900	251,950	663,850
<i>BLUE NILE</i>					
Project Manager (ALD-3)	1	10,600*	127,200	127,200	254,400
R&R for International Staff	9 per year	1,350/Unit	12,150	12,150	24,300
National Rule of Law Officer – NOB	1	2,500*	30,000	30,000	60,000
Driver	1	450*	5,400	5,400	10,800
4x4 Vehicle (MOSS Compliance) – Damazin	1	55,000/Unit	55,000	-	55,000
Desktop Computer	1	2,000/Unit	2,000	-	2,000
Thuraya Phone (Acquisition)	2	500/Unit	1,000	-	1,000
Thuraya Phone (Communications)	2	100*	2,400	2,400	4,800
VHF Radio (Acquisition)	2	200/Unit	400	-	400

Mobile Phones (Acquisition)	2	100/Unit	200	-	200
Mobile Phones (Communications)	2	50*	1,200	1,200	2,400
Digital Camera – Damazin	1	600	600	-	600
Travel & Transport	Lumpsum	N/A	5,000	5,000	10,000
Cost-sharing for Operation, Maintenance & Running costs of UNDP Field Office in Damazin	Lumpsum	N/A	-	20,000	20,000
Sub-Total D			242,550	203,350	445,900
B – PROJECT ACTIVITIES			Year 1	Year 2	TOTAL
ABYEI					
1. 1. Awareness Raising on Human Rights & Rule of Law Lumpsum			18,000	18,000	36,000
2. Establish Rights Focused Community Forum <i>Organize bi-monthly meetings at USD 1,000/meeting</i>			6,000	6,000	12,000
3. Training for Paralegals <i>Lumpsum</i>			24,000	18,000	42,000
4. Support one Justice & Confidence Centre <i>Support and Administer 1 Unit x USD 15,000/year</i>			15,000	15,000	30,000
5. Establish one Legal Information Centre <i>1 Unit x USD 15,000/Unit</i>			15,000	-	15,000
6. Support Community Policing Services (20 beneficiaries/session) in Agok <i>Organize one-week training every two months at USD 4,000/training</i> <i>Equip community policing officers with basic communication equipment</i>			24,000 30,000	24,000 -	48,000 30,000
7. Conduct one-week training for Police Officers (20 beneficiaries/session) <i>1 Unit per month x USD 1,500/Unit</i>			18,000	18,000	36,000
8. Construct a Courthouse in Abyei Town <i>1 Courthouse at USD 120,000/Unit</i>			120,000	-	120,000
9. Construct one Chiefs' Court in Muglad <i>1 Chiefs' Court at USD 30,000/Unit</i>			30,000	-	30,000
10. Set-up a Local Steering Committee (LSC)			3,000	3,000	6,000
11. Conduct the Rule of Law Impact Study (RIPS)			-	-	-
12. Ensure monitoring of the return process of IDPs in collaboration with UN sister agencies and international non-governmental organizations			-	-	-
Sub-Total E			303,000	102,000	405,000
NUBA MOUNTAINS (KADUGLI, DILLING, LAGAWA)					
1. Awareness Raising on Human Rights & Rule of Law <i>Lumpsum</i>			75,000	75,000	150,000
2. Establish Rights Focused Community Forum <i>Organize bi-monthly meetings at USD 1,000/meeting x 3 locations</i>			18,000	18,000	36,000
3. Training for Paralegals <i>Lumpsum</i>			60,000	54,000	114,000
4. Establish 1 and support 3 Justice & Confidence Centres <i>Construct 1 Unit x USD 60,000/Unit</i> <i>Support and Administer 3 Units x USD 15,000/year</i>			600,000 45,000	- 45,000	60,000 90,000
5. Establish one Legal Aid / Public Interest Litigation Fund <i>Organize quarterly meetings at USD 1,000/meeting</i>			4,000	4,000	8,000
6. Establish 3 Legal Information Centres <i>3 Units x USD 15,000/Unit</i>			45,000	-	45,000
7. Capacity building on Court Administration and Management <i>Ongoing capacity building by Chief Technical Adviser</i>			-	-	-
8. Support Community Policing Services <i>Organize bi-monthly training at USD 4,000/training x 3 locations</i> <i>Equip community policing officers with basic communication equipment</i>			- -	72,000 25,000	72,000 25,000
9. Conduct one-month training for Senior Police Officers (30 beneficiaries/session) <i>4 Units per year x USD 4,000/Unit</i>			16,000	16,000	32,000
10. Conduct 4-day training for Prison Officers <i>8 Units per year x USD 5,000/Unit</i>			40,000	40,000	80,000
11. Set-up a Local Steering Committee (LSC)			4,000	4,000	8,000
12. Conduct the Rule of Law Impact Study (RIPS)			-	-	-
13. Ensure monitoring of the return process of IDPs in collaboration with UN sister agencies and international non-governmental organizations			-	-	-
Sub-Total F			367,000	353,000	720,000
BLUE NILE (DAMAZIN)					

