

Evaluation Report

UNDP Nepal: Evaluation of Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme

Final Report

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*Empowered lives.
Resilient nations.*



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Executive Summary

In spite of enormous constraints facing the rule of law institutions due to political uncertainties in the country, some achievements of the RoLHR programme are noteworthy. The bottom up approach of the project design has led to some identifiable improvements in the administration of justice through participatory coordination mechanisms and increased access to justice for women and vulnerable groups. To date, however, the Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme (hereinafter, RoLHR programme or “the Programme”) still has not been as transformative of Government as envisioned by the programme document. The Programme is relevant to the Government of Nepal’s (GoN) development strategies, as well as the third Five Year Strategic Plan of the Supreme Court and the annual and strategic plans of other rule of law stakeholders. Yet, being relevant to frameworks and strategies on the supply side does not necessarily mean that the Programme is as yet as relevant as it could be to the lives of UNDP’s core beneficiaries on the demand-side of the justice equation. Moreover, RoLHR has been constrained in its ability to deploy some *added value* in the form of technical assistance. At this point, however, technical options are available and open for the future, if the programme and its donors so demand.

Aside from the Supreme Court, overall ownership and pro-active engagement of the other implementing partners has not achieved as strong a level as envisioned. To some extent, Nepal’s changing political situation and consequent poor quality of work environments within the institutions may be responsible for this. While the Supreme Court has exercised a great degree of supervision over the Programme, at times this had bordered on micro-management to the detriment of the agendas of the other implementing partners and the pace of implementation.

UNDP conducted a number of briefings with the NPD over the implementation period. Yet, no comprehensive induction orientation was ever given. Thus, it appears that UNDP could have done a better job of orienting the National Programme Director (NPD) about expectations on both sides. The NPD’s proper function is to oversee strategic policy and programming direction as well as operational effectiveness, not to be involved in the day-to-day operations of the project. There is a fiduciary duty implied in the office of the NPD to approve items related to implementation of the Annual Work Plans (AWPs) of other implementing partners (IPs).

Another factor is that the NPD has himself been constrained periodically due to the institutional culture and gaps between the old Chief Justice and the appointment of the new Chief Justice. There is a gap between the pro doc and the reality in 2015. In practice, the National Project Manager (NPM) and the NPD have a very difficult division of authority and roles. This has created bottlenecks on the desk of the NPD who must approve all expenditures.

Going forward, the coordination between programme management and programme oversight functions must be reviewed in order to develop a business process that will enhance effectiveness of programme implementation. The Project and all IPs could benefit from the support of a dedicated staff member at the Supreme Court to assist the NPD. UNDP and the IPs may wish to redesign the project document to provide for appointment of a person at the Supreme Court who could assist the NPD and also serve as a liaison between the CTA and the court and the A2J Specialist and the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA).

The Programme should also improve RoLHR abilities to follow-up on requests from IPs. There should be a way to make the IPs accountable for their planned activities. Their role and lack of follow up is not well documented and it creates a situation where any lack of implementation is cast as UNDP's failure. UNDP should consider relocating or co-locating project staff in the Supreme Court and/or MoLJPA. The RoLHR Project should have a satellite office at the Supreme Court, so that project staff has a dedicated space to meet with mid-level court officials, visiting judges and court employees, as well as representatives from other IPs whenever need be at the Supreme Court, rather than RoLHR Programme office.

A fundamental element of the RoLHR Programme as originally designed was the provision of international technical assistance. Yet, the Supreme Court and other IPs have not been open to receiving inputs from the CTA or A2J Specialist. The position of CTA was agreed by all stakeholders at the beginning of the programme and in the development of the prodoc. As of mid-2015, the CTA is devoting only 50 per cent of his time to the RoLHR programme, but given the fact that the court does not solicit his offices and expertise, in reality, the CTA is effectively contributing very little. The Supreme Court (and MoLJPA) has refused to recruit for a replacement of the A2J Specialist, despite the CJ's new "Access to Justice Commission." There has been limited "hands-on" mentoring delivered by the RoLHR to institutions (i.e. by the P4 "Legal Aid Advisor" and CTA), but objectively, this could have been expected to be more intensive—especially given the presence of a CTA. Yet, the CTA was effectively precluded from acting in such a manner. Also, the demand-side component of the programme remains underserved.

The Evaluation does not currently see a high enough level of UNDP/RoLHR in-house technical expertise able to be deployed effectively to the Supreme Court and IPs due to a number of factors including the disproportionate amount of time that Programme staff must spend on logistics and UNDP compliance, but foremost due to institutional resistance to advice, mentoring or change management in any form—especially if that advice is rendered from international technical experts. Again, this is a departure from the original vision of the project document that specifically envisions that a CTA will advise the Supreme Court and other IPs.

In lieu of deployment of international technical advice, there has tended to be a focus by RoLHR and IPs upon procurement and strict adherence to servicing the GoN's supply-side agenda, rather than mentoring and effecting process change within the institutions. This begs the question "what has been UNDP's added value during the programme implementation period and whether or not UNDP's added value has been utilized?" Going forward, if the prodoc is revised, then UNDP and its donors must firmly resolve the issue of the CTA and P4. Going forward, a clearer "link" between hardware and procurements for the courts and end-service delivery to court users should be established.

The project has encountered many delays. Out of \$24 million in the budget, and \$22 million pledged, only \$7 million has been spent as of mid-2015 (i.e., 2013 = 1.4; 2014 = 4.2; 2015 (Q1-Q3) \$1.4 million). After the Programme's revision and the removal of the Transitional Justice component, the total budget was reduced from \$24 million to \$22 million. 2013 was the inception year for the Programme. The prodoc was signed in April, but the Programme started late from July 2013. As of mid-2015, the RoLHR Programme has several vacant staff positions that need to be filled and, ideally, one additional RoLHR field office should be established and staffed in Biratnagar pursuant to an updated organogram of the programme.

There also were some delays reported during the first year of implementation due to the fact that elections were held in November 2013, where large numbers of judicial officials were deployed on monitoring missions and not able to participate in Programme activities. 2014 represented the first full year of implementation of the Programme. 2014 represented much progress in the Constitutional Assembly (CA) as a result of the second CA election held in

November 2013. This spurred related legislative and budgetary developments in the GoN. It is clear that there were large gaps not being addressed in 2014. Programme implementation fell further behind as a result of the earthquake in April 2015. There remain significant needs in earthquake-affected districts. Such infrastructure and procurements must have a clear link to A2J for vulnerable groups.

Some RoLHR outputs have laid foundations for dialogue, justice sector coordination, legal aid, affirmative legal education and legislative reforms. Overall progress has not been as extensive on the structural issues and process change within the institutions as one could have hoped in a RoLHR project of this magnitude. It appears that a disproportionate amount of time has been spent on logistics (i.e. hiring consultants, etc.) and trainings for supply-side institutional needs that service the Judiciary's Strategic Plan; and not enough focus on the specific issues and processes impacting upon vulnerable groups. Discussion on judicial integrity and financial management of the judiciary are almost wholly lacking from the Programme and its activities to date. The work with the National Dalit Commission, National Women's Commission and the numerous civil society organisations (CSOs) operating in the field to obtain rights, remedies and benefits for women and vulnerable groups is not as strategic or as deep as one would have hoped, given the overriding rule of law, human rights and protection goals of the programme's design.

Under the RoLHR Programme, UNDP has supported the Court's Strategic plan; mediation; and much other procurement for the Supreme Court and pilot district courts (i.e. in camera hearing rooms and equipment; computers and other IT support. There are more than 11 knowledge products developed by RoLHR. The RoLHR programme has launched several innovative approaches (i.e. the Justice Sector Coordination Committee (JSCC) and Socio-Legal Aid Centres (SLAC) are foremost among these) (note: court information desks are also claimed as an innovation of the RoLHR programme). In some instances, UNDP appears to have overstated its contribution. For example, what has been billed as an "integrated approach" in 5 districts amounts to little more than the fact that the Supreme Court and MoLJPA activities happen to be found in the same 5 districts, although, the JSCCs do appear to be facilitating increased dialogue among justice sector stakeholders.

The RoLHR Programme has been effective in advocating for MoLJPA to pilot socio-legal aid approaches within Nepal's legal aid regime. The RoLHR supported SLACs are resulting in greater numbers of women and vulnerable groups receiving legal and psychosocial assistance; the approach is innovative for Nepal and serves a distinctly different purpose and target beneficiary group than the District Legal Aid Committees (DLACs). There is, however, little, if any, plan on the part of the GoN to extend pilot districts or make them sustainable. Also, the pilot district courts supported by the predecessor UNDP A2J project are not at all included in the current RoLHR Programme. There is, however, some indication that MoLJPA intends to use the lessons learned from SLAC to eventually amend the Legal Aid Act to include SLACs. The Legal Aid Act needs to be further revised in regard to its income test for eligibility as the current formula has the unintended effect of excluding certain groups, such as women who suffer from SGBV, whose families may be wealthy, but where the female victim herself holds no property rights and has no income or independent means of support.

The JSCCs appear to be working well with significant ownership of the various stakeholders. JSCC members report that the committees serve to enhance communication across the justice and rule of law sector. The JSCCs have taken on a variety of issues and the national-level secretariat has developed an action plan. It is important to ensure that the JSCC is not seen solely as a child of the Supreme Court, but that all IPs' sense of ownership is enhanced. The Mediation Council's local level mediations and MoLJPA's "Village to Village" initiative are innovative, providing an increased level of access to justice for citizens and filling a "gap" between the informal and formal justice systems. These could be expanded. The "Joint Monitoring Group" chaired by the National Dalit Commission (NDC) is innovative and has

resulted in quick and coordinated justice sector response to high profile cases of caste-based discrimination.

This said, there are gaps in the design of the RoLHR Programme. Issues of judicial integrity are not a central focus of UNDP's supply side interventions, other than the theory that improving case management systems reduces the available opportunities for influence and corruption. Mechanisms for strengthening investigation, dismissal and prosecution of judges who engage in judicial misconduct are lacking. Going forward, the RoLHR Programme could utilize the Code of Conduct for Judges and Code of Conduct for Prosecutors, as well as possibly the Supreme Court's A2J Commission as entry points for programming on judicial integrity and accountability. Also, in terms of access to justice and rule of law, the CDOs (and other quasi judicial authorities) are not covered by the RoLHR programme to date (other than via some trainings and their membership in the JSCC). This is a huge gap, as CDOs impact upon A2J at the local level. Furthermore, strategic partnerships with civil society are lacking and no UN agencies are currently involved as partners in the Programme.

The above findings on SLACs, JSCCs, court information desks and the Joint Monitoring Committee were confirmed by the Evaluation's field visits to the *Kathmandu District Court*, *Lalitpur District Court*, *Syangja District* (JSCC, Court Registrar, CDO, private lawyers, Women's Development Forum, JSCC members, DLAC legal aid attorney and court paid lawyer) and *Magdi District* (CDO, Police, OAG, Bar Association, court paid lawyer, Head of Corrections (Jail), *Magdi District Court* Judge and Registrar). The Evaluation also visited *Sindupolchowk District* (one of the districts hardest hit in the April 2015 earthquake) and met with the JSCC, toured temporary court facilities and met with the OAG, District Judge and Registrar. The high level of coordination of the JSCC and court paid attorney in Sindupolchowk in response to the needs of earthquake victims was remarkable and resulted in expedited hearings and petitions for replacement of lost documents, etc. These findings are further discussed in the section of this Evaluation Report dealing with results across each of the outputs.

The Programme was delayed in appointing a GESI Officer until 2014. In general, GESI can be strengthened at all rule of law and GoN justice institutions. RoLHR outputs that have advanced GESI to date include, most significantly, the following: SLACs (this is a fundamental advancement of A2J in the pilot districts); in camera hearing rooms in pilot courts; NBA internships; and Tribhuvan University Law College scholarships for law students/bar exam assistance (for a very limited number of women). The Project has enhanced women's A2J. The RoLHR Programme also pushed local officials to work on SGBV cases, etc. Previously, the justice sector was scattered, but through the Programme, there are some early indications of synergies between justice sector agencies, (i.e. referral of cases from VDC to district courts).

The Prodoc, its RRF, M&E frameworks and AWP should be revised at mid-point, so as to better articulate a clear theory of change running through the entire Programme. Notably, the Programme's project document, its RRF and indicators appear to have been designed and finalized without any comprehensive study or surveys being conducted, or any political economy analysis. A citizen's perception survey on the justice sector was planned at the outset of the Programme, to establish baselines, but had not been conducted as of end 2013. The AWP and revised Programme RRF are not aligned well with each other. In particular, the indicators of the existing prodoc and RRF are not optimal and should be made more measurable and properly scaled to the scope of the intervention, project duration, available resources and capacities of the implementing partners. A revision of the prodoc will present an opportunity to strengthen the involvement of all the IPs, not only the Supreme Court. The revision of the project document provides an opportunity for all the IPs to become clear on expectations and to increase the level of ownership of the IPs. It also provides an opportunity

to enhance effective implementation and delivery, which is lagging behind, and to readjust RoLHR to new circumstances on the ground and in the justice sector (earthquake response, promulgation of constitution, increased sense of national ownership, etc.)

The time is right for UNDP and the Donors at mid-term to undertake a complete revision and reprioritization of the outputs of the RoLHR Programme—especially in light of several recent developments including a) the coming into force of Nepal’s new Constitution; b) a decision by GoN that the government’s default position is not to seek international technical advice unless it is short-term in nature, for a specific activity/deliverable and when no national consultants can be identified (this decision occurred post-signing of the original project document and is used as a reason not to utilize the RoLHR Programme’s CTA and A2J Specialist); c) the U.N.’s 2030 goals and particular SDG no. 16 and its affiliated targets, which emphasize access to justice and human rights; d) renewed conflict in several development districts of Nepal, which poses challenges to access and implementation; and e) the post-disaster needs of certain districts and populations in Nepal as a result of the earthquake of April 2015.

These factors should drive UNDP and its Government Partners to take, among others, the following changes:

- 1. Put more emphasis upon justice sector coordination (Note: to date, the Project has not yet achieved the level of coordination between justice sector institutions that had been expected). The implementing institutions still lack information about what the other one is doing. UNDP’s approach should focus more on problem-solving at the institutional level and advocate for the adoption by the Supreme Court of performance benchmarks for service delivery to court users;*
- 2. Focus more on the community level as well as at the sector level with capacity building at the local level. (Note: at the moment, the focus of the project is predominantly focused on the supply side and there needs to be more focus on A2J at the local level and the demand-side of the justice equation). For example, judicial outreach and client relations in the districts have not been fully addressed by the Judiciary, yet the RoLHR ‘ is continually presented with requests from the Judiciary for international travel;*
- 3. Prioritize RoLHR outputs and shift to legal aid and A2J on the demand side; with empowerment of women and vulnerable groups; and strengthen partnerships with civil society for legal aid and A2J. In general, the role of CSOs in the ‘ should be enhanced. (Note: to date, implementing partners have not been receptive to including civil society, beyond their participation in the JSCC and SLACs);*
- 4. Focus more on local level governmental actors. For example, the central level authorities have been invited to major conferences and study visits, but the District level actors have not been equally targeted for trainings, conferences and study visits (i.e. VDC secretaries have been involved in some trainings, but not conferences or study visits);*
- 5. Involve the MoF in discussions about sustainability. In revising the prodoc it presents a good opportunity to create a sustainability strategy, ahead of the sustainability strategy envisaged during the last year of the Programme’s implementation; As designed, the project is NEX, not DEX, therefore, UNDP/RoLHR is limited in its ability to do anything without the approval of the Supreme Court. Going forward, it would benefit sustainability and*

implementation if the field-level authorities were given some limited authority by the Supreme Court and other implementing partners to decide some issues themselves. This is also related to the sustainability of the Project. When the project stops, there must be some local ownership;

6. Look into the management structure of the programme, in consultation with the Chief Justice and other programme partners. The current management and oversight roles in the RoLHR must be scrutinized by all RoLHR programme partners and an effective business process should be developed that will ensure more effective coordination and programme implementation. There are focal persons identified at each IP who are responsible for taking responsibility for their areas, but in practice the NPD is the only person who can sign approvals; and

7. Better align the RoLHR Programme with the goals of the UNDP Strategic Plan 2014-2017, specifically, the key issues identified by the Quadrennial Comprehensive Policy Review (QCPR). The QCPR identifies five key development issues: poverty eradication; sustainable development; gender equality and women's empowerment, transitions from relief to development and resilience. The QCPR would indicate that the RoLHR Programme should ideally include a legal empowerment component and that GESI and women's empowerment, as well as resilience should be prioritized.

On the supply-side, UNDP, donors and the Supreme Court and other IPs must openly address the issue of the CTA and A2J Specialist. Ideally, by the date of completion of a revision of the project document UNDP and its donors should reach an accommodation and firm commitment from the Supreme Court and IPs to utilize the CTA and A2J Specialist, including an agreed detailed work plan and schedule of deliverables for the CTA. If this cannot be achieved, then the Donors might consider reallocating these funds to short-term technical experts.

At the same time, the RoLHR Programme should continue to support joint efforts of the IPs on the long-term structural changes in the justice system to enhance rule of law, in particular for vulnerable and marginalized people, which is central to its goals. The Programme needs to work strategically to develop the institutional capacities and improve structural issues within the justice sector and to ensure the sustainable integration of supply side activities in the government system.

At the local level and on the demand side, the RoLHR Programme should have a clear contingency plan on how to implement in the Midwest and Far West and Terai. The Programme and its IPs should incorporate civil society to a much greater degree including the organizations of women, Dalits and other vulnerable groups. RoLHR needs to explore small grants to CSOs (particularly in Terai, Mid West and Far West). The role of other UNDP projects that are working on that may have synergies. In addition, the RoLHR Programme should partner with UN Women—especially for demand-side programming on access to justice, legal aid and legal empowerment. The RoLHR Programme must also pay attention to the processes being used, especially in its interventions on the demand side. When the programme support ends, without a clear exit strategy it can leave beneficiaries without legal representation while their cases are pending or expose them to risks associated with coming forward for legal representation or psychosocial assistance. The RoLHR Programme must respect the fundamental principal of development “do no harm”.

The RoLHR Programme should address the implications of the new Constitution for A2J and rule of law as follows:

- Raising awareness on the catalogue of fundamental rights enshrined in the new Constitution;
- New Commissions (NDC and NWC will need support).
- Orientations of judicial bodies and members of the bar to the provisions of the new Constitutions,
- The Courts will need technical and capacity building assistance to establish lower courts at the community level. In addition, the new Constitution provides for a new Constitutional bench within the Supreme Court. It is anticipated that the Supreme Court will soon request that RoLHR have outputs related to the Constitutional bench of the Supreme Court.
- With the change of Constitution, the number of appellate courts is reduced and the new “higher courts” (with additional jurisdiction) will also create a need for training.
- district courts will have a new appellate jurisdiction over quasi-judicial decisions. district courts are also expected to be flooded with public interest litigation. This is an important area for the revision of the programme. The district courts also cite “continuous hearing” as an area that needs more work.
- Codes and laws: The new Constitution mentions a number of laws and the MoLJPA is the authority that must draft these laws. This has widened the scope of the MoLJPA. The RoLHR Programme should continue to support improvements in the capacities of the line ministries in terms of legislative drafting and should support the MoLJPA in its overall efforts of reviewing, amending and creating legislation in line with the new Constitution.

Under the new Constitution, provincial governments will be given more power and they can play an enhanced role in the delivery of legal aid and SLAC. This should go in to the next AWP. There have been a few examples of this to date, (i.e. judicial outreach, where the District Court of Kailali coordinated with CSOs at the district level without the need for significant prior approval between the RoLHR Programme and the Supreme Court. The Kailali District Court judge simply shared with the NPD that the local court intended to cooperate with local CSOs and the NPD accepted and approved). The new Access to Justice Commission may offer entry points for district courts to take an active role.

While the work of the UNDP field monitoring offices is exemplary, the overall RoLHR M&E and briefs to donors have often been devoid of baselines. The RoLHR Programme is working in 23/75 district courts. The Programme should move to a system of implementation whereby when the Programme has an intervention in a pilot district court then the court must report to the NPM with categories of data to evidence impact and the Programme must interview beneficiaries. The ProDoc must be redesigned to include more means of M&E and verification of impact of interventions at the level of the district courts. Many of the indicators in the RRF are not measurable or are not well constructed. The indicators need to be reviewed one-by-one and revised. The project is trying to have disaggregated data and indicators from GESI perspectives. However, that is not at the required level. (e.g. - Second quarterly report-April-June 2015). The revision of the project document provides an opportunity for the inclusion of disaggregated data. This is also in line with the M&E requirements that the Government will be responsible for in relation to SDG 16.

GESI can also be strengthened across the RoLHR Programme. RoLHR should support orientation/training on “GESI sensitization and mainstreaming” to the judiciary and all IPs. A GESI strategy of RoLHR is currently being developed, but should be expedited by UNDP. The Programme should also continue support for the development of a GESI strategy for the Supreme Court. Additional outputs would include formulating a GESI action plan for the JSCCs national-level secretariat; drafting and publishing bench-books on GESI practices and procedures; revising the Prosecutorial Code of Conduct; preparing GESI legislative drafting

guidelines; upgrading the Law Review Policy to incorporate GESI. The policies, guidelines, manuals etc. that are planned to be developed or reviewed with the support of RoLHR should be made GESI responsive. The RoLHR Programme and IPs also need to collect further disaggregated data in terms of GESI. RoLHR needs to meet more frequently with the NWC and NDC going forward to provide technical expertise, and to determine and identify their needs and provide mentoring where needed.

The Evaluation is recommending a number of *additional programmatic revisions* going forward. These can be grouped on the supply-side and demand-side.

On the *supply side*, regarding court reform, infrastructure, capacity building and justice sector coordination, UNDP needs to focus much more on the integrity of justice and institutions (investigations of judicial misconduct; integrity of the courts). It appears that the RoLHR Programme and previous UNDP initiatives have done a lot on case management systems. There is a question of how much more the RoLHR Programme should do. Although CMS plays a role in reducing the opportunities for influence and judicial corruption, in and of itself CMS is not the same thing as a comprehensive approach to this issue.

The RoLHR Programme needs to focus on mid-level actors and local actors in light of the new Constitution and incorporate more local officials (the JSCC is meeting this objective to some extent). UNDP support to awareness raising of the courts is questionable; the best way to improve the public's perception of judges and courts is not by a public information campaign, but by true reform, lower time/cost per transaction; and fairness in adjudication. In addition, RoLHR Programme initiatives should be "owned" not only by the judges of each district, but also by the officers of the concerned courts. Orientation and capacity building activities for court staff should be equally prioritized across all levels within the court system.

The Programme's approach to execution of judgements has not been quite as strategic or comprehensive as it could be. Thus far, the RoLHR has succeeded in conducting a training session for 26 staff of the JED on drafting the "under statement" portion of judgements, which contains the execution instructions. In addition, 408 officials were trained on judgement writing and one national workshop on judgement execution for 110 high level officials and 5 multi-sector workshops on judgement execution were held with the participation of 175 officials. Yet these trainings have not yet resulted in changing the process of execution of judgements. Going forward, UNDP should build upon the study on judgement executions commissioned by RoLHR that identified the challenges and way forward on judgement execution to transform the execution of judgements systems and procedures in Nepal. The role that each institution plays in the process should be further mapped.

The Evaluation recommends opening up the JSCC to additional governmental actors, but not at present to civil society organizations (although this should be the long-term aim). Many of the issues discussed at JSCC meetings are internal to the justice and security institutions and inclusion of civil society in the JSCC's official meetings carries a risk of distracting the JSCC from its coordinating mission and work. Regarding the quasi-judicial bodies, there is reluctance on the part of the Judiciary and JSTC to bring the quasi-judicial bodies on board. JSCC should be made more inclusive of women and emphasize the full participation of line Ministries and quasi-judicial authorities. (i.e. Ministry of Women, Children Social Welfare or Department of Women and Children, Department of Land Survey; NHRC). There is frequent transfer of the judiciary and other officers from the committee. At the District level, the JSCCs are very enthusiastic, but they need to focus more upon the quality of justice, judicial integrity, transparency, due process of law and fairness.

Support to the JSTC should be limited; JSTC is something that the Supreme Court is largely capable of fully capacitating itself; however, the RoLHR Programme should substantially

upgrade the JSTC library with new books. The National Judicial Academy, however, should receive substantial support as it plays a more important role in educating the higher-level judiciary. The National Judicial Academy can be used to train judges on the implications of the new Constitution. The new appellate jurisdiction of the district courts is an urgent area of priority. Capacity of female judges is also an area that the NJA can contribute to, if it gets a place in the project. The NJA library also needs to be substantially upgraded and updated. The RoLHR Programme could carry out a study of the Central Library law collection and significantly upgrade. This is open and accessible to all persons in Nepal (was heavily damaged in EQ). In addition, UNDP may wish to work with the Judicial Council in regard to judicial integrity.

Inclusiveness between gender and other vulnerable groups is very weak in the judiciary. RoLHR needs to explore mechanisms to include more women or implement positive discrimination. The legal internships for female law students and students from disadvantaged groups organized by the NBA were highly successful and should be expanded. The RoLHR Programme should support the NBA for continuing legal education.

RoLHR should support the legislative drafting capacity of key line-ministries. The evaluation questions the ultimate capacity of the Law Commission to carry out comprehensive drafting of legislation needed by the new Constitution. The Law Commission's opinions are not mandatory and therefore, in reality, not given that much weight in Nepal. The RoLHR Programme could fund a consultant to advise the Law Commission on how to improve its work and assess capacity as a threshold issue to further support; for legislative drafting initiatives, RoLHR should consider including OMP and MoF in its activities.

On the *demand-side*, there is an increased demand for legal aid, legal and psychosocial counselling services. In some districts there are many cases of rape and domestic abuse. The legal aid sections of district courts and "court paid" lawyers, however, remain woefully under-resourced, the Programme should support; Court paid lawyers---capacity building. The court paid lawyers provide a service, but there is a question of the quality of service. The quality of service provided by the "court paid lawyer" at district courts needs to be supported by the RoLHR with office furniture and law books.

The SLACs appear to be a success, but there are questions concerning their sustainability, the percentage of clients who are in fact receiving psychosocial services, available staff and criteria for legal aid. SLACs need more capacity in the social-work aspect. The RoLHR Programme should expand the SLAC initiative now, but condition the plan to assume ownership by GoN. An amendment to the Legal Aid Act will ultimately be required to make the SLACs sustainable. SLAC support is needed to women and victims of SGBV for longer periods. More existing DLACs should also be supported and additional capacity training provided to their staff.

The procedure to apply for legal aid also needs to be worked out. The Legal Aid Act provision states 40,000 NPR per year annual income limit, but the Evaluation Team found that JSCC and SLACs were flexible on this in the field. There needs to be a legal aid coordination and clearing house mechanism. The Chief Justice's new "A2J Commission" holds promise and should be supported by the RoLHR Programme so long as and in a manner that does not undermine the MoLJPA's mandate for legal aid and the role as an IP in the RoLHR. The Mediation Council of the Supreme Court's "Go to Village" programme holds potential for A2J at the local level and the Programme could strengthen its support to mobile justice initiatives and mediation. Activities with Radio Nepal and journalists have received wide audience response and should be continued and deepened.

RoLHR needs to explore a partnership with UN Women for A2J and legal aid. The Programme needs to partner with UN WOMEN. This is in-line with the UNDP Strategic Plan

2014-2017 and the QCPR. Other UN Agencies such as UNODC and ILO could possibly bring to the table global expertise on such issues as criminal justice and combatting human trafficking.

Acronyms

AWP	Annual Work Plan
BCPR	Bureau of Conflict Prevention and Recovery (former)
BPPS	Bureau of Programme and Policy Support (formerly BCPR)
CA	Constituent Assembly
CIAA	Committee for the Investigation of Abuse of Authority
C-LAC	Central Legal Aid Committee
CLE	Clinical Legal Education
CPA	Comprehensive Peace Accord
CPAP	Country Programme Action Plan
CSO	Civil Society Organization
CTA	Chief Technical Advisor
DLAC	District Legal Aid Committee
GBV	Gender based Violence
GESI	Gender Equality and Social Inclusion
GoN	Government of Nepal
IT	Information Technology
IWAJ	International Association of Women Judges
JED	Judgment Execution Directorate
JSCC	Justice Sector Coordination Committee
JSTC	Judicial Service Training Centre
LoA	Letter of Agreement
MoLJPA	Ministry of Law, Justice and Parliamentary Affairs
NBA	Nepal Bar Association
NDC	National Dalit Commission
NHRC	National Human Rights Commission
NHRIs	National Human Rights Institutions
NJA	National Judicial Academy
NNDSWO	Nepal National Dalit Social Welfare Organization
NPD	National Programme Director
NPM	National Programme Manager
NPPP	National Professional Project Personnel
NWC	National Women's Commission
OAG	Office of the Attorney General
PAC	Project Advisory Committee
PSA	Public Service Announcement
QWP	Quarterly Work Plan
RCO	Resident Coordinator's Office
RoLHR	Strengthening Rule of Law and Human Rights Protection System in Nepal Programme
SC	Supreme Court of Nepal
SLAC	Socio-legal Aid Centre
SMS	Short Message Service
TJ	Transitional Justice
TRC	Truth and Reconciliation Commission
UPR	Universal Periodic Review
UNICEF	United Nations Children's' Fund
UNDAF	United Nations Development Assistance Framework
UNPFN	United Nations Peace Fund Nepal
VDC	Village Development Committee

Table of Contents

Executive Summary	i
Acronyms.....	xi
Situational Analysis	1
Overview of UNDP Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme.....	9
Evaluation Scope and Objectives.....	11
Methodology	11
Challenges and Limitations of the Evaluation	13
Evaluation Findings	14
A. Relevance	14
Design of Programme - strengths and weaknesses	14
Implications of new Constitution.....	18
Impact of the Earth Quake.....	25
B. Efficiency	26
Rates of Programme Execution and Delays	26
Programme Structure, Management and Staffing.....	27
The Role of the CTA and Access to Justice Specialist	30
Programme Oversight.....	32
Partnerships	33
Communication, Coordination, Cooperation.....	35
M&E, indicators and reporting.....	38
National Ownership.....	39
Sustainability	40
C. Impact by RoLHR Programme Output areas.....	43
1. Output 1: Justice sector development process established.	43
Justice Sector Coordination Committee (JSCC) (and Improved communication among justice sector institutions).....	44
Study tours as a tool of capacity building and enhancing justice sector communication.....	48
Strengthening the case management system	49
Strengthening the procedures for “In-Camera” Court hearings and Continuous Hearing	49
Establishing E-library in the Supreme Court and Support to archive court’s decisions and Research, design and monitoring capacities of the Supreme Court, OAG and MoLJPA strengthened	50
Support to the Judiciary’s Strategic Plan and capacity development of female judges	51
Support to the National Judicial Academy of Nepal and Judicial Service Training Centre	52
Support to MoLJPA and its Strategic Plan.....	53
Public information mechanism developed and judicial outreach and court communication	54
Strengthening the judgment execution system.....	55

2. Output 2: Capacities for the implementation of Penal, anti-GBV, anti-discrimination and anti-discrimination legislation developed	56
Support to the capacities of MoLJPA on legislative and treaty drafting in line with international standards and the Five Year Strategic Plan of MoLJPA.....	56
Systems and procedures for revision of laws and formulation of rules and regulations in line with international human rights standards developed. Development of the Nepal Law Commission (NLC) Law Review Policy	57
Best practice model for implementing key laws developed (Criminal and civil procedure codes enacted)	58
Affirmative action in legal education	58
Bar exam support and Internships for recent law graduates	59
OAG performance management strengthened	60
3. Output 3: MoLJPA-led consultative legal aid reform process supported and institutional legislative and policy framework for integrated national legal aid system developed	62
Consultative national legal aid reform process established and a comprehensive national policy on legal aid and integrated implementation mechanism developed	62
Socio-Legal Aid Centres and legal aid service provider capacity development and oversight framework developed and implemented.....	64
Socio-Legal Aid Centres (SLACs)	64
DLACs	67
Legal Aid Service Providers working with or in parallel to SLACs.....	68
Nepal Bar Association	68
Civil Society Organizations.....	68
The status of “court paid” lawyers in the district courts	69
Community-level legal education programme of MoLJPA strengthened and implemented /Legal Awareness Programme.....	70
Strengthening the interface between formal and informal justice systems.....	72
Output 4: Human rights monitoring and reporting system, Supporting NHRIs for UPR submission through consultative processes.....	73
Supporting UPR reporting and the implementation of human rights framework... ..	73
Enhancing the Institutional capacity of the National Dalit Commission and National Women’s Commission/Advocacy for the Elimination of Racial Discrimination.....	73
NDC	73
The Joint Monitoring Committee.....	75
NWC.....	76
Transitional Justice.....	78
GESI	78
Conclusions and Recommendations	83
A. Strategic Conclusions and Recommendations.....	83
B. Programmatic Conclusions and Recommendations.....	87
Lessons learned	93
Appendix A: Documents Referenced.....	95
Appendix B: Stakeholder Meetings Held.....	98

Situational Analysis

Nepal's on-going peace process is anchored in the principles of democracy and access to justice as well as the fundamental human rights to equality, inclusion, and participation. Nepal has held an encouraging transition course since the end of the decade-long civil war in 2006. The conflict that left the legacy of 16,729 persons dead, 78,689 internally displaced and 1,327 disappeared, ended with the signing of the Comprehensive Peace Accord (CPA) on 21 November 2006.¹ Nepal spent the following nine years in a political transition process guided by the Interim Constitution of 2007 and seeing through two elections for its interim legislature - the Constituent Assembly - charged with writing a new constitution. Despite the previous elections in 2013 being assessed as well-conducted,² the continued absence of a permanent constitution and transitional justice mechanisms accentuated serious rule of law and human rights issues, such as the lack of accountability for human rights violations committed during the internal conflict,³ migrant, refugee and women's rights.⁴

The atmosphere of delayed delivery of reconciliation of the Nepalese's expectations was further complicated by powerful earthquakes in April and May in 2015 that left 8,891 persons dead, 58,689 displaced, and destroyed 605,254 houses and damaged another 288,255.⁵

The general strikes protesting against the new draft constitution that had started already before the earthquakes⁶, continued as the first draft was endorsed by the Drafting Committee on 29 June.⁷ The political parties representing the Tharu and Madhesi ethnic groups in the southern part of the country have since geared up the general strike. Dissatisfaction mainly appears to lie with the proposed seven-state federal structure, planned to replace the 75 administrative districts, as well as the proposed electoral system and standards for demarcating constituencies within districts, as well as citizenship issues.⁸ On 17 September the Constituent Assembly endorsed the new constitution with more than a two-thirds majority.⁹ By October some 40 people, including children and police, have died as a result of

¹ Figures submitted by Nepal in the Universal Periodic Review process, *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1*, A/HRC/WG.6/10/NPL/1, 12 November 2010, Para. 31

² European Union Election Observation Mission press release on 21 November 2013; *Final Report. Constituent Assembly Elections, 19 November 2013*. European Union Election Observation Mission. Both available at http://eeas.europa.eu/eucom/missions/2013/nepal/index_en.htm

³ Nepal Country Report on Human Rights Practices for 2014. US Department of State, p. 1. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

⁴ World Report 2015: Nepal, Human Rights Watch. Available at <http://www.hrw.org/world-report/2015/country-chapters/nepal>

⁵ Data from Nepalese authorities as of September 2015, relayed in *Humanitarian Bulletin. Nepal Earthquake. Issue 04 (1-30 September 2015)*, OCHA, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/NepalEarthquakeHumanitarianBulletinNo4percent28Sept2015percent29_Final.pdf

⁶ <http://www.dailymail.co.uk/wires/ap/article-3028453/Opposition-strike-shuts-Nepal-protesters-police-clash.html>

⁷ *104 arrested in Nepal as general strike affects normal life*, The Hindu, 16 August 2015, available at: <http://www.thehindu.com/news/international/104-arrested-in-nepal-as-general-strike-affects-normal-life/article7546775.ece>

⁸ *Nepal: Conflict Alert*. International Crisis Group, 2 September 2015. Available at: <http://www.crisisgroup.org/en/publication-type/alerts/2015/nepal-conflict-alert.aspx>

⁹ CA passes new Constitution. The Kathmandu Post, 17 September 2015, available at: <http://kathmandupost.ekantipur.com/news/2015-09-17/ca-passes-new-constitution.html>

violent demonstrations with the strikes and blockades estimated to have cost the country more than 1 bn US dollars.¹⁰

2015 Constitution

Under the new constitution, Nepal is to be governed as a federal state with a three-tier government - federal, provincial and local.¹¹ Each of these three layers is yet to be constituted through implementing laws and electoral process.¹² The constitution provides a long list of fundamental rights, including economic, social and cultural rights, with the possibility of progressive realization.¹³ These rights can be claimed at the provincial high court and district courts as part of the right to remedy. Along with the previously established National Human Rights Commission, new constitutional commissions will be created - the Women's Commission, the Dalit Commission, the Janajati Commission, the Madhesi Commission, the Tharu Commission and the Muslim Commission - mandated to receive complaints or recommend changes in the laws, policies, and practices of areas that discriminate against or deny rights to their respective communities.¹⁴ The implications of the new Constitution for the RoLHR Programme are further discussed *infra*.

Nepal has shown steady progress in human development, ranking first among the countries with low human development (and 145th out of the 187) in the 2014 Human Development Index, while the Gender Inequality Index ranked Nepal 98 out of 149 countries.¹⁵ Transparency International's Corruption Perception Index 2014 ranks Nepal 126th out of the 175, placing it 29th of the 30 most corrupt countries (a slight improvement when compared to 2013 when it was placed 31st).

Human Rights Situation

The most recent World Justice Project's Rule of Law Index ranks Nepal 40th out of 102 countries in the factor measuring the protection of fundamental rights.¹⁶ Despite such an encouraging ranking, Nepal has many outstanding human rights issues.

One of the most important of these issues relates to transitional justice and accountability for the abuses committed during the civil war where only limited progress has been made. The initiative of establishing a truth and reconciliation mechanism got a troublesome start in 2014

¹⁰ Pete Pattison, *In Nepal, \$1bn impact of strikes over constitution 'worse than earthquakes'*. The Guardian, 5 October 2015, Available at: <http://www.theguardian.com/global-development/2015/oct/05/nepal-1bn-dollars-impact-economy-strikes-over-constitution-worse-than-earthquakes>; *Nepal: Police restraint urged as at least 20 more shot amid Constitution-related protests*, Amnesty International, 21 September 2015, available at:

<https://www.amnesty.org/en/latest/news/2015/09/nepal-police-restraint-urged-as-at-least-20-more-shot/>

¹¹ Art. 56, Constitution of Nepal 2015

¹² Note by Surya Dhungel

¹³ Arts. 16 through 46, Constitution of Nepal 2015

¹⁴ Arts. 252 through 268, Constitution of Nepal 2015; See also Hari Phuyal, *Nepal's New Constitution: 65 Years In the Making*, The Diplomat, 18 September 2015, available at: <http://thediplomat.com/2015/09/nepals-new-constitution-65-years-in-the-making/>

¹⁵ Human Development Report 2014. *Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience*. UNDP. Available at: <http://hdr.undp.org/en/countries/profiles/NPL>

¹⁶ Top three countries in this factor were Finland, Denmark and Norway, respectively. The factor measures the protection of fundamental human rights, including effective enforcement of laws that ensure equal protection, the right to life and security of the person, due process of law and the rights of the accused, freedom of opinion and expression, freedom of belief and religion, the right to privacy, freedom of assembly and association, and fundamental labour rights, including the right to collective bargaining, the prohibition of forced and child labour, and the elimination of discrimination. World Justice Project. *Rule of Law Index 2015*, p. 27, available at: http://worldjusticeproject.org/sites/default/files/roli_2015_0.pdf

due to its inclusion of a problematic avenue for evading accountability through amnesty.¹⁷ The list of issues goes on to include poor prison and detention conditions, treatment of detainees, including torture and other ill-treatment by police particularly during pre-trial detention, to extract confessions and intimidate individuals;¹⁸ also discriminating citizenship regulations contributing to statelessness; discrimination against persons with disabilities, so-called lower-caste individuals, and some ethnic groups, persons with HIV/AIDS and harassment against gender and sexual minorities.¹⁹ Despite the government's efforts, trafficking in human beings remains a problem with trafficking for sexual exploitation affecting women and children, forced and bonded labour affecting women, men and children, and victim identification and protection mechanisms not being adequate.²⁰

Legal and institutional framework challenges

Despite being a signature to many international human rights conventions, Nepal has not ratified the Convention on the Rights of Migrant Worker or the Convention against Enforced Disappearances. It is also not a party to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, and the Rome Statute of the International Criminal Court.