1. Awareness Raising on Human Rights & Rule of Law <i>Lumpsum</i>	54,000	54,000	108,000
2. Establish Rights Focused Community Forum <i>Organize bi-monthly meetings at USD 1,000/meeting</i>	6,000	6,000	12,000
3. Training for Paralegals <i>Lumpsum</i>	36,000	30,000	66,000
4. Support 1 Justice & Confidence Centre <i>Support and Administer 1 Unit x USD 15,000/year</i>	15,000	15,000	30,000
5. Establish one Legal Aid / Public Interest Litigation Fund <i>Organize quarterly meetings at USD 1,000/meeting</i>	4,000	4,000	8,000
6. Establish 1 Legal Information Centre <i>1 Unit x USD 15,000/Unit</i>	15,000	-	15,000
7. Training Needs Analysis to support Court Administration and Management <i>Undertaken by the Chief Technical Adviser</i>	-	-	-
8. Conduct one-month training for Senior Police Officers <i>4 Units per year x USD 4,000/Unit</i>	16,000	16,000	32,000
9. Conduct 4-day training for Prison Officers <i>8 Units per year x USD 5,000/Unit</i>	40,000	40,000	80,000
10. Rehabilitate the Police Station in Damazin	30,000	-	30,000
11. Construct and equip a Police Training Centre in Damazin	60,000	40,000	100,000
12. Minor rehabilitation for the Prison in Damazin <i>Lumpsum</i>	25,000	25,000	50,000
13. Set-up a Local Steering Committee (LSC)	4,000	4,000	8,000
14. Conduct the Rule of Law Impact Study (RIPS)	-	-	-
15. Ensure monitoring of the return process of IDPs in collaboration with UN sister agencies and international non-governmental organizations	-	-	-
Sub-Total G	305,000	234,000	539,000
GRAND SUB-TOTAL (A+B+C+D+E+F+G)	1,906,950	1,482,600	3,389,550
<i>Security Compliance (1%)</i>	<i>19,060</i>	<i>14,826</i>	<i>33,886</i>
<i>General Management Service (5.6%)</i>	<i>107,857</i>	<i>83,856</i>	<i>191,713</i>
GRAND TOTAL	2,033,867	1,581,282	3,615,149

SECTION K - ANNEXES

ANNEX 1: UNDP GLOBAL FRAMEWORK FOR ACCESS TO JUSTICE: A HUMAN RIGHTS-BASED APPROACH

ANNEX 2: STRENGTHENING ACCESS TO JUSTICE AND HUMAN SECURITY IN THE TRANSITIONAL AREAS: ACHIEVEMENTS DURING PHASE I

ANNEX 3: TOR PROGRAMME OFFICER

ANNEX 4: TOR RULE OF LAW PROJECT MANAGER

ANNEX 5: TOR NATIONAL RULE OF LAW OFFICER

ANNEX 6: TOR CHIEF TECHNICAL ADVISOR / LEGAL SPECIALIST

ANNEX 7: CONSTRUCTION PLAN – JUSTICE & CONFIDENCE CENTRE

ANNEX 8: CONSTRUCTION PLAN – ABYEI COURTHOUSE

ANNEX 1

UNDP GLOBAL FRAMEWORK FOR ACCESS TO JUSTICE: A HUMAN RIGHTS-BASED APPROACH

UNDP is committed to using a human rights-based approach in its programming guided by international human rights standards and principles, which aims at:

- Focusing on the immediate, as well as underlying causes of the problem - the factors impeding access to justice (lack of safeguards to access, or insufficient mechanisms that uphold justice for all under any circumstances);
- Identifying the “claim holders” or beneficiaries - the most vulnerable (rural poor, women and children, people with diseases and disabilities, and ethnic minorities, among others);
- Identifying the “duty-bearers” - accountable for addressing the issues/problems (institutions, groups, community leaders, etc.); and,
- Assessing and analyzing the capacity gaps of claim-holders to be able to assert their rights and of duty-bearers to be able to meet their obligations.

UN Standards Related to Access to Justice

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- Code of Conduct for Law Enforcement Officials
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- Declaration on the Protection of All Persons from Enforced Disappearance
- Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
- Guidelines on the Role of Prosecutors
- Declaration on the Elimination of Violence against Women
- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice

Access to Justice requires more than improving an individual’s access to courts or guaranteeing legal representation. It must be defined in terms of ensuring that legal and judicial outcomes are just and equitable. UNDP is also committed to ensure that the criminal justice process is inclusive and does not leave the most vulnerable at the margin of the system. In a human rights-based approach, it is important to identify grievances that call for a remedy or redress. The capacity and actions needed to achieve access to justice, following a human rights-based approach, are outlined below¹⁸:

¹⁸ See *Access to Justice. A Practical Note*, UNDP, March 9, 2004, p. 8

Type	Description	Key Actors
Legal Protection	Provision of legal standing in formal or traditional law — or both — involves the development of capacities to ensure that the rights of disadvantaged people are recognized within the scope of justice systems, thus giving entitlement to remedies through either formal or traditional mechanisms. Legal protection determines the legal basis for all other support areas on access to justice. Legal protection of disadvantaged groups can be enhanced through: (a) Ratification of treaties and their implementation in the domestic law; (b) implementation of constitutional law; (c) national legislation; (d) implementation of rules and regulations and administrative orders; and (e) traditional and customary law.	<ul style="list-style-type: none"> - Parliament - International/regional fora - Ministry of Justice, police forces - National Human Rights Commissions - Law Reform/Legislative Commissions - Legal drafting cells of relevant ministries - Local officials involved in legal drafting - Judges - Traditional Councils - Community leaders (chiefs, religious leaders) - CSOs, especially those involved in legal research, legal advocacy and monitoring
Legal Awareness	Development of capacities and effective dissemination of information that would help disadvantaged people understand the following: (a) their right to seek redress through the justice system; (b) the various officials and institutions entrusted to protect their access to justice; and (c) the steps involved in starting legal procedures. UNDP's service line on access to information provides an opportunity to develop capacities and strategies to promote legal awareness.	<ul style="list-style-type: none"> - Ministry of Justice - Ministry of Education/higher education, schools and universities - Legal aid providers - Local government bodies - Non-governmental institutions (e.g. NGOs, Bar associations, universities, communities)
Legal Aid and Counsel	Development of the capacities (from technical expertise to representation) that people need to enable them to initiate and pursue justice procedures. Legal aid and counsel can involve professional lawyers (as in the case of public defence systems and <i>pro bono</i> representation), laypersons with legal knowledge (paralegals), or both (as in "alternative lawyering" and "developmental legal aid").	<ul style="list-style-type: none"> - Ministry of Justice - Ministry of Education/higher education, schools and universities - Legal aid providers - Quasi-judicial bodies (human rights, anti-corruption, and electoral commissions). - Local government bodies - Non-governmental institutions - Bar associations - Law clinics (often linked to university faculties of law)
Adjudication	Development of capacities to determine the most adequate type of redress or compensation. Means of adjudication can be regulated by formal law, as in the case of courts and other quasi-judicial and administrative bodies, or by traditional legal systems.	<ul style="list-style-type: none"> - Courts - National human rights institutions (Human Rights Commissions and Ombudsman Offices) - Alternative dispute resolution mechanisms: these can be attached to the court system, or be administrative bodies
Enforcement	Development of capacities for enforcing orders, decisions and settlements emerging from formal or traditional adjudication. It is critical to support the capacities to enforce civil court decisions and to institute reasonable appeal procedures against arbitrary actions or rulings.	<ul style="list-style-type: none"> - Prosecution - Formal institutions (police and prisons) - Administrative enforcement - Traditional systems of enforcement.

ANNEX 2

STRENGTHENING ACCESS TO JUSTICE AND HUMAN SECURITY IN THE TRANSITIONAL AREAS: ACHIEVEMENTS DURING PHASE I

The design of the first phase of the project stemmed from a field-based Human Security Study that was conducted over a period of five months in 2004, *Freedom from Fear: Promoting Human Security for the Return and Reintegration of Displaced Persons in Sudan*. It was the first major protection study conducted in Sudan in many years. Some of the major findings of this study were:

- Rule of law underpins the return and reintegration process (which in turn is a key to the peace building process).
- Given the sensitivities connected to rule of law, and to avoid exposing national staff, there is a need to increase deployment of international staff in key strategic areas - until the political/military situation is conducive to a more inclusive national deployment.
- There is a need for massive awareness raising and confidence building as an entry point for capacity building activities at community- and state-level.

A - Overall Objective

The immediate objective of the UNDP *Strengthening Access to Justice and Human Security* project initiated in March 2005 is to address threats to human security and diffuse the tensions that are anticipated to emerge with a large-scale return of displaced persons. The short-term objective is to promote confidence building and strengthen the capacity of state rule of law institutions to provide access to justice and to empower communities to exercise their rights.

B - Achievements

Between March and December 2005, UNDP Rule of Law established a solid presence in the Transitional Areas (Abyei, Kadugli and conducted assessment missions to Blue Nile with a view of establishing presence). With two Rule of Law officers (international and national) in each location, the following has been achieved:

- Established an effective UNDP Rule of Law presence through confidence building with state and non-state actors and communities, in order to de-sensitize rule of law and obtain operational space to pursue rule of law programming.
- Conducted situation analysis and identified entry points for capacity building programmes of local law-enforcement, judiciary officials, traditional leaders and civil society to protect and promote human rights, and provide access to justice for communities, displaced and returnees.
- Raised awareness on basic human rights amongst law-enforcement, judiciary and security officials and reoriented them towards their obligations to the civilian population.
- Commenced confidence building between communities and local authorities through active engagement on rule of law/human security issues.

In these very sensitive areas, where most of the UN agencies had no presence in the past, UNDP has also been able to lay the foundations to reach out communities through the establishment of field offices, provision of communication equipment and logistical support. The first five months of this programme have mainly been dedicated to these tasks.