The 2015 Constitution has incorporated 31 fundamental rights - and an additional commitment of the state to implement all these rights through appropriate legislation within three years - compared to 21 such rights under the 2007 Interim Constitution.²¹ The National Human Rights Commission (NHRC), established in 2000, with powers to investigate human rights violations and order compensation, has evolved into Nepal's corner stone human rights institution. Yet, the NHRC's ability to function has been put to test by the lack of clarity regarding its personnel, accentuated with delays in appointing its commissioners.²²

Both the National Women's Commission and the National Dalit Commission have been given a major status advancement since the 2007 Interim Constitution, as both are now explicitly foreseen by the 2015 Constitution.²³ Whether the new Constitution's provisions on these commissions and the NHRC will deliver on fostering their position remains to be seen in practice.²⁴ RoLHR sees constitutional status for NWC and NDC as a good opportunity to

¹⁷ World Report 2015: Nepal. Human Rights Watch. Available at: <http://www.hrw.org/world-report/2015/country-chapters/nepal>

¹⁸ Amnesty International Report 2014/15: Nepal. Available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/nepal/report-nepal/>

¹⁹ Nepal Country Report on Human Rights Practices for 2014. US Department of State. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

²⁰ 2015 Trafficking in Persons Report. Nepal Country Narrative. US Department of State, p. 257. Available at: <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm>

²¹ Note by Surya Dhungel

²² The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, Para. 9. Available at: http://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRI%20Nepal%20joint%20Submission%20for%202nd%20UPR%20Review-2015.pdf

²³ Arts. 252 through 257, Constitution of Nepal 2015, unofficial translation by Nepal Law Society, IDEA, UNDP, available with UNDP. Note that the version available at http://www.constitutionnet.org/files/2015_july_29_draft_constitution_of_nepal_2015_w_index_idea_translation_eng_.pdf is labelled a preliminary draft, and does not correspond to the version available to UNDP Nepal.

²⁴ Arts. 248-249, Constitution of Nepal 2015

work further as constitutional status gives more autonomy and recognition to these institutions. However care should be taken to avoid overlap with other donors and agencies who are supporting these institutions. Recommendations in this regard are made in the body of this Report.

During the first round of examining Nepal's human rights track record within the UPR mechanism, Nepal received 135 recommendations of which it accepted 120.²⁵ With the second round of UPR coming up in November 2015, the NHRC has assessed that the implementation of the first round UPR recommendations has not been satisfactory.²⁶

Transitional Justice

The government of Nepal has provided interim relief to the families of 14,601 persons killed during the conflict while continuing to neglect the victims of sexual violence and torture during the armed conflict who have not received any relief.²⁷ The Ministry of Peace and Reconstruction administers an interim relief programme - the only initiative to address victims' material needs. Still, it falls short of fulfilling victims' rights to reparations as it does not recognize recipients as victims of human rights abuses or acknowledge the state's responsibility for those violations.²⁸

In April 2014 the Constituent Assembly (CA) passed the Truth and Reconciliation Commission Act, which established two commissions with the power to recommend amnesties also for serious human rights violations. Doing so, the CA ignored an earlier Supreme Court (SC) ruling of January 2014 that a similar earlier act from 2013 that had foreseen the power to recommend amnesties contravened international human rights law and the spirit of the 2007 Interim Constitution.²⁹ Subsequently in February 2015 the Government established two separate Commissions - the Commission on Investigation of Disappeared Persons (CoID) and the Truth and Reconciliation Commission (TRC). Several factors cast clouds of doubt over their credibility: the membership selection process has not been transparent, based on a candidate's political suitability rather than the individual's competence; In addition, immediately after the establishment of both commissions, the SC rejected for the second time, the amnesty provision featured in the underlying legal act, holding that the Commissions should use the SC's previous rulings concerning these issues as guiding principles while interpreting their respective mandates.³⁰

²⁵ Report of the Working Group on the Universal Periodic Review. Nepal (A/HRC/17/5), 8 March 2011, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/116/42/PDF/G1111642.pdf?OpenElement>

²⁶ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, Para. 13

²⁷ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, Para. 14. For more detailed information see also Suggested recommendations to Nepal considered in the 23rd round of the Universal Periodic Review, 4 November 2015, Amnesty International, available at: <https://www.amnesty.org/en/documents/asa31/2182/2015/en/>

²⁸ Nepal: The End of a Kingdom, the Beginning of Democracy, International Centre for Transitional Justice, available at: <https://www.ictj.org/our-work/regions-and-countries/nepal>

²⁹ Amnesty International Report 2014/15: Nepal. Available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/nepal/report-nepal/>

³⁰ International Commission of Jurists' Submission to the Universal Periodic Review of Nepal, submitted in March 2015, paras. 4-8, available at: <http://icj.wppengine.netdna-cdn.com/wp-content/uploads/2015/03/Nepal-UPR-Advocacy-2015-ENG.pdf> Also, Alison Bisset, *Transitional Justice in Nepal. The Commission on Investigation of Disappeared Persons, Truth and Reconciliation Act 2014*. Bingham Centre Working Paper 2014/07, September 2014, available at: http://binghamcentre.biicl.org/documents/334_nepal_update_-_bisset.pdf

In August 2015, the NHRC called for the amendment of the underlying transitional justice act, to bring it in line with the SC's ruling, and also that the recommendations made by both the TRC and CoID should carry a mandatory weight. Otherwise these run the risk of sharing the fate of the NHRC's recommendations related to compensation - in the NHRC's 14-year history the Government has executed only 105 of 737 NHRC's recommendations and no culprits have been brought to justice.³¹

Specific Human Rights Issues

Since the first UPR cycle, NHRC reported having processed 97 complaints related to killings, mostly having occurred during clashes, protests and in detention, where due and proper investigation had not taken place.³² The authorities have further justified the police's refusal to register First Information Reports (FIR) with the argument that human rights violation should fall under the mandate of TRC whereas RC has expressly stated that this is not the case.³³ Effectively the Government has failed to deliver on the recommendations it received under the 2011 UPR cycle and this failure has potentially increased the culture of impunity, but also undermined the rule of law.³⁴

To the date the Nepali legislation does not criminalize torture or forced disappearances.³⁵ While a local human rights NGO has reported a decrease of torture incidents in 2014, it remains unclear whether this is due to victims refraining from filing complaints because the practice suggests that intimidation of the victims by the authorities is not uncommon, or because many cases are being dismissed by the courts for lack of credible evidence, or the fact that the judgements in favour of the victim are often not implemented.³⁶

Similarly, most instances of sexual violence are not specifically criminalized while the crime of rape is defined very narrowly. The SC has without success requested the Government to review the requirement that rape complaints can only be filed within 35 days from the offence. Victims of sexual violence and other forms of gender-based violence are excluded from the definition of "conflict victim" thereby denying such victims interim relief as part of

³¹ 'Amendment must' for effective TRC, CIEDP, The Kathmandu Post, 5 August 2015, available at: <http://kathmandupost.ekantipur.com/printedition/news/2015-08-04/amendment-must-for-effective-trc-ciedp.html>; Also The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, Para. 15

³² The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, Para. 17

³³ Interview with The Chairperson of the TRC, Surya Kiran Gurung, The Kathmandu Post, 3 August 2015, available at: <http://kathmandupost.ekantipur.com/news/2015-08-03/trc-will-not-look-into-the-cases-sub-judice-at-the-court.html>

³⁴ International Commission of Jurists' Submission to the Universal Periodic Review of Nepal, submitted in March 2015, paras. 16-18

³⁵ International Commission of Jurists' Submission to the Universal Periodic Review of Nepal, submitted in March 2015, paras. 9-12; The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, paras. 18-19

³⁶ Nepal Country Report on Human Rights Practices for 2014. US Department of State. Available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

the Government's programme.³⁷ Violence against women has increased; meanwhile practices such as dowry, child marriages, polygamy, and witchcraft persevere.³⁸

Nepali prisons are overcrowded with their total capacity of 6,416 being stretched to 10,608 by temporary sheds, yet housing 18,281 prisoners/detainees. The prisons lack basic supplies such as food, health care and sanitation means.³⁹

The government has so far failed to provide effective remedies for those displaced as a result of the civil war.⁴⁰ Approximately one third of the documented 79,571 displaced persons have received minimal relief.⁴¹ Current inheritance legislation further complicates the surviving spouses and children claiming legal title in cases where the titleholder was a victim of forced disappearance, as proof of death is required or alternatively, the passage of a period of 12 years.⁴²

SDG 16

2015 saw a major milestone with the adoption of the Sustainable Development Goals (SDGs) by the UN's member states. Expanding on the eight Millennium Development Goals (MDGs) set in 2000, the 17 SDGs are aimed at addressing broader transformative, economic, environmental and social changes. Addressing a significant gap of the MDGs, the centrality of governance and justice in achieving sustainable development is now recognized in Goal 16:

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

The mention of justice, governance and peaceful societies in the SDGs is seen as an important step in recognizing the importance of peace and justice in the traditional development agenda of poverty alleviation, but one that will pose many challenges, not least in designing measurable targets and indicators.

There are twelve targets set for SDG 16, ranging from measures to reduce violence, strengthen institutions and increase the inclusiveness and accountability of institutions. Target 16.3 is of particular relevance for the RoLHR Programme:

³⁷ International Commission of Jurists' Submission to the Universal Periodic Review of Nepal, submitted in March 2015, paras. 13-15.

³⁸ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, para. 34

³⁹ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, paras. 25-26

⁴⁰ The International Commission of Jurists' Submission to the UN Committee on Economic, Social and Cultural Rights in Advance of the Examination of Nepal's Third Periodic Report under Article 16 and 17 of the International Covenant on Economic, Social and Cultural Rights. Submitted on 3 November 2014, paras. 16-24, available at: <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/11/Nepal-CESCR53-LegalSubmission-2014-EN.pdf>

⁴¹ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, para. 48; International Commission of Jurists' Submission to the Universal Periodic Review of Nepal, submitted in March 2015, paras. 19-20.

⁴² International Commission of Jurists' Submission to the Universal Periodic Review of Nepal, submitted in March 2015, para. 22

16.3 Promote the rule of law at the national and international levels, and ensure equal access to justice for all

The GoN will be required to develop measurable indicators to monitor and evaluate and report on Nepal's progress in meeting this target. The proposed set of indicators will be issued by the Inter Agency Expert Group (IAEG) in March 2016, however, member states will be required to adapt and develop their own indicators, relevant to their national context, as well as selecting those that are comparable at the international level. In revising its own indicators, the Evaluation Team recommends that the RoLHR Programme select indicators that will also be reported on for SDG 16, thereby enhancing relevance and efficiency.

Rule of Law Context

In the most recent World Justice Project's Rule of Law Index, Nepal ranks 48 out of the 102 countries (showing a decrease by three ranks compared to the previous index),⁴³ while ranking 1st in South Asia as well as among low-income countries.⁴⁴

The ranking on specific judicial system-relevant factors is less encouraging, though, placing Nepal 51st on regulatory enforcement, 87th on civil justice, and 56th on criminal justice factors.⁴⁵ The legal academics and practitioners surveyed found that the duration of cases and cumbersome procedures were very important in influencing the people's decision whether or not got to court for dispute resolution.⁴⁶ On the problems for criminal investigations, inadequate resources and corrupt investigators topped the list of issues⁴⁷, while the delay in cases was the first among the problems relating to criminal courts followed by inadequate criminal defence.⁴⁸

Background research conducted by several international actors in the course of the past 3 years suggests that although the judiciary is perceived to be relatively independent with the Supreme Court often boldly stepping out to reassert its independence, the most critical issues are impunity, inefficiency, case backlogs, and enforcement of court decisions.⁴⁹ Coupled with a low priority for state funding, all these factors undermine confidence in the judiciary and limit access to the court system.⁵⁰

⁴³ *Nepal slips in rule of law rankings*, The Himalayan Times, 5 June 2015, available at: <http://thehimalayantimes.com/nepal/nepal-slips-in-rule-of-law-rankings-2/>

⁴⁴ World Justice Project. Rule of Law Index 2015, pp. 20-22 available at: http://worldjusticeproject.org/sites/default/files/roli_2015_0.pdf

⁴⁵ Civil Justice Factor: measures whether civil justice systems are accessible and affordable, free of discrimination, corruption, and improper influence by public officials. It examines whether court proceedings are conducted without unreasonable delays, and if decisions are enforced effectively. It also measures the accessibility, impartiality, and effectiveness of alternative dispute resolution mechanisms. Criminal Justice factor: measures whether the criminal investigation, adjudication, and correctional systems are effective, and whether the criminal justice system is impartial, free of corruption, free of improper influence, and protective of due process and the rights of the accused. World Justice Project. Rule of Law Index 2015, pp. 30, 31

⁴⁶ World Justice Project. Rule of Law Index 2015, p. 45

⁴⁷ World Justice Project. Rule of Law Index 2015, p. 47

⁴⁸ World Justice Project. Rule of Law Index 2015, p. 48

⁴⁹ Access to Security, Justice & Rule of Law in Nepal. An Assessment Report. DFID, DanidaHUGOU, UNHCO, 2012, available at: http://un.org.np/sites/default/files/2012-10-5-Access%20to%20Security_Justice_RoL_Nepal.pdf

⁵⁰ Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme (2013-2017), UNDP Nepal Programme Document, p. 10

The quality of the prosecution was often found inadequate, the caseload borne by the Supreme Court too high, representation of women and other vulnerable groups in the formal justice sector disproportionately low, coordination amongst formal and informal justice systems inadequate and legal aid service provision uncoordinated and insufficient.⁵¹ Access to justice has been a major issue for the poorest and marginalised groups while other limiting factors were the physical distance of court houses and poor legal education, poverty, under-representation of women and marginalised caste and social groups in judicial service.⁵² There are no separate systems for civil and criminal matters with judges being assigned according to their seniority, not according to case-specific expertise. There are quasi-judicial units functioning under various ministries, but rendering services as part of the civil justice system.⁵³

Current Issues

In addition to the issues described above, the underlying problem lays in the fact that courts remain vulnerable to political pressure, bribery, and intimidation. In May 2014 the government appointed eight Supreme Court justices, some of whom had been subject to previous allegations of corruption, while the Supreme Court had recommended that disciplinary action be taken against one of these judges for issuing not-guilty verdicts in the cases of allegedly corrupt defendants.⁵⁴ No investigation into such corruption allegations against any of the other Supreme Court nominees was eventually undertaken. Subsequently, situations where authorities do not consistently implement court orders, including Supreme Court decisions, are not uncommon.⁵⁵

The fragility of the rule of law is accentuated by the fact that the government has been providing legal counsel only upon request hence people who are unaware of their rights may be deprived of legal representation.⁵⁶ A study conducted in four districts revealed that 60 per cent of those arrested were not brought before a judge within 24 hours, 40 per cent were not given an arrest warrant, 46.7 per cent did not have their cases heard at the given time, and 33.7 per cent were not brought to the court hearing in person.⁵⁷ Additionally, access to courts by the people living in remote areas and those from underprivileged classes in the district headquarters was and remains difficult.⁵⁸

⁵¹ Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme (2013-2017), UNDP Nepal Programme Document, pp. 11-13.

⁵² Access to Security, Justice & Rule of Law in Nepal. An Assessment Report. DFID, DanidaHUGOU, UNHCO, 2012, p. 5 Also: Sarah Paoletti, Eleanor Taylor-Nicholson, Bandita Sijapati, Bassina Farbenblum, *Migrant Workers' Access to Justice at Home: Nepal*, Open Society Foundations 2014, available at: https://www.opensocietyfoundations.org/sites/default/files/migrant-nepal-report-english-20140610_1.pdf; Opening the Door to Equality: Access to Dalits in Nepal, UN OHCHR Nepal 2011, available at: http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2011_12_07_Opening_the_Door_to_Equality_E.pdf

⁵³ Access to Security, Justice & Rule of Law in Nepal. An Assessment Report. DFID, DanidaHUGOU, UNHCO, 2012, pp. 8-9

⁵⁴ Binita Dahal, *Justifying the justices*, The Nepali Times, 29 April 2014, available at: <http://www.nepalitimes.com/blogs/thebrief/2014/04/29/justifying-the-justices/>

⁵⁵ Nepal Country Report on Human Rights Practices for 2014. US Department of State

⁵⁶ Nepal Country Report on Human Rights Practices for 2014. US Department of State

⁵⁷ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, para. 21s

⁵⁸ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, para. 20

Amplifying the transitional justice-era confusion, the Nepal Army maintains that military personnel are immune from prosecution in civilian courts for conflict-era violations - an interpretation that is not shared by the human rights community and is inconsistent with Supreme Court decisions.⁵⁹

On a positive note, the Supreme Court has taken on the challenge of providing speedy justice by initiating continuous hearing on some cases and evening shifts.⁶⁰

Subsequently, the 2015 Constitution bears the heavy burden of justifying the high hopes invested in it, delivering the blueprint for a more efficient and independent judiciary. It introduces a new court system to match the new three-level administrative structure of the country – district courts, Provincial Courts and the Supreme Court.⁶¹ Accompanied with the establishment of the Constitutional Bench within the Supreme Court (as opposed to a separate Constitutional Court).⁶² The more sceptical experts have voiced an opinion that not much of the needed judicial reform agenda was addressed.⁶³ Certainly the following period will be crucial if the current judicial system is to transform to a strengthened one, in which rule of law and access to justice prevail. The RoLHR Programme is well positioned to help support this process.

Overview of UNDP Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme

The ‘Strengthening the Rule of Law and Human Rights Protection System in Nepal’ programme was launched in January 2013 for a 5 year period to support sector-wide justice development by the Supreme Court of Nepal, the Ministry of Law and Justice and Parliamentary Affairs (MoLJPA) and other justice sector institutions (Office of the Attorney General, Justice Sector Training Centre, National Women's Commission, National Dalit Commission, National Judicial Academy). The programme document was signed in April 2013, but implementation started from July 2013.

The ‘Strengthening the Rule of Law and Human Rights Protection System in Nepal’ Programme (the RoLHR Programme) focuses on supporting systemic changes in national legislative, policy and institutional frameworks and structures and on delivering tangible results at the local level. The programme, in its entirety, aims to support systematic changes in national legislative, policy and institutional frameworks and structure to contribute to strengthen peace, development and human rights in Nepal.

The programme focuses on two primary areas: First, it supports the rule of law institutions to be responsive to demands for justice service delivery; that is improving the supply side of the justice sector. This entails reform initiatives such as strengthening the coordination among multiple actors involved in Justice Administration, support to capacitate the office of

⁵⁹ Nepal Country Report on Human Rights Practices for 2014. US Department of State

⁶⁰ The NHRI Nepal Joint Submission for the Second Universal Periodic Review of Nepal. National Human Rights Commission, National Women Commission, National Dalit Commission. 22 March 2015, para. 20

⁶¹ Arts. 56, 127, 139, Constitution of Nepal 2015

⁶² Art. 137, Constitution of Nepal 2015

⁶³ Nabin Khatriwada, No drastic ‘reform’ in judiciary in new constitution, Republica, 17 September 2015, available at: <http://myrepublica.com/politics/story/28295/no-drastric-reform-in-judiciary-in-new-constitution.html>

Attorney General, Judgment Execution Directorate, the court officials, and providing technical as well as logistics support to the entire court system in Nepal. The programme is making efforts towards ensuring justice actors' compliance to established human rights in judicial hearing processes. Revamping the concept of 'In-camera hearing', for example, has been one of the major reform initiatives being undertaken.

Second, the programme strives to augment the demand for justice related service delivery by developing institutional capacities of the justice sector institutions. It includes supporting women and vulnerable groups to access the rule of law institutions to assert and enjoy their human rights entitlements. The Programme, in this regard, is supporting the Ministry of Law, Justice and Parliamentary Affairs to establish an integrated legal aid system aimed at strengthening access to justice to vulnerable groups. This support includes development of a national legal aid policy, establishment of Socio-legal Aid Centres (SLAC) in districts, launching of an 'affirmative action' law scholarship, clinical legal education and internships to lawyers from women and vulnerable groups. This aside, as part of UNDP's continuous support, the programme is supporting MoLJPA in reviewing and drafting the Civil Code, Civil Procedure Code, Penal Code, Criminal Procedure Code and Sentencing Bill. All these bills that are now before the parliament for final review and would replace the generic National Code, which is often termed 'out-dated'.