Any achievement in the current context should be seen within the possibilities available and circumstances prevailing in the targeted areas. Given the fact that the first five months have been

mainly devoted towards establishing UNDP Rule of Law presence in the field, the achievements enumerated below are considered to be encouraging for more tangible results during the second phase of project implementation.

Nuba Mountains

- *Awareness Raising on Gender & Human Rights*

In collaboration with Ru'ya Association, a Nuba-based organization that focuses on women and gender issues, UNDP held a two-day workshop for Emirs from the Nuba Mountains. 12 of 16 invited Emirs participated in the workshop. This workshop followed an agreement with the tribal leaders to build their capacity and human rights awareness training for all levels of traditional leadership in the Nuba Mountains.

- *Rule of Law Seminar Series*

UNDP has entered into agreement with the Centre for Peace at the University of Dilling to organize a seminar series to raise awareness about rule of law and human rights, and to foster meaningful dialogue amongst vital stakeholders, including local students and academia. The dates of the lecture are being finalized.

- *UNDP/UN Police Refresher Course*

A comprehensive refresher course was held in Kadugli. Course facilitators were drawn from the UN Police in Kadugli, Juba and Kauda and the UNDP Rule of Law Office in the Nuba Mountains. 40 police officers of the rank of constable and sergeant participated and wrote an examination at the end of the course. The course content covered subjects ranging from arrests, searches and seizures, use of force and firearms, community policing, democratic policing to human rights, rule of law and gender issues.

- *UNDP/UN CivPol Executive Police Management Seminar*

Organised a joint three-day UNDP/UN Police workshop for SPLM and GoS most Senior Police Officers. The workshop was attended by 22 participants, including the SPLM Police Commander. The purpose of the Seminar was to build confidence and trust between the SPLM/GOS police forces through bringing together for training most senior police executives; sensitize the most senior police officers on rule of law, democratic policing, human rights, gender justice and leadership; brainstorm on the role of the new police force and challenges/priorities of policing in the post-conflict and transitional period.

- *Rehabilitation of the South Kordofan Unified Police Training Centre*

The above mentioned seminar and training are linked to the rehabilitation of the South Kordofan Unified Police Training Centre (Police Academy) based in Kadugli. It is expected that rehabilitation work will be completed by mid-April 2006.

Abyei

- *Open forum with the traditional leaders to identify strategies for assisting the customary legal system in Abyei*

The traditional/customary law systems of the Misseriya and Ngok Dinka have a rich history that have been researched and codified (to a degree) by several consultants. However, these customary law systems seem to have lost their cohesion and their administration now lack consistency and structure. The forum laid the foundation for comprehensive programming to strengthen the customary legal system in Abyei.

- *Customary Law Study*

UNDP has recruited a consultant who is currently undertaking a documentation project that will record and preserve the customary law in Abyei. This study will document the customary law system in all of Abyei Area, targeting all ethnic groups (Ngok Dinka, Misseriya and Tuic Dinka).

- *Construction of a customary court*

Upon guidance of the village chiefs, UNDP has initiated the construction of a chief's courthouse, designed for the settlement of customary law cases. It is expected that the construction of the Chiefs' Court will be completed by early mid-April 2006.

- *Construction of a courthouse*

UNDP has secured permission from authorities at the local level as well as permission from the Chief Judge of the National Judiciary in Khartoum to begin the construction of a courthouse in Abyei Town. UNDP is currently identifying the contractor who will undertake the construction. When judges are appointed to serve under the special administrative status, UNDP will engage in skills-training and legal development.

- *First Rule of Law Symposium in Abyei & Agok*

UNDP Rule of Law has organized the first Rule of Law Symposiums in Abyei & Agok. The purpose of these symposiums was to gather community leaders together in an effort to discuss the question: "What is Rule of Law?" and to highlight the various thematic fields that tie into this concept. Particular focus was given to the following issues of primary concern in Abyei & Agok at the present time: Human Rights and the Interim National Constitution; Returnees and the Rule of Law; The Customary Law System in Abyei; and, Policing and the Rule of Law.

- *Construction of a new police station*

The Abyei Police Chief has requested UNDP to build a new police station, provide basic equipment and furnishing, and facilitate trainings, as needed. Construction will begin as soon as the Director General of the Police in Khartoum endorses the project. The trainings started end of March 2006.

- *Protection of Returnees*

In close coordination with OCHA and UNMIS RRR and HR units, UNDP Rule of Law is providing guidance on protection issues. Among others, UNDP Rule of Law is drafting the protection component of the Returnee Questionnaire that RRR and OCHA have developed.

➤ **Overview of cross-cutting activities**

- *Carried out weekly situational analysis*

As part of the monitoring process established by the UNDP Rule of Law, the rule of law officers have produced weekly situational analysis of the inter alia, political situation, human security, return process, and rule of law situation in their respective geographical area. These reports have been shared with donors and at the level of the UNDP Country Office and the Office of the Special Representative of the Secretary General.

- *Participated in inter-agency field assessment on the return process*

As part of the overall North-South protection strategy, UNDP rule of law officers have constantly participated in and contributed to inter-agency (OCHA, UNHCR, UNICEF, UNMIS RRR and UNMIS HR) field assessment to monitor human rights and protection issues regarding the return process.

- *Participated in the preparation of the 2006 WorkPlan - Rule of Law Sector*

As the lead agency on Rule of Law in Sudan, UNDP has coordinated the Rule of Law Sector Plan of the UN Work Plan 2006. In each targeted area, the rule of law officers have played a key role in identifying priority interventions for implementation in 2006.

ANNEX 3

TOR PROGRAMME OFFICER



TERMS OF REFERENCE

Job Title: Programme Officer
Section/Unit: Rule of Law Unit
Duty Station: Khartoum
Post level: ALD-3

BACKGROUND

After decades of war, the Government of Sudan and the Sudan Peoples Liberation Movement (SPLM) have signed a comprehensive peace agreement to restore peace and security in the country. The implementation of the peace agreement will inevitably have a major impact on the Rule of Law institutions since, in the last twenty years, military and security forces have been the principal agents of “Law and Order”, often at the cost of basic human rights and customary practices. While revenues have been channeled to the military, little investment has been made to build the capacity of law-enforcement and judiciary institutions. To face the capacity building challenges of those institutions, UNDP aims at enabling Sudanese authorities, civil society and citizens to create an environment that is conducive to sustainable peace and development on the premises of Rule of Law. To this end, the inter-related projects developed by the Rule of Law Unit, will assist national stakeholders to respond to the existing Rule of Law vacuum (Protection, Access to justice, Capacity Building, Confidence Building & Legal Reform), and support local government in being more accountable, responsive, participative and equitable. This will also be a key to fulfilling UNDP’s role in promoting and supporting sustainable recovery, rehabilitation and developmental programming in Sudan, in the planning, making and building of a just and sustainable peace for all Sudanese people.

Key Results Expected/Major Functional Activities

The incumbent should have a clear and comprehensive vision of the challenges of the development in Sudan, with particular focus on Rule of Law. Her/his vision of development should pragmatically integrate the fundamental orientation of UNDP in its efforts to translated vision into action and actionable programmatic guidelines and support systems.

Under the overall supervision of the Team Leader and Senior Advisor on Rule of Law, the incumbent will provide hands on managerial and operational programmatic support to the Unit, with particular emphasis on project cycle management, reporting, technical, administrative functions and systems set up.

In doing so, the incumbent will ensure strict adherence to UNDP prevailing rules and regulations as well as standard operating practices.

SPECIFIC TASKS AND RESPONSIBILITIES

- Ensure supervision, monitoring, administration and management of project within his/her portfolio and provide backstopping services to the Rule of Law Officers on programmatic and operational

matters; including the preparation of annual work plans, project reports, drafting terms of reference, and ensure approval;

- Support design of projects and evaluate project implementation, including setting benchmarks and indicators; and provide backstopping to services to the Rule of Law Officers;
- Perform quality control function of Rule of Law programming, including assessing impact and effectiveness, tracking outputs and results, and ensure timely and efficient delivery of project outputs through a client-satisfaction approach;
- Supervise requisitions, purchase orders and payment requests in ATLAS, and ensure monthly delivery updates to the Team Leader on financial delivery performance;
- Facilitate joint programming, coordinated approaches and ensure linkages between Programme thematic areas and operations, and amongst colleagues;
- Liaise with UN agencies, national and international NGOs, civil society and targeted populations;
- Liaise with national counterparts and donors on project implementation, including engaging in technical and substantive dialogue, organize field-visits, produce mid-term project reports and final evaluations;
- Ensure adequate visibility and awareness in relation to programme portfolio and support resource mobilization efforts and other duties, as assigned by the Team Leader and Senior Advisor on Rule of Law;
- Act as interface between programme/projects and operations to smoothen potential bottlenecks that could arise and further improve levels of service to projects;
- Assist in resource mobilization efforts; and,
- Develop, fine tune and engage in current coordination to facilitate institutional and operational and program related support (program, finance, logistics, human resources) to projects.

REQUIRED SKILLS AND COMPETENCIES

- Advanced university degree in Social Sciences, with a specific focus on management studies;
- A minimum of 5 years of progressive experience in project planning and management
- Experience of working with government authorities as well as with IDP populations, grass-roots communities and civil society;
- Proven record and extensive track record in Rule of Law and/or Human Rights; and capacity building;
- Strong knowledge of UN/UNDP policies, programming frameworks and procedures, proven ability to design and facilitate complex development interventions;
- Ability to translate challenges faced in a complex environment into strategic planning and implementation and sustainable recovery;
- Demonstrated initiative and perseverance;
- Self-starter, highly motivated and comfortable in a multi-cultural, multi-racial team setting;
- Results driven, ability to work under pressure and to meet strict deadlines;
- Strong diplomatic, catalytic and team-building skills;
- Ability to handle confidential and politically sensitive information;
- Excellent written and spoken English. Knowledge of Arabic is an advantage.
- Ability to use information technology effectively as a tool and resource.