Additionally, the Programme also works together with the non-formal justice sector to reinforce the formal efforts made by the government agencies to improve the administration of justice.⁶⁴

The overall Outcome, expected from this programme is “Vulnerable groups benefit from strengthened legal and policy frameworks and have improved access to security and rule of law institutions”. And to achieve this goal, there are four main objectives of this programme. They are: 1) to make systemic changes in national legislative, policy and institutional frameworks and support implementation of the key legislation such as the new criminal code and the protection of the vulnerable groups; 2) to strengthen communication, coordination and cooperation amongst justice sector institutions, and support the development of core institutional capacities at national and local level; 3) to assist the development of an integrated system which regulates and coordinates provision of broadly accessible socio-legal aid services, with particular focus on vulnerable groups; and 4) to strengthen the protection system by implementing anti-discrimination legislation and promoting accountability for human rights violations.

The UNDP ROLHR programme has 4 main Outputs as listed in the project document. These are as follows:

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| <p>Output 1. Justice sector development process established;</p> <p>Output 2. Capacities for the Implementation of penal, anti-GBV, anti-discrimination and anti-corruption legislation developed and sustainable;</p> <p>Output 3. MoLJPA-led consultative legal aid reform process supported and institutional and policy framework for national legal aid system developed;</p> <p>Output 4. Human rights promotion and protection system strengthened and transitional justice supported.</p> |
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⁶⁴ Rule of Law and Human Rights Programme website
http://www.np.undp.org/content/nepal/en/home/operations/projects/democratic_governance/rolhr/background/

Evaluation Scope and Objectives

This Evaluation is a Mid-Term Evaluation of the “Strengthening the Rule of Law and Human Rights Protection System in Nepal” programme (RoLHR) to determine the extent to which the Programme objectives (as outlined in the project document and its RRF) have been achieved, and identify possible gaps, challenges and lessons learnt for the implementation of the RoLHR programme going forward. The Evaluation will make actionable recommendations that address the long-term stability of the RoLHR Programme. The Evaluation addresses the Relevance, Efficiency, Impact and Sustainability of UNDP’s programming according to the OECD DAC and UNDP guidelines for evaluating development assistance.

Methodology

The Evaluation Team addressed the Key Evaluation Questions and adhered to the basic Methodology as set forth in the Terms of Reference for this mission. The Evaluation Team further defined the methodology once gathered in Kathmandu. A schedule of stakeholder interviews and site visits was finalized, additional documents were collected and analysed and sources for data were identified. The team leader, in consultation with the Evaluation Team, defined the respective duties and areas of coverage of the team members. The Evaluation occurred in three phases:

Phase I: Desk review and Inception

The initial task was to conduct an extensive desk review of all documentation and data pertaining to UNDP’s ROLHR programme. In this regard, the Evaluation Team was heavily reliant upon UNDP Nepal and the ROLHR project team to assemble the data and documents mentioned in Annex 1 of the ProDoc to the extent that these were readily available.

All available documents collected by UNDP Nepal and/or the ROLHR project were placed in a “DropBox” so that all members of the Evaluation team, UNDP and Donors (if desired) could have access to the same set of data and documents. Alternatively, documents were distributed by email.

The initial document/desk review resulted in an Evaluation workplan. Adequate time was built into the Evaluation schedule and work plan to permit the Evaluation Team to fully analyse quantitative data and reports collected both during and following the in-country portion of the mission.

Phase II: In-country stakeholder interviews; data collection and interim-debrief

Following the document review, the Evaluation Team conducted interviews in Kathmandu and field locations in Nepal. In this regard, the list of stakeholders listed in the ToR was compared with Annex 1 of the ProDoc. The Evaluation team conducted interviews with UNDP CO, key RoLHR programme staff and Donors during its first days in Kathmandu. Thereafter, the Evaluation Team proceeded to meet with other stakeholders and end-beneficiaries. The principal goal of the interviews was to obtain qualitative information relating to the relevance, efficiency, impact and sustainability of the RoLHR Programme and to identify lessons learned and best practices to inform the remaining period of the programme, as well as to triangulate information against quantitative data and statistics obtained.

UNDP RoLHR Programme and the Evaluation Team also formulated a list of Stakeholders to be interviewed and site visits to be conducted. The Evaluation tried to visit as many project sites as possible during its second full week of the in-country portion of the mission, but was constrained by security issues in Nepal's Western and Far Western Development Districts as well as the Terai.

UNDP and RoLHR were diligent in supplying adequate transportation to and from official meetings and dedicated workspace for the Evaluation team. UNDP also furnished the Team Leader with UNDP ID for the duration of his contract in Nepal, as well as a satellite telephone for use while in the field.

The Evaluation's field visits included the *Kathmandu District Court*, *Lalitpur District Court*, *Syangja District* (JSCC, Court Registrar, CDO, private lawyers, Women's Development Forum, JSCC members, DLAC legal aid attorney and court paid lawyer) and *Magdi District* (CDO, Police, OAG, Bar Association, court paid lawyer, Head of Corrections (Jail), District Court Judge and Registrar). The Evaluation also visited *Sindupalchaur District*.

The National Consultants on the Evaluation Team fulfilled a crucial role of informing the Evaluation as to the development context of Nepal.

The Evaluation also utilized focus groups of end-beneficiaries (i.e. legal aid lawyers, CSOs, journalists, etc.) to expand coverage and facilitate discussion of key issues surrounding rule of law and human rights in Nepal, as well as pose questions pertaining to the relevance, effectiveness and efficiency of UNDP's implementation. In addition to the Evaluation Questions stated in the ToR, the Evaluation Team formulated additional questions and indicators by which to measure progress to date under the RoLHR programme. Specifically, a questionnaire posing detailed questions about management was developed by the Evaluation Team and circulated to the RoLHR Programme.

Upon conclusion of the in-country portion of the Evaluation, the Evaluation Team held a total of four debriefings in Kathmandu (i.e. UNDP CO, donors, implementing partners and the UNDP Country Director) on its principal findings, conclusions, recommendations and lessons learned. The Team Leader also held consultations in New York with UNDP BPPS.

Phase III: Report writing and finalization

The third and final phase of the Evaluation was its report drafting stage. Under the direction of the Team Leader, the Evaluation Team prepared a Draft Evaluation Report containing Findings, Conclusions, Recommendations and Lessons Learned for submission to UNDP Nepal for comment. Following the receipt of comments by UNDP Nepal, the Evaluation Team Leader and the Team supplemented, edited and finalized the Final Report of the Evaluation for submission to UNDP Nepal.

Challenges and Limitations of the Evaluation

Several challenges and limitations confronted the Evaluation. First, were limitations on available data and information. In order to track progress towards the outcome and outputs, the Evaluation team required disaggregated statistics from UNDP RoLHR Programme and implementing partners. The Evaluation did its best to collect information while in the field and from the documents made available by UNDP and RoLHR, however, there were some gaps and in some cases data was not disaggregated to the extent that it could have been—especially for GESI and vulnerable groups.

A second limitation was the availability of stakeholders and their willingness to meet with the Evaluation team. The Evaluation did its best to schedule meetings and reschedule if necessary. UNDP RoLHR greatly facilitated this process to the greatest degree by sending out official letters of introduction and request for meetings as far in advance as possible. Generally, the Evaluation was able to meet with all stakeholders targeted for interviews. Yet, the public holidays, surrounding the adoption of the new Constitution, that were declared by the Government on short-notice disrupted the Evaluation's planning to some degree. When stakeholders were not available to meet in person, the Evaluation Team attempted to contact them via telephone or Skype. In addition, the Evaluation Team utilized email questionnaires.

Finally, the Evaluation was challenged in its field visits due to logistics and a deteriorating security situation in Nepal. For example, politically motivated and inter-ethnic violence was continuing in the Far West Region of Nepal surrounding questions of the drafting of the new Constitution, representation and balance of political power. The Terai was not accessible due to *bandas* and violence. Additionally, towards the end of the in-country portion of the Evaluation a fuel supply crises had arisen in Nepal as a result of India not letting trucks to proceed across the India-Nepal border to make deliveries. This was resulting in long queues at petrol stations, fuel rationing and was beginning to disrupt food supplies and some flights of international air carriers. The Evaluation relied upon UN DSS advice at all times and travel to field locations was only undertaken upon clearance by UN DSS and the availability of safe transportation and housing at field duty stations.

Evaluation Findings

A. Relevance

Design of Programme - strengths and weaknesses

The Strengthening the Rule of Law and Human Rights Protection System in Nepal Programme is relevant to GoN development strategies, as well as the third Five Year Strategic Plan of the Supreme Court and the annual and strategic plans of other rule of law stakeholders. Yet, being relevant to frameworks and strategies on the supply side is not the same as being relevant to the lives of UNDP's core beneficiaries on the demand-side of the justice equation.

In general, the RoLHR Programme is overly broad given the time frame for implementation and institutional capacities. It was originally envisioned in the ProDoc that UNDP/RoLHR would be able to deploy a significant amount of international expert technical advice and mentoring to targeted GoN rule of law institutions. This has been, however, effectively blocked by the IPs (primarily the Supreme Court), thereby calling into question UNDP's added value and undermining the design and relevance of the Programme. As a result, the Programme is not as relevant as it could be to the needs of UNDP's core beneficiaries and has proved to be largely accommodative of government, rather than transformative of it. UNDP and RoLHR have used a number of national experts to provide technical expertise.

Overall, the Programme has not articulated a theory of *change management* for the Supreme Court and other institutional partners that run through the entire programme. Supply-side interventions, trainings and procurements have been undertaken without sufficient follow-up to determine if and how these are relevant to women and vulnerable groups. Too much focus has been placed upon infrastructure, and too little upon judicial independence, fairness, transparency and due process of law for vulnerable and marginalized groups.

On the supply side, there are gaps in the design of the RoLHR Programme. The JSCCs do appear to be strengthening justice sector coordination and communication. Thus, in this respect the Programme's design has proven highly relevant. But, issues of judicial integrity have not been a central focus of UNDP's supply side interventions, other than the theory that improving case management systems reduces the available opportunities for influence and corruption. Mechanisms for strengthening investigation, dismissal and prosecution of judges who engage in judicial misconduct are lacking. There have been repeated broad-based human rights trainings of the judiciary and other implementing partners, but too little in the way of hands-on mentoring, discussion of difficult questions such as judicial corruption or the implementation of strategic plans via process mapping and organizational redesign. The Programme's work with the justice execution and case management systems are a case in point—mostly training and procurement, very little sustained mentoring. The in camera court rooms and continuous hearings are, however, functioning and highly relevant to the needs of victims of domestic violence and SGBV and expedited due process.

The least relevant aspect of the RoLHR Programme as designed is its interventions for legal drafting, revision of laws and “best practice” model for implementation of laws. While the new Constitution will result in a period of “constitutional adhesion” in Nepal that will soon require a “burst” of legislative reform, the fact is that UNDP and other donors have been working on legislative drafting for a very long time and the GoN already possesses sufficient capacities in this regard. Moreover, the Programme's articulation of a “best practice model” is inherently vague and overbroad. The Programme would be much more relevant if it

articulated the specific laws, regulations and by-laws that it would address. Furthermore, this aspect of the Programme as designed lacks any focus on administrative law and the actual orders and regulations by which statutory law becomes manifest from a socio-legal perspective. The Programme does not explore the issue of whether Nepal follows a *monist* or *dualist* school of treaty interpretation or some hybrid thereof and how international human rights treaties have been applied by domestic courts.

In terms of access to justice and human rights, the CDOs (and other quasi judicial authorities) are not covered extensively by the RoLHR programme to date (other than via some trainings and their membership in the JSCC). This is a huge gap, as CDOs impact upon A2J at the local level for ordinary citizens. It is hard to conceive of an access to justice and human rights programme that does not address the endemic lapses of due process reported to occur at the district level. The Programme would be much more relevant had these institutions been included and mechanisms of oversight and redress from their decisions supported.

The work with NWC and NDC is by design relevant, however, one could have logically expected that a greater degree of mentoring and technical expertise would have been delivered to these institutions by RoLHR—especially given the emphasis on “human rights protection.” The Joint Monitoring Committee is proving to be highly relevant to investigating incidents of caste-based discrimination in Nepal. RoLHR states that it is committed to providing more technical expertise and mentoring to the institutions in 2016 to build their capacity to execute their mandates regarding human rights protection.

Meanwhile, the Programme’s supply-side structural support to legal aid has not adequately differentiated between the State’s duty to supply legal defense to the criminally accused and all other categories of legal counselling and assistance (i.e. civil disputes and low level offenses). Nor, for that matter, has the “coordination mechanism” contemplated by the Programme’s original design been prioritized.

Although the Programme’s interventions for affirmative access to legal education and employment are exemplary, there is little in the way of a comprehensive legal empowerment and human rights based approach seen for everyday women and vulnerable groups at the local level. To date, it does not appear to the MTR that the economic empowerment of women and vulnerable groups has been a priority on the part of the Supreme Court and other implementing partners. Going forward, RoLHR should enhance economic empowerment for women and vulnerable groups (i.e. obtaining vital documents and identification cards, etc.).

Finally, while a few CSOs have been awarded contracts to provide legal aid and psychosocial services to the programme’s SLACs, strategic partnerships with civil society are largely lacking from the RoLHR Programme and no UN agencies are currently involved as partners with UNDP. Were these in place and made a central focus of the RoLHR Programme it would likely be much more relevant and closely tailored to the needs of women and vulnerable groups at the local level. Engagement with civil society is very crucial for Human Rights protection work related to anti-CBDU and anti-GBV cases. In addition, NWC and NDC alone can not ensure access to justice for victims of caste-based discrimination given the fact that they do not have field offices and lack adequate capacity to provide services to women, Dalit and other vulnerable groups.

It is the strong recommendation of this Evaluation that the Prodoc, its RRF, M&E frameworks and AWP be revised at mid-point, so as to better articulate a clear theory of change running through the entire Programme with renewed emphasis on human rights and vulnerable groups. In particular, the indicators of the existing prodoc and RRF are not optimal and should be made more measurable and properly scaled to the scope of the intervention,

project duration, available resources and capacities of the implementing partners. A revision of the prodoc will present an opportunity to strengthen the involvement of all the IPs, not only the Supreme Court. The revision of the project document provides an opportunity for all the IPs to become clear on expectations and to increase the level of ownership of the IPs.

The time is right for UNDP and the Donors at mid-term to undertake a complete revision and reprioritization of the outputs of the RoLHR Programme—especially in light of several recent developments including a) the coming into force of Nepal’s new Constitution; b) a decision by GoN that the government’s default position is not to seek international technical advice unless it is short-term in nature, for a specific activity/deliverable and when no national consultants can be identified (this decision occurred post-signing of the original project document and is used as an excuse not to utilize the RoLHR Programme’s CTA and A2J Specialist); c) the U.N.’s 2030 goals and particular goal 16 and its affiliated targets, which emphasize access to justice and rule of law; d) renewed conflict in several development districts of Nepal, which poses challenges to access and implementation; and e) the post-disaster needs of certain districts and populations in Nepal as a result of the earthquake of April 2015.

These factors should drive UNDP and its Government Partners to take, among others, the following changes:

1. Put more emphasis upon justice sector coordination, process change and change management. (Note: to date, the Project has not yet achieved the level of coordination between justice sector institutions that had been expected. The implementing institutions still lack information about what the other one is doing);
2. Focus on the community level as well as the sector level with capacity building at the local level. (Note: at the moment, the focus of the project is predominantly focused on the supply side and there needs to be more focus on A2J at the local level and the demand-side of the justice equation. For example, judicial outreach and client relations in the districts have not been fully addressed by the Judiciary, yet the RoLHR is continually presented with requests from the Judiciary for international travel);
3. Strengthen partnerships with civil society for legal aid and A2J; and in general, enhance the role of CSOs in the Programme. (Note: to date, implementing partners have not been receptive to including civil society);
4. Focus more on local level governmental actors. For example, the central level authorities have been invited to major conferences and study visits, but the District level actors have not been equally targeted for trainings, conferences and study visits.

The Programme should be firmly aligned with the 2030 goals, especially Goal 16 and its targets. The Evaluation recommends that UNDP and Donors narrow the scope of and prioritize RoLHR outputs and shift to legal aid and A2J on the demand side; with empowerment of women and vulnerable groups. In addition, RoLHR should be better aligned with the goals of the UNDP Strategic Plan 2014-2017, specifically, the key issues identified by the Quadrennial Comprehensive Policy Review (QCPR). The QCPR identifies five key development issues: poverty eradication; sustainable development; gender equality and women’s empowerment, transitions from relief to development and resilience. The QCPR would indicate that the RoLHR Programme should ideally include a legal empowerment component and that GESI and women’s empowerment, as well as resilience should be prioritized. RoLHR should also become more focused on the *specific rights and remedies* that it seeks to obtain for women and vulnerable groups and the specific processes involved.

With the revision of the prodoc, the management structure can be looked into with consultation with the Chief Justice. UNDP and its donors must scrutinize the current role of the NPD and revise if need be. There are focal persons identified at each IP who are responsible for taking responsibility for their areas, but in practice the NPD is the only person who can sign approvals. Also, there are question marks about the Programme's sustainability. The RoLHR needs to involve the Ministry of Finance in discussions about sustainability. In revising the prodoc it presents a good opportunity to create a sustainability strategy, ahead of the sustainability strategy envisaged during the last year of the Programme's implementation.

On the supply-side, UNDP, donors and the Supreme Court and other IPs must openly address the issue of the CTA and A2J Specialist. Ideally, by the date of completion of a revision of the project document UNDP and its donors should reach an accommodation and firm commitment from the Supreme Court and IPs to utilize the CTA and A2J Specialist, including an agreed detailed work plan and schedule of deliverables for the CTA. If this cannot be achieved, then the Donors might consider reallocating these funds to short-term technical experts.

At the same time, the RoLHR Programme should continue to support joint efforts of the IPs on the long-term structural changes in the justice system to enhance rule of law, in particular for vulnerable and marginalized people, which is central to its goals. The Programme needs to work strategically to develop the institutional capacities and improve structural issues within the justice sector and to ensure the sustainable integration of supply side activities in the government system.

At the local level and on the demand side, the RoLHR Programme should have a clear contingency plan on how to implement in the Midwest and Far West and Terrai, for example, invite stakeholders to Kathmandu. The Programme and its IPs should incorporate civil society to a much greater degree including the organizations of women, Dalits and other vulnerable groups. RoLHR needs to incorporate CSOs to a much greater extent and explore small grants to CSOs (particularly in Terrai, Mid West and Far West). Both NWC and NDC have been implementing their field based programmes relating to anti-GBV and anti-CBDU in collaboration with CSOs and engagement with CSOs have been instrumental to address demand side issues in absence of field offices of NDC and NWC. However, the engagement with civil society is very limited.

The role of other UNDP projects that are working on similar issues may have synergies. In addition, the RoLHR Programme should partner with UN Women—especially for demand-side programming on access to justice, legal aid and legal empowerment. The RoLHR Programme must also pay attention to the processes being used, especially in its interventions on the demand side. Poorly designed processes and existing strategies can leave beneficiaries without legal representation while their cases are pending or expose them to risks associated with coming forward for legal representation or psychosocial assistance. The RoLHR Programme must respect the fundamental principal of development “do no harm”.

As designed, the project is NEX, not DEX, therefore, UNDP/RoLHR is limited in its ability to do anything without the approval of the Supreme Court. Going forward, it would benefit sustainability and implementation if the field-level authorities were given some limited authority by the Supreme Court and other implementing partners to decide some issues themselves. This is also related to the sustainability of the Project. When the project stops, there must be some local ownership. Under the new Constitution, provincial governments will be given more power and they can play an enhanced role in the delivery of legal aid and SLAC. This should go in to the next AWP. There have been a few examples of this to date, (i.e. judicial outreach, where the Kailali District Court coordinated with CSOs at the district level without the need for significant prior approval between the RoLHR Programme and the

Supreme Court. The Kailali District Court judge simply shared with the NPD that the local court intended to cooperate with local CSOs and the NPD accepted and approved). The new Access to Justice Commission may offer entry points for District courts to take an active role.

GESI can also be strengthened across the RoLHR Programme. RoLHR should support orientation/training on “GESI sensitization and mainstreaming” to the judiciary and all IPs. The GESI strategy of RoLHR should be finalised immediately. The Programme should also continue support for the development of a GESI strategy for the Supreme Court. Additional outputs would include formulating a GESI action plan for the JSCCs national-level secretariat; drafting and publishing bench-books on GESI practices and procedures; revising the Prosecutorial Code of Conduct and the Strategic plan of the Supreme Court for GESI; Preparing GESI legislative drafting guidelines; upgrading the Law Review Policy to incorporate GESI. The policies, guidelines, manuals etc. that are planned to be developed or reviewed with the support of RoLHR should be made GESI responsive. The RoLHR Programme and IPs also need to collect further disaggregated data in terms of GESI. RoLHR needs to meet more frequently with the NWC and NDC going forward to provide technical expertise, and to determine and identify their needs and provide mentoring where needed.

Implications of new Constitution

The RoLHR Programme should address the implications of the new Constitution for A2J and rule of law as follows:

- Catalogue of fundamental rights enshrined in the new Constitution
- NDC and NWC are “upgraded” to Constitutional status and require support.
- Orientations of judicial bodies and members of the bar to the provisions of the new Constitutions;
- The Courts will need technical and capacity building assistance to establish lower courts at the community level (either mobile or fixed). In addition, the new Constitution provides for a new Constitutional bench within the Supreme Court. It is anticipated that the Supreme Court will soon request that RoLHR have outputs related to the Constitutional bench of the Supreme Court.
- With the change of Constitution, the number of appellate courts is reduced and the new “higher courts” (with additional jurisdiction) will also create a need for training.
- district courts will have a new appellate jurisdiction over quasi-judicial decisions. district courts are also expected to be flooded with public interest litigation. This is an important area for the revision of the programme. The district courts also cite “continuous hearing” as an area that needs more work.
- Codes and laws: The new Constitution mentions a number of laws and the MoLJPA is the authority that must draft these laws. This has widened the scope of the MoLJPA. But thus far, the line-Ministries have not developed the capacity to perform legislative drafting. The RoLHR Programme should continue to support improvements in the capacities of the line ministries in terms of legislative drafting and should support the MoLJPA in its overall efforts of reviewing, amending and creating legislation in line with the new Constitution.

The new Constitution contains a lot of new provisions regarding fundamental human rights. One of the major issues that the project has to look into going forward is law review and law reform. One of the characteristics of the Constitutional Chapter on fundamental rights is that the GoN has the capacity to enforce all of the fundamental rights and that separate implementing legislation should be passed within three years of the Constitution’s

promulgation. Also, the Court system is changing. Although the number of courts will remain the same, the Courts will need technical and capacity building assistance to establish lower courts at the community level (either mobile or fixed). In addition, the new Constitution provides for a new Constitutional Bench that is under the Supreme Court. It is anticipated that the Supreme Court will soon request that RoLHR have outputs focused on the Constitutional Bench. Finally, the Constitution has new human rights implications and there are six separate commissions. RoLHR programme should focus on marginalized communities and newly established commissions. Under the same component NWC and NDC, are upgraded under the new Constitution to constitutional bodies and this will have implications for the commissions themselves and have positive implications for RoLHR Programme implementations. RoLHR plans to continue its collaboration with NWC and NDC focusing on human rights protection and access to justice for marginalized communities.

New Constitutional Dynamics

Nepal adopted its seventh Constitution on September 20, 2015 through an elected Constituent Assembly for the first time in its history. With the adoption of the new Constitution, Nepal's political and legal institutions have been restructured, both theoretically and functionally, from a unitary to a federal state, and the mechanism to exercise sovereign state power has been redesigned under vertical and horizontal separation of powers, through a federal system of governance. Article 2 of the Constitution declares Nepal to be a federal, democratic, republican state. All sources of sovereign state powers (legislative, executive, judicial and residual) are thus derived, in compliance with the notions of democratic constitutionalism and the rule of law, from the Constitution which is the supreme law of the land, and according to Article 1, all laws which are inconsistent with the Constitution are invalid.

While outlining the overall objectives of the Constitution in the Preamble, the Assembly Members clearly expressed commitments of the nation to “*ending discrimination relating to class, caste, region, language, religion and gender discrimination including all forms of racial untouchability, in order to protect and promote unity in diversity, social and cultural solidarity, tolerance and harmonious attitudes...and also expressed determination to create an egalitarian society on the basis of the principles of proportional inclusion and participation, to ensure equitable economy, prosperity and social justice.*”

In addition, the Preamble also expresses the constitutional commitment “*to adopt to democratic norms and values, competitive multi-party democratic governance system, civil liberty, fundamental human rights, adult franchise, periodic elections, full press freedom and an independent, impartial and competent judiciary, and the concept of rule of law...in order to fulfil people's aspirations for perpetual peace, good governance, development and prosperity through the federal democratic republican system of governance.*”

Thus, with the promulgation of the new Constitution replacing the Interim Constitution of 2007, a new impetus has been added in the overall justice sector by increasing the prospects for securing and promoting human rights and social justice, especially for vulnerable and marginalized groups through added values in ‘the fundamental rights and duties chapter’ (Part 3, Articles 16-48) that contains a significant number of enforceable socio-economic and political rights guaranteed as basic and fundamental. Some major additions of rights include: rights against untouchability and discrimination; rights to the victims of crime; rights against torture; women's rights, children's rights; Dalits' rights; right to employment, housing, food sovereignty; senior citizen's rights; right to social security; consumer's rights; right to social justice; rights to press freedom and communications; and the right to due process of law and constitutional remedies.

Compared to the 21 enumerated rights under the preceding Interim Constitution, the new Constitution has incorporated 31 remedial fundamental rights with an additional commitment

of the state to implement all these rights through appropriate legislation within three years. Interestingly, however, one provision as citizens' duties to abide by the Constitution and laws and offer mandatory services to the nation if needed, has also been included in the same chapter. While the constitutional guarantee of women rights, Dalit rights and right against caste based discrimination are a very significant achievement, RoLHR Programme should thus work to strengthen the capacity of NDC and NWC to effectively monitor the compliance of government in relation to implementing rights that are guaranteed through constitutional provisions. Also as these rights are subject to law, there is a need to support these NHRIs to advocate legislative drafting and law reform processes.

In order to complement and progressively implement fundamental rights and aspirations of the people, a separate chapter of Directive Principles of State and Policies that existed before, has been given continuity with some changes for ensuring the realisation and effectiveness of the positive rights of the citizens, especially for vulnerable and marginalised groups, which the state must give priority in its policy and programmes. This also requires numerous implementing laws and sufficient human and financial resources.

Restructuring of the State

Nepal is now to be governed under a federal system of governance that has three tiers of government mechanisms, federal, provincial and local (district level, municipality level and village level federal units) to exercise the state's sovereign power as enumerated in five lists of competencies stipulated in Schedules 5-9, with their sources in the Constitution itself. Each unit of these three layers of federal government from top to bottom are yet to be constituted through implementing laws and electoral process. Laws and appropriate institutions related to the delivery of justice are to be created, and immense knowledge and capacity will be required to institute them as per democratic norms and the spirit of the justice system.

The transformation of the unitary governance system to a three tier federal structure (federal, provincial and local), including the creation of additional special, protected or autonomous structures under federal laws, will have huge implications on the existing social, political and legal systems of Nepal, which reflect immense cultural, religious, linguistic, geographical, ethnic and resource diversities. The census of 2011 indicates that Nepal with its nearly 28.66 million population living in northern high mountains, rugged middle hill-terrains and the southern plains, has nearly 125 ethnic groups speaking over 90 languages and dialects, and practicing approximately 12 religions. Articles 56-60, under Part V of the Constitution, envisage a strong federal parliamentary government with bicameral legislature and seven provincial governments with unicameral legislatures, all elected through a mixed electoral system (Proportional Representation/First Past The Post), while several undefined third tiers of local government with their respective unicameral legislatures (village and municipality councils) are directly elected under the FPTP electoral system. Interestingly, each level of federal government has state powers, related to legislative, financial and resource competencies, defined by the Constitution itself (Articles 56-60, Schedules 5-9). The residuary power is vested in the Federal Government at the Centre. On the one hand, several new implementing legislative and institutional devices have to be created during the course of realisation of the constitutionally determined lists of competencies under Articles 56-60 and Schedules 5-9, with enormous powers constitutionally delegated to federal units, and on the other hand, conflicts of federal units' competencies and the final interpretation of conflicting legislation of federal units have eventually to be resolved by the newly innovated highest Constitutional Bench of the Supreme Court. These are totally new areas that the restructured federation of Nepal have offered to the legal talents and social engineers that the RoLHR project may have to support within its permissible project regime, while redesigning the project for the remaining project period and beyond.

Commitment to respect social inclusion and democratic norms are essential while formulating policies and programmes in a resource scarce, diverse society. This is a challenging job for a nascent democratic state, which has not yet fully come out of conflict. Nepal is now being governed under the “transitional provisions” of the Constitution and in view of the on-going political movements in the southern belt; it is not certain how long it will take to manage the shift from a ‘transitional governance’ to a full-fledged ‘constitutional governance’. The challenge before the RoLHR Project is to respond to the needs and dynamisms of this transitional process. Knowledge and capacity gaps in managing a transition from a unitary to federal system for the extremely divided political actors, committed to different ideologies, are challenging. Enumerated competencies in Schedules 5-9 for formulating policies, laws, innovating institutions and capacity building could be an entry point in the restructuring process.

Dynamism of the Justice Sector

In the evolving federal structure of Nepal, the proposed Unified Judiciary may end up eventually in the form of a quasi-federal judicial system, as it has to restructure its Appellate Courts in the form of seven proposed High Courts in line with the seven provincial units of the federal structure. One of the significant additions at the Supreme Court is the creation of a Constitutional Bench with a ten year sunset clause under Article 137 to examine the obstructions or improper prohibitions on any fundamental rights guaranteed by the Constitution and also to test the constitutionality of any laws as well as hierarchical legal and jurisdictional-conflicts, *and* thereby declare them *ultra vires* under Article 133. Additionally, the Constitutional Bench is empowered to resolve jurisdictional disputes amongst federal units and electoral disputes related to membership of federal and provincial units, including the ineligibility/disqualification of the members at federal and provincial legislatures. Most importantly, this bench is empowered to offer interpretation on serious constitutional issues as designated by the Chief Justice. The Constitutional Bench, headed by the Chief Justice, will be formed by the Chief Justice, consisting of only four special members, who are recommended by the Judicial Council for such purpose. Implementation of this special provision may need Justices with additional constitutional and electoral knowledge, and special procedural arrangements may have to be made for resolving specific disputes.

Since the Supreme Court has a long history of being a very powerful and independent organ of the State, and despite attempts by the political parties to make it accountable to the political wings of the State through parliamentary hearing, the impeachment mechanism, appointment systems, budgetary and administrative processes, it still remains a strong institution compared to other organs of the State. Under the umbrella of the Supreme Court, and the existing framework of the justice sector, the RoLHR Project can play a significant supportive role to promote access to justice and social justice delivery in a collaborative way, as emerging Constitutional Bodies of an autonomous nature, such as the Women’s Commission, the Dalit Commission, the Social Inclusion Commission, *et al*, have been created by the new Constitution. The open and responsive leadership of the present Supreme Court, with so many new avenues opened by the New Constitution, may add to the importance of the support provided through the RoLHR project in the future.

While the parliamentary system based Legislative and Executive Wings of the new federation are designed in accordance with the federal structure, the Judicial Branch remains to be unified. Limited quasi-federal features are nevertheless found incorporated in the proposed seven Provincial High Courts, by reducing the number of sixteen Appellate Courts to only seven as per the provincial federal design. Accordingly, all the district courts spread around seventy-five Districts are to be readjusted under the proposed seven Provincial High Courts. Similarly, the unified Office of the Attorney General (OAG) is also quasi federal in nature and is reorganized parallel to the court structure. The appointment process of the Provincial Chief Attorney Generals brings the OAG closure to the federal system. According to Article 160 of the Constitution, the Provincial Attorney Generals are appointed by the respective

Provincial Governors on the recommendation of the Provincial Chief Ministers. Consequently, the District Attorney General will be placed in each of the district courts falling under the respective Provincial High Court. But their appointment process may be prescribed under the Federal laws as indicated by Article 161.

The quasi federal features appearing within the unitary justice system will have some structural and management implications on the RoLHR Project in future, as District Legal Aid Commissions (D-LACs) are headed by District Attorney Generals (DAG) and district-level Judicial Sector Coordination Committees (JSCCs) are chaired by district court senior most judges. In addition, prisons (detention centres) are kept under the supervision of the DAGs and all prosecution related issues are dealt with by the OAG in coordination with the investigating officials, especially police officers, while the human rights related issues whether it be with regard to detainees or accused individuals, come under the direct purview of the OAG and D-LAC.

The Supreme Court led and managed/coordinated Justice Sector Development and Access to Justice programme with the support of the RoLHR project, in principle is primarily based on the constitutionally guaranteed fundamental rights related to justice and constitutional remedies under Articles 24, 32 and 107 of the Interim Constitution of Nepal (2007), now re-endorsed by rights to social justice, social security, and constitutional remedies provisions (Articles 42, 43 and 46) of the newly promulgated Constitution, which has further expanded the Supreme Court's extraordinary remedial jurisdictions to the seven Provincial High Courts (Articles 133 and 144). The district courts under Articles 127, 148 and 151 of the new Constitution now emerge as more powerful and responsible judicial entities for justice sector development and access to justice as their supervisory and appellate jurisdictions extend to cases decided by all quasi-judicial bodies and local judicial entities, created by Provincial Legislature within the respective District. The role of the JSCC and D-LACs, including S-LACs and Mediation Centre in the District significantly increases in the context of social and access to justice to the vulnerable people, as the burden of the district courts and OAG will be enormous.

Since the Supreme Court and other lower courts have acquired legal authority for implementing the Justice Sector Development and Access to Justice programmes through respective Supreme Court Rules, Appellate Court Rules and District Court Rules, framed by the Supreme Court itself, rather than the Supreme Court Act and the Judicial Administration Act passed by the parliament. Similarly, the continuous court hearing and in-camera hearing on sensitive gender related cases are also the outcomes of the RoLHR programme to the justice sector development. The legal aid and mediation statutes, however, were initiated by the Government in Parliament but based on the experiences of the mediation and legal aid exercises carried by courts with the support of UNDP, the Bar Association and other agencies, including the court appointed legal aid lawyer system. In view of Article 304 of the new Constitution that demands revision of all existing laws for compliance with the new Constitution within one year of the election of the Federal Parliament, and also keeping in view the repeal of the preceding Interim Constitution, all enactments and implementing rules related to the justice sector, including quasi-judicial bodies therein, especially those exercised by Chief District Officers and other administrative tribunals, will have to be revisited and updated.

The jurisdictions of the High Courts are further expanded to hear Public Interest Litigations as well as writ petitions of extraordinary nature that previously the Supreme Court would adjudicate on. Although the intention is to make justice more accessible for the people, this requires High Courts to be more equipped with sufficient resource materials, manned with more competent and knowledgeable justices and lawyers at the Bar, and more efficient judicial assistants and administrative personnel. Support for capacity enhancement may have to be increased both at the leadership level and management front. The RoLHR project may,

in consultation with the Chief Justice of the Supreme Court, National Project Director, and Central JSCC explore areas and ways to support the functioning of the Judicial Council which has multiple of functions related to justice sector development as is clearly stated in Article 153. Inclusivity in all appointments, from both gender and underrepresented group's perspectives, has been given high priority in the overall framework of the Constitution. Balancing competency and inclusivity is more difficult in the justice sector, as sufficiently trained human resources are not available on the supply side.

A unique provision of the 'judicial committee' constituted by three locally elected representatives of the Village Council and Municipality Council to resolve disputes on issues under their respective jurisdictions has been envisaged by Article 217 under the Chapter of Local Federal Executive (Part 17). It is however not clear as to what kind of quasi-judicial entity the 'judicial committee' is going to be.

Public administration and judicial administration machineries, including some Constitutional Commissions and security apparatus, are to be restructured as per the federal entities under the new Constitution as prescribed by Articles 154 156, 244, 268 (2), and 285. This includes the provisions for federal level Judicial Service Commission and provincial Judicial Service Commission for appointments of judicial personnel at the respective federal units. These Commissions will have direct implications on the judicial management within the court system.

As human rights aspects and principles of social justice are extensively covered under the fundamental rights and Directive Principles, Policy and Obligations of the State Chapters of the Constitution, realisation of them in practice requires additional efforts. The judicial system alone, in spite of its extended and expanded approaches, may not be adequate to fulfil the requirements. Additional efforts have thus been made through the creation of new Constitutional Commissions either by upgrading the status or introducing new ones. So far, RoLHR is partnering with the National Women Commission and National Dalit Commission to support gender enhancement and for empowering marginalized groups through the justice sector. Now with the inclusion of the National Inclusion Commission (Articles 258-260), Indigenous Ethnic Community Commission (Article 261), Madhesi Commission (Article 262), Tharu Commission (article 263) and Muslim Commission (264), it is expected that the interests of underrepresented groups will become a priority for the State. However, such Commissions have in fact diluted the importance of other existing Commissions, and many critics think such Commissions were created only with political objectives rather than serving the marginalized groups with commitments and resources. These Commissions may open space for the promotion of vulnerable people whose access to the justice system is restricted.

Implementation of the New Constitution through the justice and human rights sectors, in the interest of the vulnerable and marginalised people of Nepal, may not be an easy task but it is certainly achievable, as it has opened avenues of new opportunities as well.

Anticipated Legislation

Nepal is currently governed under the transitional provisions of the Constitution (Articles 295-305, Part 33) until mid-January 2017 under the extended unicameral Legislature-Parliament consisting of 601 members, although the proposed bicameral Federal Parliament consists of only 334 members (House of Representatives - 275 and National Assembly - 59). Except the Chief Justice, all Heads and Deputy Heads of the key elected constitutional organs, such as the Prime Minister, Speaker and Deputy Speaker, including the President and Vice President, are elected under the transitional provisions by the same old but newly transformed parliament, with the previous name (Legislature-Parliament). The continuity of existing laws is given until one year after the commencement of the Federal Parliament. It is uncertain, how long it will take for electing the Federal and other parliaments of the new

federation in order to fully operationalize the governance system under the new Constitution. Currently, the country is governed under a parallel legal system of the old unitary and the new federal models. A large amount of legislation has to be created to replace the existing laws, which are either redundant or have to be amended in compliance with the new Constitution as indicated by Article 304.

More than three hundred enactments exist under the previous Interim Constitution and almost all legislation has to be reviewed, revisited and amended to bring it into compliance with the New Constitution. An equal number of Rules exist under most of the enactments, which have to be redrafted at the same time in order for implementing the primary enactments. Otherwise, they will all be invalid *suo motu* (Article 304 (2)). Numerous, new implementing legislation may have to be drafted by the present transitional legislature in order to create federal structures, especially the Federal Parliament, until other federal units are created. All legislation passed by the present interim legislative-parliament will have to be replaced again by the laws passed by federal units as prescribed under the lists of competencies stipulated in Schedules 5-9.

In the Fundamental Chapter alone under Part III, Articles 16-46, legislation has to be passed, at least within three years (Article 47), in order to realise or fulfil the fundamental rights, which are supposed to be enforceable by the courts even in the absence of any implementing legislation. In this regard, the Supreme Court has already assigned tasks to a Committee headed by a Supreme Court Justice to look into areas that demand new laws and institutional devices in order for effectively delivering justice as prescribed and promised by the new Constitution. The RoLHR project can support this.

In the area of the justice sector and access to justice, immediate legislative tasks may require carrying out urgent actions to immediately revisit the Supreme Court Act and Rules, the Judicial Administration Act, the Appeal Court Rules, the District Court Rules, the Legal Aid Act and Rules, the Mediation Act and Rules, the Local Administration Act and formulate new laws for immediate adoption, in coordination with the Ministry of Law and Justice and the Supreme Court. A team, with specific tasks to conduct research on legislation, as well as drafting new laws will have to be assigned. The RoLHR project can support this.

Nepal has in its collection of legal texts published in thirty-four volumes, both Enactments and Rules, each in seventeen volumes. The Ministry of Law and Justice and Parliamentary Affairs regularly publish additional publications, as special issues, through its publication division. The Nepal Law Commission has posted most of the existing laws on its website. However, the website has to be updated.

The National Election Commission has already started preparing drafts of electoral laws but it needs assistance and expertise to formulate electoral laws and rules, including guidelines and codes of conduct, for holding elections of all federal units, mainly of the Federal Parliament, at the earliest. Now, a number of new laws related to political parties and conducting local elections will be needed for holding elections at the lowest tier of government and at provincial levels.

Above all, laws related to the Federal Structure, Governance of each level of units (with structure, power and functions of both legislative and executive branches), laws related to the constitutional bodies (Commissions), inter-state relations amongst federal units, are needed to ensure that the federal structures are in place as early as possible.