BEHAVIORAL COMPETENCIES

- Capacity to implement the strategic vision, programmatic goals and service lines laid down in the Country office programme strategy;
- Ability to inspire and influence to action;
- Proven performance in organizing and coordinating major initiatives, events or challenging inter-organizational activities;
- Analytical judgment to take the right decisions in cases where no precedence has been set;

- Track record of building and maintaining relationships across functional and geographical divisions;
- Strong sense of team commitment, and the ability to make the sum larger than the individual parts;
- Outstanding communication skills that enable him/her to minimize confusion and maximize understanding;
- Successful service management practice and know-how; and,
- Strong Service and Client Orientation.

KEY SKILLS SET:

- Programme management
- Excellent communication: computer, writing, editing, oral
- Negotiation and trust building
- Team building
- Innovation and adaptability
- Participatory approaches
- Results orientation
- ICT & networking: tool and resource

ANNEX 4

TOR RULE OF LAW PROJECT MANAGER



TERMS OF REFERENCE

Job Title: Project Manager (3)
Section/Unit: Rule of Law Unit
Location: Abyei, Kadugli & Damazin
Post Level: ALD-3

BACKGROUND

Sudan has suffered from a protracted civil war since 1983 with more than one million dead; an estimated four million persons have been internally displaced; over a quarter million refugees are in neighboring countries and further a field; there has been an emigration of much of its intellectual and professional capacity; its economy and social infrastructure has been severely impacted; and large tracts of potentially productive land are now contaminated by land mines. The adverse impact of this protracted conflict upon the living conditions of many communities in transitional areas is reflected in their abject poverty, poor health and sanitary conditions, serious deterioration in educational standards, and lack of opportunity to establish sustainable livelihoods and their former self-sufficiency. This is particularly true of communities hosting internally displaced persons due to conflict or recurrent natural disasters.

The prevailing war-mentality and continued military rule across Sudan pose a serious threat to human security and a legitimate justice system. Judiciary and law-enforcement institutions suffer severe competence and capacity deficits, while customary mechanisms have been grossly eroded and marginalized. The institutional and operational gaps in the Rule of Law sector are further compounded by a massive circulation of small arms, continued low-intensity conflict in some parts of the country and a lack of confidence amongst the populace in an impartial justice system.

In establishing an environment that is conducive to Rule of Law, it is fundamental to replace a military culture with a legal framework, competent law-enforcement and an independent judiciary. In order to effectively respond to these challenges, UNDP Sudan has positioned itself within the crisis and post-peace agreement phase. Adopting a strategic and operational response to conflict and post-peace agreement situations, the UNDP Rule of Law Programme for 2004/2005 is designed to respond to the current Rule of Law vacuum and incrementally bridge the gap between relief and development.

In this view, UNDP Sudan will conduct in the coming months a specific project ***Strengthening Access to Justice and Human Security***. The purpose of this project is to address the immediate threats to human security and diffuse the tensions that are anticipated to emerge with a large-scale return of displaced persons to the garrison towns, the transitional areas and SPLM controlled areas in the South. Through cross-line planning and implementation between North and South, this project seek to promote a secure environment by building the capacity of *de facto* and *de jure* law-enforcement and judiciary authorities to protect human rights and guarantee access to justice.

JOB DESCRIPTION

Under the overall supervision of the Team Leader and Senior Advisor on Rule of Law, and the direct supervision of the Programme Officer, and in close cooperation with other team members, the Rule of Law officer will substantially contribute to the strategic and programmatic development and implementation of the UNDP Rule of Law Programme.

His/her main duties will be as follows:

- Conceptualize, implement and monitor strategic medium- and long-term capacity building interventions in the Rule of Law sector; including law-enforcement, the correction systems, and the judiciary.
- Conduct in-depth analysis, gather lessons-learned and provide substantive recommendations and strategic guidance on the domestic justice system vs. international standards.
- Engage in capacity- and confidence-building with Rule of Law sector, including consultative and participatory processes with national stakeholders, including women's networks and legal professional associations.
- Ensure effective administrative and financial management of projects within his/her portfolio.
- Perform quality control function of Rule of Law programming, including assessing impact and effectiveness, tracking outputs and results, and ensure timely and efficient delivery of project outputs through a client-satisfaction approach.
- To assess the impact and effectiveness of the assistance through regular consultations with national and international counterparts and stakeholders, regular field visits, analysis and preparation of progress and other required reports.
- Provide technical advice and mentoring on basic human rights, code of conduct and principles of the justice system to local judiciary, law-enforcement, security and traditional authorities.
- Promote confidence building measures and means of enhancing human security for IDP populations, including collaborating with implementing partners on training and the establishment of legal aid centers.
- Organize baseline information gathering activities.
- Ensure high quality reporting on Rule of Law activities.
- Provide training and technical assistance to authorities, partner organizations, and civil society groups on Rule of Law.
- Organize relevant seminars, trainings and workshops to promote human, gender and child rights.
- Support the organization, set up and management of the new judiciary and law-enforcement structures following the peace agreement.
- Liaise with government counterparts, UN agencies, national and international NGOs, civil society and targeted populations.
- Participate in inter-agency working groups and initiatives to promote rule of law, protection and human security.
- To perform any additional tasks as requested by the Supervisor.