Thorough research will have to be conducted to review the quasi-judicial powers of the administrative sectors so that appeals of their decisions may be duly moved to the district courts, and necessary preparations for the district courts to cater for quasi-judicial decisions

may be made. The RoLHR Project is well positioned to help support these processes, thus making the programme more relevant to the evolving context in Nepal.

Impact of the Earth Quake

The Programme did its best to respond to the urgent crises in Nepal following the 7.8 magnitude Earth Quake on 25 April 2015. The Evaluation visited *Sindupolchowk District* (one of the districts hardest hit in the April 2015 earthquake) and met with the JSCC, toured temporary court facilities and met with the OAG, District Judge and Registrar. The high level of coordination of the JSCC and court paid attorney in Sindupolchowk in response to the needs of earthquake victims was remarkable and resulted in expedited hearings and petitions for replacement of lost documents, etc.

The Programme provided the Supreme Court with two tents to house staff. In particular, the Programme focused on the Sindhupalchowk District providing tents to the district court and OAG offices. Additional Programme support was given in the form of computers, printers, generators, stationary, etc. This enabled the Sindhupalchowk District Court to continue its basic functions in the immediate aftermath of the disaster. The demand for legal aid also spiked in Sindhupalchowk District as a result of the earthquake. In response, the Programme supported the JSCC of Sindhupalchowk and the District Bar Association to establish a Legal Help Desk in coordination with the DLAC. Principal among the needs of citizens is vital document replacement (i.e. national ID cards; passports; land ownership certificates; etc.). As of end Q2 2015, the desk had assisted 28 citizens (6 women; 22 men) with legal aid and services. Of these, 18 were Janajatis and 2 Dalits. These findings are further discussed in the section of this Evaluation Report dealing with results across each of the outputs.

By September 2015, notwithstanding the earthquake, the Sindhupalchowk District Court had decided 373 cases and there were 271 cases pending. These cases included cases of murder, attempted murder (some of these were 32 cases in 2014) spiked since the earthquake), human trafficking, public nuisance. The Sindhupalchowk District has one of the highest incidences of human trafficking in Nepal. [but only 18 cases of human trafficking brought in the last year].

After the earthquake in Sindhupalchowk people had no money and in the entire district only 51 houses escaped damage. At this time they developed the Legal Help Desk. Given the difficult geographic location it is not possible for everyone to trek down to the district court. Some villages are so remote that it takes two days walking to reach the district. Therefore, the judge proposed that two additional help desks be formed. In Sindupolchowk 164 clients have visited the legal help desk since it was initiated. (50 per cent approximately of the clients are women). Three local FM radio stations have broadcast information about the legal help desk. Most of the clients who have visited the desk learned about its existence via these radio broadcasts. There are a total of 89 VDCs in Sindhupalchowk region and one of the key activities of the Legal Help Desk is to be a mobilizer of the VDCs to disseminate information of the legal help desks. The Legal Help Desks discussed with the VDCs to replace lost passports. [in Nepal there is a requirement that a person who has lost his or her passport must publicize the loss for 45 days and only after this can a replacement be issued]. It was negotiated by the Legal Help Desk with the VDC that this 45-day publication requirement would be waived for earthquake victims. The President of the Bar suggests that building confidence among the people and recovering documents such as loan documents are areas that the Programme could support. These documents need to be regenerated and resigned. It is very important that these documents be reconstructed while the memory of their provisions is intact.

The Supreme Court specifically rejected a UNDP proposal to reallocate some RoLHR programme funds to earthquake-affected districts not previously covered by the programme.

This should not preclude UNDP from advocating with the Supreme Court and IPs at a central level to streamline processes and procedures (i.e. document issuance, training of officials, etc.) in these areas. Going forward, the Evaluation recommends that this issue be revisited in discussions concerning a revision of the RoLHR Programme project document, in order to make the programme more relevant to the local context.

B. Efficiency

Rates of Programme Execution and Delays

The project has encountered a lot of delays and challenges that have slowed implementation and rates of programme budget execution. Out of \$24 million in the budget, and \$22 million pledged, \$7 million has been spent: (2013 = 1.4; 2014 = 4.2; 2015 (Q1-Q3) \$1.4 million. = \$7 million). Progress has not been as extensive as originally envisioned on the structural issues and process change within the institutions. A disproportional amount of time has been spent on supply-side institutions and not enough focus on vulnerable groups. Discussion on judicial integrity and financial management of the judiciary are almost wholly lacking from the Programme and its activities to date.

While the Supreme Court has exercised a great degree of supervision over the Programme, at times this had bordered on micro-management to the detriment of the pace of implementation.

2013 was the inception year for the Programme. There were some delays reported during the first year of implementation due to the fact that elections were held in November 2013, where large numbers of judicial officials were deployed on missions related to conducting the election and not able to participate in Programme activities. Also, it was originally contemplated that the Programme would also service the NHRC by strengthening its capacity, but this component was removed in a limited re-design of the Programme and its RRF that occurred in 2013. It was deemed that NHRC would be better serviced by its own stand-alone project. UNDP procurements also lagged behind schedule—particularly regarding the recruitment of qualified staff. For example, the NPD was only hired in Q4 of 2013, which was a significant challenge to a programme the size of RoLHR. Notably, the Programme’s project document, its RRF and indicators appear to have been designed and finalized without any comprehensive study or surveys being conducted. A citizen’s perception survey on the justice sector was planned at the outset of the Programme, to establish baselines, but had not been conducted as of end 2013. The Programme annual reports note a tendency of the Supreme Court to raise objections to activities clearly mentioned and contemplated by the project document subsequent to its signing.

It is difficult for this Evaluation to ascertain the reasons for such institutional resistance during 2013 and later years. According to the NPD, 2013 was a year of planning and real implementation started in 2014, but there were many interruptions. There was a problem recruiting an NPM and a gap after the first NPM’s departure and the recruitment of his replacement. There was also a period of time between the old Chief Justice and the appointment of the new Chief Justice when the NPD felt that he could not act, resulting in a six to seven month period where the NPD could not move things with the old Chief Justice and was waiting until the new Chief Justice was sworn in. Also, some project procurements took a very long time and their quality was criticized by the Supreme Court.⁶⁵ The majority of this procurement (computers, laptops, etc.) will be obsolete in 5 years time.

⁶⁵ The Supreme Court’s criticism was raised primarily in reference to a court refurbishment contract signed with a local engineering company, with major procurement of equipment done via UNDSF

2014 represented the first full year of implementation of the Programme. The long anticipated National Baseline Perception Survey was completed that revealed that only around 5 per cent of the population used court services, 35.3 per cent believed that prosecutors addressed criminal cases effectively, 42.5 per cent were fully satisfied with police responsiveness and 47 per cent said that victims of SGBV felt confident enough to seek legal aid.⁶⁶ It is clear that there were large gaps not being addressed in 2014. The AWP and revised Programme RRF were not aligned well with each other.

Programme implementation fell behind yet again, as a result of the earthquake in April 2015. The delivery rates, while increasing, have remained low. The RoLHR Programme was permitted by the Supreme Court and IPs to provide crucial support to Sindhupalchowk District post-earthquake; however, the Supreme Court rejected a U.N./UNDP proposal to shift any RoLHR funds to earthquake-affected districts (despite the fact that only \$7 million of \$22 million of the Programme budget had been allocated as of mid-2015). In the Evaluation's judgement, this was not in keeping with the Programme's fundamental focus upon women and vulnerable groups at the local level. There remain significant needs in earthquake-affected districts, as discussed above. Such infrastructure and procurements in these districts have a clear link to A2J for vulnerable groups.

Programme Structure, Management and Staffing

The RoLHR Programme is implemented in accordance with the national execution modality (NEX) principles, with the Supreme Court of Nepal as the lead implementing agency and the Ministry of Law, Justice and Parliamentary Affairs as implementing partner. An additional six implementing partners were envisaged in the Programme document, namely the Office of the Attorney General, the Nepal Bar Association, the National Judicial Academy, the Judicial Service Training Centre, the National Dalit Commission and the National Women's Commission. The Programme is also working regularly with a number of additional partners, including the Nepal Law Campus, the Central Legal Aid Committee, the Faculty of Law/TU, the Nepal Law Commission, the Judgement Execution Directorate and a number of CSOs. It should be noted that the Supreme Court has traditionally dominated justice sector reforms in Nepal and has a long history of being a very powerful and independent organ of the State.

For accountability and responsibility purposes, the three components of the Programme were designed to be implemented by the following agencies: (i) the Supreme Court of Nepal to implement component 1 in coordination with the National Judicial Academy; (ii) the MoLJPA to implement component 2, in coordination with the Nepal Bar Association and other actors engaged in legal aid service provision; and (iii) component 3 to be implemented in coordination with the NWC and the NDC, and the transitional justice related activities to be implemented directly by UNDP, under the direct execution modality (DEX principles), in partnership with UN Women and the Ministry of Peace and Reconstruction. As a result of various project revisions, component 3 has now been extracted from the project, leaving components 1 and 2 as the remaining areas of focus.

PISU. The process took a long time from the solicitation and opening of bids through to evaluation of proposals and CAP approval. UNDP states that it is aware of this and as a result has tried to take measures to improve the process and shorten the time required for procuring equipment by using approved vendors

⁶⁶ [Source: RoLHR 2014 Annual Report and 2014 National Perception Survey]. Some outputs are repeated in RoLHR's 2014 Annual Report (which is not surprising, given the fact of so little progress in 2013). But, UNDP has been repeating some support for years (i.e. "supported the drafting of the Penal Code, Civil Code and Sentencing Bill....).

During the two and a half years of Programme implementation, the RoLHR Programme has witnessed four Chief Justices, two National Programme Directors, two National Programme Managers and numerous changes in staff among the national implementing partners. This has not only resulted in severe delays in implementation and delivery of the Programme but has also impacted on the continuity of institutional knowledge and oversight. The high-level of staff turnover has affected the institutional knowledge relating to the Programme within UNDP and has resulted in additional time being spent on creating new relationships between UNDP and the Programme partners.

The recruitment of staff to the Programme has not been optimal. The Programme envisaged a total of 29 staff, comprised of 15 professional staff, two internationals, and 12 support staff. However, there has been almost constant understaffing of the Programme, so for example as of September 2015, a total of 6 positions are vacant. These include positions that were originally envisaged as well as some more recently identified positions, which have become apparent during the Programme's implementation, including a Field Programme Coordinator in Biratnagar, two early recovery associates, a communication and reporting associate, an M&E associate, a programme assistance and a driver. These newly identified positions have not yet been endorsed. Meanwhile the positions of Training M&E under the legal aid component and Strategic Planning & M&E Officer under the justice sector component have been deemed unnecessary. The Evaluation Team's understanding is that the Terms of Reference for six positions have been prepared and will be advertised soon.

Considering the size of the Programme, it is clear that more staff are required. To optimise the Programme structure, necessary decisions should be made by the Programme in consultation with the implementing partners, as per the needs of the Programme. The Evaluation Team recommends that the Programme structure be optimised in the shortest possible time. In particular this is imperative for the positions of CTA and Access to Justice Specialist (which are discussed in greater detail below) but also for the Field Programme Coordinator in Biratnagar. Implementation of the Programme is spread out over 28 districts, but the Programme only operates one field office in Nepalgunj. Thus there is an urgent need to establish a field office in Biratnagar, which would become a regional hub, to implement and monitor the field activities in the Eastern part of the country. The optimisation of the programme structure should not only include a review of needed positions but should also include a review of the lines of reporting within the Programme, the creation of specific job descriptions for each position and a clear scope of authority for each staff member. This will avoid duplication of tasks and overlap and confusion in lines of reporting and duties, all of which have at times been present.

The National Programme Director from the Supreme Court is responsible for guiding the overall management of programme activities, ensuring that that the programme produces the specific results and that they are consistent with the signed Programme Document. The NPD is accountable to the Programme Executive Board. The Director ensures adherence to all financial management, procurement and recruitment rules and procedures under the UNDP NEX modality. Importantly, the NPD has a fiduciary duty towards the other implementing partners, including ensuring that their activities are implemented in accordance with the Programme document and subsequent work plans and corresponding budgets, and in a timely manner. In the project document, it was envisaged that Deputy Programme Directors/Component Managers would be appointed under each component. The DPMs were foreseen as officials assigned by each institution to support the component team, as well as to coordinate and report on the component activities to the National Programme Director. Deputy Programme Directors have never been appointed.

Each year, all implementing partners are involved in designing and developing the Annual Work Plan (AWP) for the coming year, which is agreed on and signed off by the National Programme Director. Additional work plans are prepared on a quarterly basis, which, are also

signed off by the NPD. This should enable the implementation of activities to be conducted without seeking further approval of the NPD, assuming they are in accordance with the AWP and QWP. The Evaluation Team found that this frequently was not the case and that the programme activities could not be implemented without an additional level of authorization from the NPD. This requires the National Programme Manager to seek additional authorisation from the NPD, impacting on delivery, efficiency and timeliness of the programme activities. This results in delays in implementation and causes frustration among the implementing partners and programme team. In addition, it is a breach of the NPD's fiduciary duty towards the other implementing partners.

The Evaluation Team found that the NPD has not been orientated properly and has himself, at times, been constrained due to the institutional culture and gaps between the old Chief Justice (CJ) and the recent appointment of the new CJ. There is a gap between the pro doc and the reality in 2015. The Project Manager and the NPD have a very difficult division of authority and roles. This has created bottlenecks on the desk of the NPD who must approve all expenditures.

Going forward, the NPD mechanism must be reviewed. The NDP could benefit from the support of a dedicated staff member at the Supreme Court to assist the NPD full time. This person could also serve as a liaison between the Chief Technical Advisor and the court. The appointment of Deputy NPDs under each component is also an avenue worth exploring in an attempt to relieve bottlenecks and accelerate programme implementation and delivery. Regular weekly meetings between the NPD and the NPM could also be an effective means to bridge the gap and to discuss upcoming activities and implementation processes to ensure that the NPD has full understanding. It is also recommended that the NPM has authority to approve transactions up to a limited amount. This was agreed by the original NPD but was never implemented. This would allow small activities to be undertaken without the additional authority of the NPD.

The Programme should also improve RoLHR abilities to follow-up on requests from IPs.⁶⁷ There should be a way to make the IPs accountable for their planned activities. Their role and lack of follow up is not well documented and it creates a situation where any lack of implementation is cast as UNDP's failure. UNDP should consider relocating or co-locating project staff in the Supreme Court and/or MoLJPA. At least the Supreme Court should dedicate a room for the project so that project staff has a dedicated space to meet with mid-level court officials, visiting judges and court employees, as well as representatives from other IPs whenever need be at the Supreme Court, rather than RoLHR Programme office.

The Evaluation Team recommends that the NPD and all relevant senior justice sector officials receive additional training from UNDP and the PEB, whose responsibilities include "*directing and guiding the National Programme Director.*"⁶⁸ Setting clear management and financial arrangements at the beginning of Programmes is essential for accountability and

⁶⁷ According to stakeholders interviewed, The NPD has refused requests for the other IPs and has requested unnecessary additional documents be presented to him as a condition of approving (i.e. Establishing victim waiting rooms was already in the AWP and RoLHR already had a letter of request from the Central Legal Aid Committee to this effect, but the NPD demanded a new decision be taken from the Central Legal Aid Committee (this was virtually impossible due to the fact that the committee meets only quarterly). Another example was the refurbishment of the NBA's central law library, but the NPD refused request. The NPD apparently didn't understand the necessity for an engineer to conduct a study as a condition for the RFQ per UNDP procurement guidelines]. NPD at times has also held up requests for national consultants.

⁶⁸ Strengthening the Rule of Law and Human Rights Protection in Nepal 2013-2017 Programme Document

management of expectations, as well as for effective consultation, negotiation and ‘buy in’ from local counterparts for successful Programme delivery. This is particularly true for Programmes following the national execution modality. This additional training or direction from the PEB would clarify the roles and responsibilities of all implementing partners, as well as provide a better understanding of all processes and procedures as set in the NEX Guideline so that activities can be implemented more efficiently.

Additional, regular meetings would also help to relieve bottlenecks. The Supreme Court should regularly invite all implementing partners and other relevant actors for coordination of the Programme activities and to share experiences, in order to increase the effectiveness and efficiency of the Programme. Despite the busy schedule of high level government officials, the Programme Management Unit, consisting of the NPD, NPM and programme officers, should also meet on a regular basis to expedite the implementation and resolve any outstanding issues. The joint quarterly planning and review meetings should be used as an opportunity to build coordination and enhance communication.

The Role of the CTA and Access to Justice Specialist

A fundamental element of the RoLHR Programme as originally designed was the provision of international technical assistance. Two positions were stipulated and agreed upon by the Supreme Court and IPs in the project document: a Chief Technical Advisor (CTA) and an Access to Justice Specialist (International)(P4).

The role of the *Chief Technical Advisor (CTA)*, as envisaged in the Programme document is to provide strategic guidance and technical support to the implementation of all □ programme components. The CTA ensures coherence and coordination of all programme components in accordance with the programme strategy and objectives. The CTA also assumes an international development partner coordination role: ensuring that the Programme is well coordinated with other justice sector programmes implemented by other donors, UN agencies, and international organisations. The CTA’s role is also to promote a coordinated international support to the rule of law institutions’ strategic plans, and participation in efforts towards a SWAp.

The role of the *Access to Justice Specialist (International) (P4)*, as envisaged in the Programme document is to support the overall implementation of Output 2 by providing expertise on socio-legal aid service provision. The Access to Justice Specialist was envisaged to work closely with all stakeholders (including programme implementation staff with expertise in relevant areas) to support the: consultative reform process; development and implementation of legal aid service provider regulation (training and M&E) frameworks; design of accessible legal awareness raising materials; establishment of Legal Aid Centres (including database and coordination mechanisms) and socio-legal aid referral networks. The Specialist should work alongside the Legal Aid Officer and Access to Justice Coordinator. It was envisaged that the Specialist would transfer his/her skills and knowledge on socio-legal aid service provision to the Legal Aid Coordinator and Officer, so that they could undertake all aspects the Specialists’ work within three years, including management of the grants-making process. The Specialist is responsible for supporting all Output 2 activities, as well as for ensuring that, by the end of his/her tenure, the MoLJPA is able to lead all aspects of legal aid reform, regulation, coordination and other aspects of the mandate conferred by the revised national legal aid policy framework. □

Despite the provisions in the Programme document for international technical expertise, the Evaluation Team has found that there is an institutional unwillingness to absorb technical advice, beyond that provided by short-term experts on specific issues. The CTA and P4 were appointed in November and December 2013 respectively. The P4 resigned in January 2015

and the CTA's position was cut to 50 per cent, at the time when the Transitional Justice component was taken out for the Programme architecture. In large part these decisions were as a result of the reluctance or almost refusal of the implementing partners to utilise the technical assistance. As of September 2015, the only technical advice provided to the Programme is nominally that of the 50 per cent CTA position, yet in reality, the CTA has been blocked by the implementing partners in participating in any meaningful way in the Programme. Indeed, in May 2014, the Nepal Development Cooperation Policy was issued, which stated that Nepal no longer requires any international technical assistance and that all expertise can be provided domestically. Any international position must be negotiated by UNDP with the Ministry of Finance.

Thus, there has been little, if any true mentoring to institutions, given the ostracizing of the CTA; and the demand-side component of the programme remains underserved. The Supreme Court has refused to recruit for a replacement of the A2J Specialist, despite the CJ's new "Access to Justice Committee". The implementing partners have stated that the technical assistance provided through the Programme has not met expectations and that the quality has been poor. Both formal and informal communication has been poor and there has been little effort to offer the services of technical assistance and no proactivity in terms of interacting with the implementing partners and soliciting their needs or promoting the technical assistance that could be provided. The reporting lines of the CTA and P4 are also questioned by the implementing partners who would prefer these positions to report directly to the NPD rather than to UNDP.

The Evaluation does not currently see a high enough level of UNDP/RoLHR in-house technical expertise able to be deployed effectively to the Supreme Court and IPs due to a number of factors including the disproportionate amount of time that Programme staff must spend on logistics and UNDP compliance, but foremost due to institutional resistance to advice, mentoring or change management in any form—especially if that advice is rendered from international technical experts. This is a departure from the original vision of the project document. In effect, what has occurred is a "standoff," whereby the national actors (with a very few exceptions) are explicitly pushing back on deployment of any international expertise (i.e. permitting the CTA to operate fully and across the entire programme) citing the justification of the Government's default position that Nepal has sufficient technical capacity nationally, while UNDP continues to advocate for deployment of the CTA and adherence to international best practices. In lieu of deployment of international technical advice, there has tended to be a focus by RoLHR and IPs upon procurement and strict adherence to servicing the GoN's supply-side agenda, rather than process change. This begs the question "what has been UNDP's added value during the programme implementation period?"

This has created a very difficult situation in terms of the implementation of the RoLHR Programme. Technical assistance is crucial in order to transfer knowledge and develop capacities of the national level institutions and it is vital for further developing the capacity of the Nepalese government. The Programme document was designed and developed under the leadership of the current Chief Justice, who agreed to the provision of technical assistance in the Programme and agreed to the positions of CTA and Access to Justice Specialist. The seemingly complete turnaround in institutional willingness to absorb technical assistance is a cause for grave concern, among the donors, the Programme team, UNDP and the Evaluation Team. There is very much a need and a role for technical assistance in the Programme.

It is recommended that an extraordinary session of the PEB be convened at the earliest possible convenience, in order to address all issues relating to the optimization of the Programme structure (detailed above), including most importantly the role of international technical assistance in the Programme. The donors should actively voice their concerns at this meeting, and if possible engage their Ambassadors, to collectively come together to resolve this situation in the best interests of the Programme. The implementing partners should be

made aware that the Programme could fold, if the situation regarding technical assistance is not resolved.

Programme Oversight

Independent programme oversight is performed by the programme analyst and the PEB, while monitoring and evaluation activities are conducted by the Monitoring and Evaluation Officer and the UNDP results based monitoring and evaluation field team, who provide an additional level of oversight to the activities of the Programme.

The UNDP **Programme Analyst**, supporting the PEB, performs the quality assurance role in the Programme. The Programme Analyst carries out objective and independent oversight and monitoring functions on behalf of the PEB and ensures that appropriate programme management milestones are managed and completed. The **Programme Executive Board** is responsible for making key decisions on programme implementation, to ensure that the Programme remains relevant and responsive through changing circumstances. The Programme Executive Board is responsible for: a) directing and guiding the National Programme Director; b) reviewing activities and any impending issues; c) approving work-plans, budgets, and risk log; d) approving Programme revisions based on changes in the situation. The Executive Board meets on a quarterly basis. To maximize programme impact, the Executive Board and other stakeholders can jointly agree to review and revise any Programme components, outputs, and activities, as has been done, for example, by removing the transitional justice and human rights component. Any revisions undertaken by the PEB are carried out in close consultation with all partners, advisors, and stakeholders.

In terms of Monitoring and Evaluation, the **Monitoring and Evaluation Officer** supports the component teams to develop and implement their respective M&E plans as well as collating data and programmatic lessons learned. To ensure that all programme implementation decisions, reports and communications are evidence-based, the M&E Office shares this information with the Programme Executive Board, the NPD and the Communication and Reporting Officer. UNDP has established a results **based monitoring and evaluation field team**, in four field locations, which monitors all UNDP projects and programmes, including RoLHR. This is done in addition to the Programmes' own internal regular monitoring mechanism, which adds value to the information derived as an independent monitoring entity within the UNDP system. The monitoring teams add value through monitoring the accountability, policy/programme effectiveness, coordination/partnership, UNDP's image and acceptance and performance assurance for development effectiveness.

In total, seven field visits have been made to date during the implementation of the RoLHR Programme, including monitoring of the SLACs, interaction with beneficiaries and monitoring the court information desks. These were undertaken over 27 field days and 7 reports and 3 case stories have been produced. The monitoring teams look at synergies between UNDP Programmes in order to improve efficiency and make notes on their major findings, which are shared with the Programme team, and provided for the PEB meetings. In particular, the field monitoring has examined the functionality of the SLACs, assessed the beneficiaries satisfaction and stakeholder coordination at grassroots level, assessed the role of Justice Sector Coordination Committee (JSCC) and its effectiveness at the district level, assessed the functionality of information desks and monitored the proper utilization and recording of RoLHR supported office equipment.

While the work of the UNDP field monitoring offices is exemplary, the overall RoLHR monitoring and evaluation and briefs to donors have often been devoid of baselines. The Programme is working in 23 out of 75 district courts. The Programme should move to a system of implementation whereby when it has an intervention at a pilot district court then the court must report to the NPM with categories of data to evidence impact and the programme

must interview beneficiaries. The ProDoc must be redesigned to include more means of monitoring and evaluation and verification of impact of interventions at the level of the district courts. In general, many of the indicators in the RRF are not measurable or are not well constructed. The indicators need to be reviewed one-by-one and revised, during the process of revising the prodoc.

Partnerships

The successful implementation of the RoLHR Programme resides on a strong partnership strategy with Nepali institutions, civil society, UN agencies and other relevant stakeholders. It is well known that representation of the full range of stakeholders, across government, business, and civil society as well as regions and disciplines, can considerably enhance the legitimacy of a multi-stakeholder process, if the support given is built on partnership and through coordinated programmes.

There was some cooperation contemplated between UNDP and UN Women and OHCHR Geneva regarding elements of TJ and victims under the Peace Building Fund component of RoLHR, but this has been minimal and limited to the PBF components of TJ. UN Women began partnering with UNDP as of 2010 under the UNDP A2J Project and enhanced this with additional components in 2012. UN Women's component was a gender responsive TJ component working with women's groups (i.e. what is gender responsive TJ for them). This resulted in a manifesto re: gender responsive TJ. This included many consultations. The manifesto established the components that needed to be addressed and various knowledge products, as well as a documentary and various studies (i.e. wives of the disappeared families). UN Women worked with 10 women networks at the grassroots level on TJ mobilization. 2013 began a partnership with RoLHR for 2-years. Most of the activities have been completed. The programme also collaborated with UN Women, under UNPFN funding on the in camera guidelines, standard operating procedures for courts and prosecutors and the legal scholarship programme. In terms of TJ, UN Women has partnered with UNDP and RoLHR on guidelines for psycho-social counselling and rehabilitation.

Globally UN women works with governments on policy related to women's affairs. Within Nepal, UN Women has been working closely with the Ministry of Local Government. UN Women may have relationships to bring to the table (i.e. Ministry of Agriculture that could provide entry points for grass-roots legal aid to farmers). In Nepal, UN Women had previously worked with judges to sensitize them on women's issues. Re: TJ issues, UN Women has been working with victims. There are issues that need more work (i.e. conflict related sexual violence). UN Women has a strong comparative advantage in this area. UN Women has recently worked with the Ministry of Peace and Reconstruction. UN Women has completed a study on conflict related sexual violent (from an A2J perspective). UN Women has also worked with the Nepalese Army and its Human Rights Unit. UN Women has a 1325 and 1820 based curriculum on women's rights. UN Women has global expertise on sexual and gender based violence.

From the Programme's approach, partnerships are at the centre of its work and a fundamental driver of the Programme implementation strategy and its ability to deliver development results. The Programme has actively promoted a range of development partnerships with all of its stakeholders, working together in all phases of the development cycle from programme design to implementation, review, and revision in order to impact the assessment and formulation of new interventions, in an effort to implement an integrated approach to assistance and reduce redundancies and overlap. This is evidenced by the number of implementing partners in the Programme as well as the number of additional partners and stakeholders with whom the Programme is cooperating.

Over the last ten years UNDP's work to develop and strengthen the capacity of many of Nepal's justice sector institutions has proven to be a successful vehicle for partnerships, and one in which national ownership has been strengthened, serving well the development objectives of the justice sector in Nepal, as detailed in the Third Five Year Strategic Plan of Nepali Judiciary (2014-2019), with which the Programme is closely aligned. Throughout this process, national justice sector institutions were the Programme's most important partner. Aware that consolidating the achievements of democracy in Nepal will require the full participation of the Government, civil society, and Nepal's independent judicial institutions, the Programme's key partners include the Supreme Court, the Ministry of Law, Justice and Parliamentary Affairs, the Office of the Attorney General, the Nepal Bar Association, the National Dalit's Commission, the National Women's Commission, the National Judicial Academy, the Judicial Service Training Centre as well as and other relevant agencies and ministries.

UNDP should continue to take a proactive role in encouraging its partners to openly discuss their respective motivations, purpose and expected results of the partnership, and to collectively explore how the partnership can be designed to simultaneously and holistically achieve its collective purpose and the aims of individual partners. Successful partnerships are those that first and foremost deliver against the individual aims of each partner. In addition to clearly defining the purpose and expected results of the partnership, it is highly recommended that specific roles and responsibilities of each partner be explicitly agreed. This involves making sure that the right parties are "in the driver's seat" and that the designated responsibilities of each partner are commensurate with their legitimate rights and appropriate societal roles as well as their specific competencies and interests.

Having consolidated its partnerships with the national level justice sector institutions, the RoLHR Programme now needs to focus on strengthening its partnerships with CSOs and also with other UN agencies, most notably UN Women, with respect to access to justice and legal aid services and provision. CSOs should be incorporated into the programme to a much greater extent, in order to strengthen the demand side element of the programme. For example, the Programme should explore making small grants to CSOs, particularly in Terai and the Mid West and Far West regions.

Going forward, the Evaluation recommends that UNDP and UN Women cooperate with regard to access to justice and legal aid for women and vulnerable groups. There are a number of places in the 5 year RoLHR programme that mention UN Women, so now the challenge is to operationalize these. UN Women was very involved the drafting of the RoLHR project document. RoLHR needs to explore a partnership with UN Women for A2J and legal aid. This is in-line with the UNDP Strategic Plan 2014-2017 and the QCPR. The capacity and strengths of MoWCSW should also be assessed by the Programme to determine if that ministry can offer.⁶⁹

⁶⁹ The Department of Women and Children of Ministry of Women, Children and Social Welfare (MWCSW) has Women and Children Offices in all 75 districts of the country. It works with 8,92,474, women (including 16.2% Dalit, 33.85% ethnic communities) through 1,50,842 women groups. It reaches 20155 wards of 3498 VDCs and 1098 wards of 117 municipalities in all 75 districts. The department has "GBV" and "Children and Against Human Trafficking" Sections which are directly related to the justice sector. Women and Children Offices at the district level work for women empowerment and address the VAW, GBV, SGBV issues. These are the opportunities for RoLHR programme to receive significant contribution for strengthening the demand side of A2J. Therefore, MWCSW or the Department of Women and Children at the central level and Women and Children Office at the district level should be included as a partner. Partnership between RoLHR and MoWCSW or Department of Women and Children does not support only the RoLHR project's ultimate goal but it contribute on women's empowerment on legal and A2J area as well.

Communication, Coordination, Cooperation

There are multiple levels of communication, coordination and cooperation within the Programme. These include within the Programme itself, among the Programme team, the implementing partners, outreach at the local level and also donor level communication, coordination and co-operation. Overall, the Evaluation Team noted that there is a general lack of coordination and communication at all levels of the Programme. The Evaluation Team found that to date, the Programme has not yet achieved the level of coordination between justice sector institutions that had been expected. The implementing partners still lack information about what the other institutions are doing.

The lack of communication and coordination has at times caused difficulties in the Programme implementation but more broadly causes problems in moving the reform agenda forward. Operational links between the justice sector institutions do not exist, beyond those within the JSCC and there is a general lack of understanding as to why this is necessary. Without enhanced coordination and communication, it is difficult to see how the justice sector in Nepal can function holistically and reform truly be advanced. It is certainly difficult to see how the Programme can lay the foundations of a justice sector wide approach without strengthened coordination.

Within the RoLHR Programme itself, the communication, coordination and co-operation of stakeholders involved in the Programme is complex and time-consuming, reflecting the reality of very little coordination between different justice sector institutions in Nepal. In general the relationship between the Supreme Court and the MoLJPA is assessed as good and overall it seems to run smoothly, despite delays and frustrations in implementation due to the additional layer of authorisation required for Programme activities. Although there are no formal communication mechanisms as such between the two implementing partners, in 2013, the MoLJPA formed a Steering Committee under the leadership of the Secretary of the MoLJPA, with representatives from the Supreme Court (Joint registrar), the Office of the Attorney General (Joint attorney), the Nepal Bar Association (Secretary General), the MoLJPA (Joint Secretary), and representatives of the RoLHR Programme team and UNDP as invitees, for the overall monitoring and supervision of RoLHR programmes. In addition, there is another working committee that is functioning under the leadership of the Joint secretary of MoLJPA. The RoLHR Programme team has suggested to the MoLJPA to make this working committee a formal communication mechanisms for the Programme. This has not yet been approved. Previously, these meetings were held at least on a quarterly basis, however during 2015, they have not been held as frequently due to other merging priorities of these institutions, such as the adoption of the Constitution and leadership change.

The RoLHR Programme officers continuously ensure the day-to-day communication and coordination of the Programme and arrange bilateral and multi-lateral meetings among the implementing partners, as required. In addition, the Steering Committee, annual planning meetings, PEB and PAC meetings are regular communication, coordination and cooperation mechanisms within the Programme's implementing partners and other relevant stakeholders.

Specific Programme activities were developed with a view to enhancing communication, coordination and cooperation. The Justice Sector Coordination Committees (JSCCs) convene judges, lawyers, prosecutors, police, the Chief District Officer and prison officials under every court in Nepal and were established to strengthen justice service delivery by fostering inter-institutional communication and processes, trust, inter-personal skills and mutual understanding of legal requirements and operational protocols. The RoLHR Programme has strengthened the capacities of the JSCC network at central and district levels, enabling it to provide the institutional framework for improved service delivery across the sector, yet coordination still remains problematic.

The Programme has not undertaken any specific analysis of the impact of the JSCC. However, it has carried out analysis during field visits to districts, meeting with District Judges and stakeholders, workshops etc. In addition, the Programme has developed a checklist to monitor and evaluate the activities of the JSCCs. Conducting an in-depth induction to JSCC members on its role, mandate, and structure, and through regular meetings of the JSCC and follow up on the meeting's decisions can further strengthen this mechanism. This is particular true among the respective justice sector institutions, as recognised in the Programme document and by the establishment of the Justice Sector Coordination Committees (JSCC), whose mandate is to improve coordination. JSCC is supporting 15 district courts and committees at the district level. The Programme has supported all of the objectives of JSCC. The JSCC is actively trying to improve coordination. For example, in August 2015, the JSCC established a task force to focus on justice sector coordination and to prepare a corresponding action plan.

The main concern is the ownership of the other (i.e. non-judicial) members in the participation of the JSCC. The JSCC has focused on court reform and CMS, but has struggled with overall justice sector coordination. Ownership by non-judicial actors in a few districts is lacking (i.e. prison procedures; transportation of victims to court; etc.). these are examples of sector-wide issues that involve non-judicial actors, but which the JSCC at present does not have the capacity to tackle.

The District JSCCs are comprised of the District Judge from the District court, who chairs the meetings, the Chief District Officer, the District Government Attorney, the Chief of the District Police Office, the Chair of the district Bar Association, the Chief of the District prison, a representative of a district level CSO (designated by the District Judge) and the Registrar of the District Court, who is the secretary. The Central JSCCs are comprised of two Justices of the Supreme Court, a Chief Judge of the Appellate Court (all of whom are designated by the Chief Justice), the Executive director of the National Judicial Academy, the Registrar of Supreme Court, the Secretary of the Judicial Academy, the Secretary of the Ministry of Law and Justice, the Deputy Attorney General (designated by the Attorney General), an additional Inspector General of Police (designated by the Inspector General of Police), one District Judge (designated by the Chief Justice), the President of the Nepal Bar Association, the Joint Secretary of the Ministry of Finance, the Joint Secretary of the National Planning Commission, the Director General of the Prison Management Department, the Director General of the Judgment Execution Directorate, one representative of CSOs (designated by Chief Justice) and a Joint Registrar of the Supreme Court as Member Secretary. The composition of JSCC has not changed in the law. However, the JSCC is free to invite any other relevant persons/institutions in the JSCC meeting as and when appropriate. The dominance of the Supreme Court can be seen by the designation of five of the members of the central level JSCC by the Supreme Court. It is also planned that by the end of 2016 all of the district courts will have a secretariat devoted to judicial coordination.

To better strengthen the coordination among different actors, referral networks have been created. The networks play a significant role in enhancing coordination among different actors the complementarity between formal and informal justice systems as well. The networks are comprised of representatives from civil society, concerned legal aid and community mediation actors and representatives from local government and administration authorities. The Evaluation Team found that the referral networks are at the very nascent stages and their effectiveness has yet to be demonstrated. The Programme should endeavour to further expand and strengthen the referral networks, so that they can reach the most rural and remote communities and act as a bridge between women and other vulnerable and marginalised people and the SLACs and district level mechanisms. The Programme needs to further institutionalise this framework.

In terms of donor communication, coordination and cooperation, the monthly Programme Executive Board meeting is one of the regular formal mechanisms of donor communication. Pre-board meetings, also supplement this. The Programme ensures the PEB meeting concerns that they are addressed and reported back in the forthcoming meetings. Telephone or email correspondence, invitation to particular programme events and/or meetings, joint monitoring visits, and progress reports contribute to reinforce communications and coordination between the Programme and the donors. At the project level, more donor involvement in the field level monitoring and holding regular meetings could further improve communications. It is recommended that regular, structured joint field monitoring missions be conducted on a quarterly or semi-annual basis, to enable the donors to really see the project activities at the district and community levels. The donors could also participate in the end of quarter programme meetings or planning meetings on an informal basis. This would help to bridge the gap in the transference of information between the programme and the donors and could mitigate any misunderstandings or misgivings at an early stage.

In terms of sectoral rule of law donor coordination in Nepal, there are no existing mechanisms to coordinate donor investments or donor activities. It was envisaged that the JSCCs would expand to incorporate a donor coordination and public information mechanism, however this has not happened. The Evaluation team strongly recommend that donor coordination be a priority during the remaining period of implementation. The donor coordination mechanism could be a forerunner of an eventual justice sector multi-donor trust fund in Nepal.

There is minimal involvement of CSOs in the Programme as per the nature of Programme's NEX modality and the RoLHR provides first opportunity to the key government implementing partners. Where CSOs are utilised, a competitive bidding process is used to select the CSOs. CSOs have been partnered with through the Programme to develop communication tools, advocacy, media mobilisation and well as to undertake a Baseline Study on Legal Aid, develop an Awareness Toolkit, and for work related to the referral network and affirmative action and legal education. CSOs are have a role in the JSCCs at the district level, where they are able to participate in discussion and dialogues on pertinent justice issues. The District Bar and Nepal Bar Association have also been actively engaged in the implementation of a number of project activities.

The Evaluation Team found that there is reluctance on the side of the government to fully engage with CSOs and that partnerships with civil society are lacking. Although CSOs are involved in some of the project mechanisms, such as the JSCC and referral networks, the government appears reluctant to engage on any strategic or substantive levels with CSOs. It is encouraging that the new Strategic Plan of the Supreme Court does focus on partnerships with local NGOs and civil society. In order to address the demand side needs, the Programme should identify ways in which the contribution of CSOs to the Programme can be strengthened and their role increased. Engagement with civil society, women and vulnerable groups, should be prioritised in the remaining implementation period and the grant provision should be better utilised and practiced. The RoLHR Programme should respond to the needs and priorities not just of the national government institutions but also to the beneficiaries, i.e. the people of Nepal. The Programme should incorporate the participation of civil society and address the needs and priorities of society, including women, minorities and other disadvantaged and vulnerable populations, including Dalits.

The complexity of including a large number of implementing partners, partners and stakeholders in the Programme should have been taken into consideration during the Programme design in terms of realistic planning and in developing stronger communication, coordination and cooperation mechanisms. In view of the many implementing partners, a stronger system of regular coordination and communication mechanisms should be established. The Evaluation Team recommends that the Programme develop a comprehensive Communication and Coordination Strategy, focusing largely on internal communication and

coordination, which the Team has found to be weak. These weaknesses in internal communication and coordination, for example between the Programme and the donors and among the implementing partners, impact on performance and decrease the effectiveness of the Programme. The Communication and Coordination Strategy would provide recommendations to create effective channels of communication, which would bolster the effectiveness and efficiency of the Programme, leading to enhanced development results of the RoLHR Programme in Nepal. If followed, the recommendations will create opportunities to identify further linkages and synergies among the implementing partners, ensuring the optimal use of resources and creating structures to enhance the effectiveness and impact of the programme. It will bring greater clarity on the means and modes of communication and coordination, which will take place between different stakeholders and at different levels of decision making. The objective is also to strengthen the coherence of the RoLHR Programme and operational agenda for increased impact of its development interventions. Coherence will be enhanced through regular communication and coordination, joint planning and programme implementation.