REQUIREMENTS

- Advanced university degree in law, political science, governance or related field;
- At least 5 years' professional, relevant, experience;
- Proven experience and expertise in promoting rule of law in post-conflict situations;
- Mature personality, capable of handling sensitive, politically-related situations, and contacts within government authorities in a highly delicate political environment;
- Dedication to the principles of the United Nations, especially for working in a culture of diversity;
- Fluent in English;
- Excellent report-writing skills;
- Excellent command of MS Office applications;
- Excellent communication skills; teamwork player and self-starter;

- Ability to live in a remote locality and work under difficult circumstances;
- Ability to work under pressure and to meet strict deadlines;
- Previous working experience within the UN System and/or NGOs would be an asset.

ANNEX 5

TOR NATIONAL RULE OF LAW OFFICER



TERMS OF REFERENCE

Job Title:	National Rule of Law Officer (5)
Organization:	UNDP
Section/Unit:	Rule of Law Unit
Job Location:	Sudan (Abyei, Nuba Mountains and Blue Nile)
Post Level:	NOB

JOB DESCRIPTION

Under the overall supervision of the Rule of Law Programme Officer, and the direct supervision of the International Rule of Law Officer, the incumbents will substantially contribute to implementation of UNDP's Rule of Law Programme at field level, working closely with the International Rule of Law Officer in:

- Conducting negotiations, consultative and participatory processes with national stakeholders, such as authorities, civil society, legal professional associations, internally displaced persons, and community-based organizations;
- Organize capacity and confidence building activities within the Rule of Law Sector, including training, workshops and round-tables;
- Support local authorities in the implementation and dissemination of the Comprehensive Peace Agreement as relates to rule of law and human rights;
- Assist national stakeholders in improving or establishing mechanisms for access to justice, including both statutory and customary conflict-resolution mechanism;
- Liaise with; governmental bodies, UN agencies, national and international NGOs, civil society, IDPs and communities;
- Work closely with the authorities, UN and NGO counterparts in the field in contributing to the Return and Reintegration process;
- Assist in translation and keep records of all rule of law meetings, training sessions, working groups and other participatory processes;
- Other duties as assigned by the International Rule of Law Officer.

REQUIREMENTS

- University degree or equivalent in Law/International Relations/Political or Social Science;
- Proven track record in rule of law and/or human rights, capacity building and development programming;
- A minimum of 3 years of experience in Rule of Law Sector or related fields;
- Excellent knowledge of current political affairs in Sudan, which particular focus on Rule of Law;
- Experience of working with government authorities as well as with IDP populations, grass-roots communities and civil society;
- Ability to handle confidential and politically sensitive information;
- Excellent command of written and spoken English and Arabic;
- Ability to work under pressure and to meet strict deadlines.
- Past experience with international organizations in similar positions would constitute an advantage.
- Qualified women are encouraged to apply.

ANNEX 6

TOR CHIEF TECHNICAL ADVISOR / LEGAL SPECIALIST



TERMS OF REFERENCE

Job Title: Legal Specialist - Chief Technical Advisor
Section/Unit: Rule of Law Unit
Job Location: Nuba Mountains - Sudan
Post Level: ALD-4

BACKGROUND

The South Kordofan State is characterized by two different legal systems, namely *Sharia* based laws in former GoS areas and a common law system in former SPLM/A controlled areas. The SPLM have a different judicial structure and administer the laws of the “New Sudan”. The High Court is located in the State whilst the Supreme Court is situated in Rumbek. The State will continue to have two systems operating until such time as the new Government enacts laws to merge them. The formal courts are located mainly in towns and their independent role is not well understood by the public. Public access to the courts is limited by high user charges, cumbersome formal procedures and their distance from the people, especially poor rural communities. Limited operational budgets prevent courts to hear cases in rural areas or for judges/ legal administration officers to monitor and guide traditional courts on points of law and procedures.

The whole State experiences an absence of the most basic physical infrastructure and operational equipment. In the former SPLM controlled areas, its de facto laws and decrees are undermined by severe lack of judicial facilities and lack of trained personnel in the judiciary and law enforcement. There are less than 30 well-qualified judges and about 50 lawyers in the whole State. In the SPLM areas, since 1996, the system relied on the services of paralegals who in most cases were not well educated. In situations where these were legally qualified, their qualifications were in Arabic and yet the laws they are called to administer are written in English. Apart from the problems of poor working conditions for judicial personnel in former GoS controlled areas, in the SPLM, judicial personnel are not remunerated.

The lawyers in South Kordofan State belong to the National Bar Association in Khartoum that is far removed from the daily needs and challenges of the local conditions. Lawyers have however, begun to discuss how they can form themselves in some form of a forum or body to articulate their needs.

The adviser will be based alternately at the Judiciaries in Kadugli and Kauda for the duration of the assignment and will report to the respective Heads of the Judiciaries on a day to day basis, and also to the UNDP Rule of Law Project Manager in Kadugli. The assignment amounts to 12 months with a possibility of extension depending funding and performance.

JOB DESCRIPTION

Under the overall supervision of the Rule of Law Programme Officer, and the direct supervision of the Rule of Law Project Manager, the incumbent will have the following responsibilities:

- To assess and identify weaknesses and short-comings of the procedures and processes within the judiciary;
- Recommend solutions to strengthen the court administration and management systems;

- Provide leadership, mentoring and training to the professional and support staff in court administration and management;
- Provide advice to the Judiciaries and Legal Administration Office on court management and other judicial functions;
- Undertake in coordination with the Judiciaries and Legal Administration's Office the development of medium/long term strategic and development plans for the State Judiciary;
- Develop appropriate information, record and case management technologies for the judiciaries;
- Advise on how best coordination of all justice institutions can be achieved; and,
- Analyze how access to justice can be achieved and recommend appropriate activities to be developed and implemented.

REQUIRED QUALIFICATIONS AND EXPERIENCE

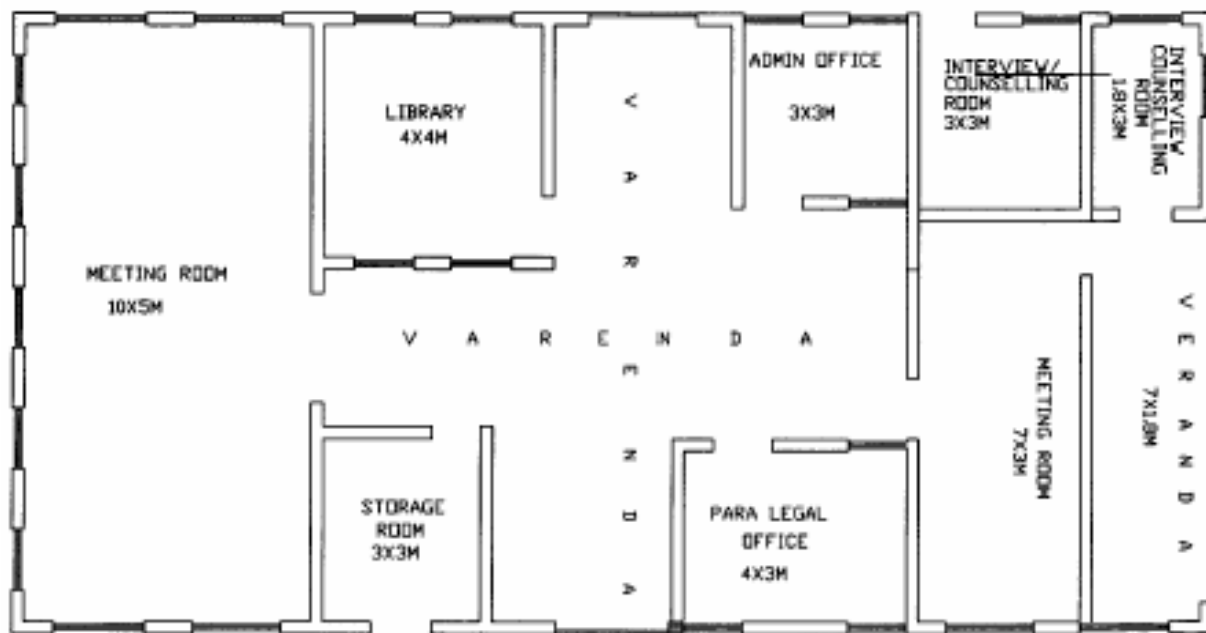
- Strong experience in the Justice Sector. A lawyer with significant judicial sector policy, program and management experience;
- Incumbent must have worked at high level in judicial administration and management, with staff, budgets and programs;
- Minimum 10 years experience, of which at least 3 years at field level;
- Advanced legal education;
- Experience in justice development in post-conflict and development settings, and Islamic Law;
- Ability to work with partners in government, the judiciary and development agencies;
- Good English and working knowledge of Arabic; and,
- Strong leadership skills and a team-player.

BEHAVIORAL COMPETENCIES

- Proven performance in organizing and coordinating major initiatives, events or challenging inter-organizational activities;
- Analytical judgment to take the right decisions in cases where no precedence has been set;
- Track record of building and maintaining relationships across functional and geographical divisions;
- Strong sense of team commitment, and the ability to make the sum larger than the individual parts;
- Outstanding communication skills that enable him/her to minimize confusion and maximize understanding;
- Successful service management practice and know-how; and,
- Strong Service and Client Orientation.

ANNEX 7

CONSTRUCTION PLAN JUSTICE & CONFIDENCE CENTRE



Design of the Justice & Confidence Centres

ANNEX 8

CONSTRUCTION PLAN ABYEI COURTHOUSE