M&E, indicators and reporting

While the work of the UNDP field monitoring offices is exemplary, the overall RoLHR M&E and briefs to donors have often been devoid of baselines. UNDP is working in 23/75 district courts. UNDP should move to a system of implementation whereby when UNDP has an intervention at a pilot district court then the court must report to UNDP with categories of data to evidence impact and UNDP must interview beneficiaries, including women and vulnerable groups. The ProDoc must be redesigned to include more means of M&E and verification of impact of interventions at the level of the district courts. Many of the indicators in the RRF are not measurable or are not well constructed. The indicators need to be reviewed one-by-one and revised.

Many of the indicators in the RRF are not measurable or are not well constructed. Some progresses against indicators are not updated, mainly because of unavailability of relevant information and lack of linking of those indicators with project's interventions. Similarly, most of the indicators are not linked with the suggested activities/interventions as mentioned in the project's RRF. For example: increase the donor allocation in justice sectors, indicators related to police, pre-trial detention, implementation of court decisions, and others (some are highlighted in the sheet). Similarly, the targets have not been systematically defined (massive targets). For example: 90 per cent of UPR recommendations implementation, 25 per cent increase in human rights treaties implementation, 5000 government officials trained on judgement execution. Moreover, some indicators are confusing and the project's activities do not support to fulfil those indicators. Meanwhile, other indicators are beyond the project's control and outside the scope of RoLHR interventions.

The Programme's annual reports adhere to the same outputs as the original project document, despite the fact that the project RRF was revised in 2013 to reflect different outputs and numbering. This makes it somewhat difficult to track progress to the indicators contained in the revised RRF. In fact, it is not clear to what extent that revised RRF was even utilized. The Programme's annual and semi-annual reports are not as well organized, lack baseline data and often utilize the same activities across multiple outputs (i.e. in-camera proceedings are counted both under Outcome 1 and Outcome 4)

The indicators clearly need to be reviewed one-by-one and revised. The project has tried to disaggregate data and indicators from a GESI perspective; however, GESI data is still not at the required level as of 2015. The revision of the project document provides an opportunity for the inclusion of disaggregated data, better indicators (including GESI specific indicators

where appropriate). This is also inline with the M&E requirements that the Government will be responsible for in relation to SDG 16.

Originally, joint field M&E missions were planned to take place with UNDP and the implementing partners, but due to the unrest in the West and Far West these could not take place. As a result it is currently difficult for Donors to tell how the SLACs are working in practice, except from the field reports. According to Donors interviewed by the Evaluation team, what is lacking is the view of the beneficiaries. There are 12 different implementing agencies and a massive list of activities, but it is difficult to ascertain what is actually being done. Also, UNDP activities are completed, but there is little in the way of follow-up afterwards to confirm whether any impact has occurred. The project needs to do a better job of reporting more deeply (i.e. there are lots of statistics presented by RoLHR programme, but often without baselines, etc. that demonstrate change and impact). The ProDoc must be redesigned to include more means of M&E, verification of impact of interventions at the level of the district courts and capturing the results of the intervention with the 7 pilot district courts and lessons learned. A risk log needs to be developed and updated.

There are 4 UNDP field-monitoring offices. The offices plan in advance and monitor only with the permission of the various UNDP projects. The Evaluation was able to meet with the Regional Field Monitoring Office Mid-West Region that covers 15 districts. As regards the RoLHR project, the Mid-Western Regional Field Office has only monitored the SLAC and legal aid beneficiaries. So far, the office has not dealt with the justice sector, because the office lacks lawyers or legal expertise to adequately do this, although, the office has monitored the information desks. The Office's feedback is given independently. The reports go to the Strategic Planning Effectiveness Unit at the CO. After every field visit, the office makes note of the visit and debriefs the staff of the respective UNDP project. The reports are also discussed in the Project Executive Board meetings. The Field office has coordinated with the RoLHR M&E officer both before and after field visits and sometimes they have made joint visits.

The M&E plan included GESI to some extent particularly in GESI target activities. GESI status in the annual and quarterly progress reports has been covered. Some of the field visit reports include GESI concerns. Going forward, all M&E plans should develop GESI targets and indicators and integrate this within non-GESI specific activities. The reporting templates of field visits should be revised and include GESI portions. Disaggregated data at an in-depth level is required. The checklist for monitoring should include whether the project's mediation and quasi-judicial efforts are also supportive of GESI.

National Ownership

Concerns have been raised that there is not a sufficient level of national ownership and that the national implementing partners, and in particular the Supreme Court, perceive the Programme as "a UNDP" Programme. During the Evaluation, the Evaluation team met with all national implementing partners at least once, and many on multiple occasions. The Evaluation Team's assessment is that there is in fact a good degree of national ownership resting with the Supreme Court as main implementing partner. This is evidenced by the fact that the NPD is very much leading the Programme, to the extent that there is a relative dominance of the Supreme Court in the Programme and "crowding out" of other implementing partners. During the first half of 2015, due to the constraints placed on the NPD by the former Chief Justice to sign off on any activities, Programme implementation came to a virtual standstill, until the bottleneck was relieved to some extent through the appointment of the new Chief Justice. The current Chief Justice was responsible for the design and development of the Programme and it is hoped that under his guidance, the Programme implementation will accelerate and delivery will get back on track.

The Evaluation Team found that it is difficult for the NPD to properly understand the nature of the work and priorities of other implementing partners, which delays implementation of such activities. This has led to confusion and questioning of the authority of the NPD - whether the project is fully owned by the Supreme Court or belongs to all partner agencies. The Evaluation Team found that the issue of ownership is not equally shared among the officials of the implementing partners.

The Programme is aligned with the priorities of the justice sector in Nepal, as reflected in the Third Five Year Strategic Plan of Nepali Judiciary (2014-2019), and Programme activities have been tailored to respond to the Strategy, and thus meet the needs of the judiciary. This increases the level of national ownership since the priorities of the Programme mirror those of the Strategy, ensuring local counterpart buy-in and commitment to the goals and objectives of the Programme.

In order to strengthen ownership, particularly at the national level beyond that of the Supreme Court, there needs to be a shared vision, a clear understanding of roles and responsibilities and enhanced communication mechanisms among all parties, as well as a clear understanding of the role and responsibilities and fiduciary duty of the NPD. The different mechanisms discussed above, such as orientation training, and the organising of regular joint meetings among the implementing partners should be organised, in order to increase shared ownership among all implementing partners.

Sustainability

The Evaluation Team was asked to consider the prospects for long-term sustainability of the positive changes of the RoLHR Programme and overall progress towards the outcome. To do this, it should first be noted that rule of law reforms take a long time to produce sustainable results and outcomes, and that the required capacities are multi-dimensional and system wide in nature. The Programme document does not detail any coherent approaches to the sustainability of the Programme activities and a Programme Sustainability Strategy was only envisaged to be developed at the beginning of the fifth year of the Programme implementation.

The sustainability of UNDP's rule of law programme results as measured through ownership on the part of the implementing partners, mainly the Supreme Court (discussed above) is encouraging. The Programme is aligned with national priorities, needs and objectives, as reflected in the Third Five Year Strategic Plan of the Judiciary. The Supreme Court, as main implementing partner, is very much in the driving seat of the Programme and is able to facilitate or prevent the implementation of Programme activities.

The Programme approach through injecting the outcomes of the programme in the strategic plans of the implementing partners, developing policy documents and guidelines and providing capacity support to existing mechanisms rather than creating new parallel structures, is a good approach in terms of increasing sustainability.

With regards to specific Programme activities, the sustainability of the Programme is partially encouraging in certain respects, although questions still remain. For example, a number **Information Desks** have been established with the support of the RoLHR Programme and one staff cost for each of the 15 pilot district Information Desks is funded through the Programme. The government funds all additional operational costs associated with the Information Desks. The government will gradually absorb the staffing costs for the Information Desks, since this is one of the priority activities of the Third Five Year Strategic Plan of the Judiciary (2014/15-2018/19).

The **Case Calendar System** was developed and piloted in seven district courts with the support of the Programme and one review workshop was conducted in December 2014, on the basis of which some final revisions to the software were made. The government intends to roll out the Case Calendar System in all district courts in Nepal and it will gradually fund all associated costs, as this is also one of the priority activities of the Third Five Year Strategic Plan of the Judiciary (2014/15-2018/19). Similarly, the **SMS and Online services** software has been implemented in all courts in Nepal as of 13 February 2015. With regards to the digitalisation of cases in the database of the OAG, over 10,000 cases to date have been digitally archived, with the remaining 20,000 cases pending. The database is imbedded within the OAG system, and will become part of the OAG's regular tools, thus ensuring its sustainability. The archive is effectively used during different case tracking and proceedings, economising time and increasing efficiency.

The RoLHR Programme is supporting the Central Legal Aid Committee (CLAC) to establish and operate **Socio-Legal Aid Centres (SLAC)** in selected pilot districts. The SLACs are established as an integral part of the existing legal aid mechanism. The staff of the SLACs, while funded through the Programme, is paid as per the government's pay scale, and can be easily introduced into the government system. The Legal Aid Policy currently being developed with support of the Programme has already laid some foundations for the state to absorb the costs of the socio-legal aspects of the legal aid system. Legal aid is a fundamental principle contained in the new Nepalese Constitution and the Government of Nepal, the judiciary and CSOs have shown active commitment to taking the concept further, to benefit the poor and other vulnerable and marginalised groups in Nepal. It is probable that the concept and services being provided to the target groups through the SLACs will continue to exist in practice beyond the Programme duration, and the Programme will lobby and advocate for this. However, it is also likely that the funding levels will be considerably reduced and the Programme should start to make efforts to assess the realistic level of activities that can be undertaken if the government funds the SLACs. The Programme should support the drafting of a Legal Aid Law and Policy that will ensure the sustainability of the SLACs. The recently established "Access to Justice Commission" is an indication that the Supreme Court is trying to institutionalise legal aid.

With regards to the sustainability of all **Affirmative Legal Education**, the RoLHR Programme team is negotiating with key responsible and concerned partners to develop a sustainability strategy for all aspects of the legal education programme. For example, RoLHR is encouraging the MoLJPA, Faculty of Law, TU and Nepal Law Campus to start lobbying and advocating for allocation of funds for few students from the government side. It is possible that by the conclusion of the Programme, the affirmative legal education activities will be firmly embedded in the system.

Many activities supported by UNDP over the years are now routinely found in the Supreme Court's annual plan.. For example, the Supreme Court is sustaining mediation. Also, with regard to legal aid, the Chief Justice's recent establishment of the "Access to Justice Commission" is an indication that the Sup Ct. is trying to institutionalize legal aid. The Programme has repeatedly talked about its "Sustainability Strategy" in its annual reports. While it is true that the Programme aligns with GoN strategies and, in the case of the Supreme Court, the court's Five Year Strategic Plan, in reality, to date all that has occurred to date in the way of sustainability is mention in the Supreme Court's Strategic Plan of some outputs (client information desks; JSCCs; in-camera court hearings and court referred mediation. The Programme is also aligned with MoLJPA's Plan for Legal Aid Reform. Yet, what is lacking from the Supreme Court and other IPs are action plans and firm commitments to expand upon UNDP supported pilot initiatives and assume eventual co-financing of some outputs. The Ministry of Finance has also not been included in any dialogue. Thus, the

Programme currently falls far short of a true sustainability plan/exit strategy that solicits firm commitments from all IPs.

The Evaluation Team recommends that the Programme immediately creates a Programme Sustainability Strategy, which can be updated and adapted according to the Programme needs and changes in Programme implementation. It is the view of the Evaluation Team that to leave the creation of such a strategy until the final year of Programme implementation is far too late and that the Programme should constantly be addressing ways in which it can sustain the Programme activities at the end of the implementation period.

C. Impact by RoLHR Programme Output areas

It is somewhat difficult to track progress to RoLHR Programme outcomes and indicators as a result of the fact that the revised RRF and AWP's do not align well. Furthermore, RoLHR's reports do not report to all outcomes in the revised RRF, but appear to utilize the outcomes of the original RRF prior to its revision. The outcomes utilized as subject headings below are the outcomes from the revised RRF, not the original project document.

1. Output 1: Justice sector development process established.

UNDP has been active in the sector since 2002. In fact almost all innovations in the court system in Nepal to date are largely due to UNDP's interventions. Under the RoLHR Programme, UNDP has supported the Court's Strategic plan; mediation; and much other procurement for the Supreme Court and pilot district courts (i.e. in camera hearing rooms and equipment; computers and other IT support. There are 11 knowledge products developed by RoLHR. The RoLHR programme has launched several innovative approaches (i.e. JSCC and SLAC are foremost among these)(note: court information desks are also claimed as an innovation of the RoLHR programme).

In some instances, however, UNDP appears to have overstated its contribution. For example, what has been billed as an "integrated approach" in 5 districts amounts to little more than the fact that Supreme Court and MoLJPA activities happen to be found in the same 5 districts, although, the JSCCs do appear to be facilitating increased dialogue among justice sector stakeholders. There are 23 districts represented either by judicial reform, legal aid (or both in 5 districts). The RoLHR Programme is working in 23/75 district courts. While an ambitious goal, if the Programme were allowed in all districts, greater impact could be achieved. On top of this the OAG, NDC, NWC and JSTC etc. are other institutions that the Programme is working with, but they have no defined presence in the districts.

The Evaluation's findings discussed below on SLACs, JSCCs, court information desks and the Joint Monitoring Committee were confirmed by the Evaluation's field visits to the *Kathmandu District Court*, *Lalitpur District Court*, *Syangja District* (JSCC, Court Registrar, CDO, private lawyers, Women's Development Forum, JSCC members, DLAC legal aid attorney and court paid lawyer) and *Magdi District* (CDO, Police, OAG, Bar Association, court paid lawyer, Head of Corrections (Jail), and Magdi District Court judges).

On the *supply side*, regarding court reform, infrastructure, capacity building and justice sector coordination, the programme needs to focus much more on the integrity of justice and institutions (investigations of judicial misconduct; integrity of the courts). It appears that the RoLHR Programme and previous UNDP initiatives have improved case management systems and case disposal rates; however, although CMS plays a role in reducing the opportunities for influence and judicial corruption, in and of itself CMS is not the same thing as a comprehensive approach to this issue. A Note: judges are exempt from Committee for the Investigation of Abuse of Authority (CIAA) jurisdiction. But the CJ is interested in developing an in-house CIAA in the court.

The RoLHR Programme needs to focus on mid-level actors and local actors in light of the new Constitution and incorporate more local officials (the JSCC is meeting this objective to some extent). UNDP support to awareness raising of the courts is questionable; the best way to improve the public's perception of judges and courts is not by a public information campaign, but by true reform, lower time/cost per transaction; and fairness in adjudication.

Justice Sector Coordination Committee (JSCC) (and Improved communication among justice sector institutions)

The JSCCs appear to be working well with significant ownership of the various stakeholders. JSCC members report that the committees serve to enhance communication across the justice and rule of law sector. The JSCCs have taken on a variety of issues and the national-level secretariat has developed an action plan. It is important to ensure that the JSCC is not seen solely as a child of the Supreme Court, but all IPs' sense of ownership is enhanced. The Mediation Council's local level mediations and MoLJPA's "Village to Village" initiative are innovative, providing an increased level of access to justice for citizens and filling a "gap" between the informal and formal justice systems. These could be expanded. The "Joint Monitoring Committee" chaired by the NDC is innovative and has resulted in quick and coordinated justice sector response to high profile cases of caste-based discrimination.

The JSCC Secretariat had numerous consultations to determine the priorities and entry points for the betterment of judicial processes; CMS; Execution of judgements; court security and, recently, drafting the ToR for a new action plan. The Programme's initial work with the JSCC at the central and district levels included completion of an assessment, focusing on the issues and steps necessary to revise the JSCC's mandate. [2013 Annual Report]. Thereafter, RoLHR supported the establishment of a central JSCC Secretariat that serves to support the district level JSCCs. This work has continued through till 2015. As of 2014, the Programme was supporting the establishment and enhancement of the JSCC in 15 districts. The Programme supplied procurements (furniture, computers, human resources) to capacitate the JSCCs.

Additional trainings were conducted through the JSCC in 2014 for VDC secretaries (31 persons) and newly appointed judicial officers (54 persons). These trainings, which targeted quasi-judicial authorities are especially important, as they laid the groundwork for incorporating CDOs and other quasi-judicial authorities (i.e. Land Revenue Offices and officers of the Ministry of Forestry, etc.) in the JSCC. With Programme support, the JSCC Secretariat prepared a JSCC Operational Manual for the Quasi-judicial Bodies, which was endorsed by the Central JSCC on 22 September 2014. The Operational Manual is, however, not yet approved by the Full Court of the Supreme Court for implementation.

As discussed elsewhere in this report, under the new Constitution, the decisions of quasi-judicial authorities will be subject to appeal before the district courts. The new Constitution also delimits CDO jurisdiction to cases of 6 months or less or fine. The Supreme Court has promulgated guidelines on qualifications of CDO hearing officers, but conviction rates of CDOs are still high. CDOs are also making separate rooms for case hearings and areas for lawyers and court staff are now training CDO staff. The JSCC Secretariat has adopted guidelines for quasi-judicial actors for case management, etc. and this has been handed over to the GoN. It will be important that the quasi-judicial authorities are included in JSCC activities going forward. There is reluctance on the part of the Judiciary and JSTC to bring the quasi-judicial bodies on board.

In August 2015, JSCC decided to establish a task force to focus on justice sector coordination and to prepare an action plan. JSCC is supporting 15 district courts and committees at the district level. The RoLHR Programme has supported all of these objectives of the JSCC. By the end 2016, all of the district courts will have a secretariat devoted to judicial coordination.

At present, the intervention could be made more relevant to the needs of women and vulnerable groups by opening up the JSCC to additional *governmental actors*, but not to civil society organizations (although this should be the long-term aim). Many of the issues discussed at JSCC meetings are internal to the justice and security institutions and inclusion of civil society in the JSCC's official meetings carries a risk of distracting the JSCC from its coordinating mission and work.

At the District level, the JSCCs are very enthusiastic, but they need to focus more upon the quality of justice, judicial integrity, transparency, due process of law and fairness. There is frequent transfer of the judiciary and other officers from the committee. There is also a reluctance on the part of the Judiciary and JSCC to bring the quasi-judicial bodies on board. JSCC should be made more inclusive of women and emphasize the full participation of line Ministries and quasi-judicial authorities. (i.e. Women Development Officers; Land Survey; NHRC).

It is the Evaluation's assessment that the JSCCs within the pilot districts are working well. As with other aspects of the Programme, the sustainability of the JSCCs and maintaining momentum of their dialogues and activities will be a sustainability issue going forward. The main concern of the Supreme Court is the ownership of the other (i.e. non-judicial) members in their participation. JSCC has focused on court reform and CMS, but has struggled with overall justice sector coordination. Ownership by non-judicial actors in a few districts is lacking (i.e. prison procedures; transportation of victims to court; etc.)(These are examples of sector-wide issues that involve non-judicial actors).

The Evaluation collected testimony from several districts that is illustrative of the issues faced by the JSCC's in the field. For example, the Chief Judge of the *Kathmandu District Court* believes that the JSCC has been highly successful. Recently, the JSCC Secretariat is working on case management at Kathmandu District Court, which has the largest number of cases and the JSCC has also developed forms. There are many other areas that need to be addressed (i.e. case referrals from civil to the juvenile bench, etc. and the JSCC needs support to examine and study procedural bottlenecks. The JSCC in *Lalitpur* reported to the Evaluation that it holds monthly JSCC meetings where other stakeholders are invited. JSCC is required to conduct such meetings and send a report to the Supreme Court on the JSCC meetings. The RoLHR Programme in 2015 will support the establishment of a JSCC secretariat at the Lalitpur District Court.

Meanwhile, in *Magdi District* the Evaluation met with the full JSCC membership and was informed that the JSCC is holding regular meetings. This has led to improved coordination across all justice sector actors. Of particular note to the Evaluation team was the level of interest and engagement of the CDO (a quasi-judicial authority) in the JSCC. The CDO stated that the new Constitution will make it easier for the people to find A2J, because it places their right of appeal closer to home (i.e. at the District Court, rather than Court of Appeal). There might be a question of portfolio. The workload of the CDOs might be impacted and there might be a need for additional trainings. Also, here will be many changes in the law. (i.e. black market activities under the new Constitution will qualify for more than one year imprisonment, therefore, it is questionable whether the CDO will still have the power to hear them). The CDO states that the JSCC had been running awareness raising sessions. There are practical problems with registering cases of GBV from women who are reluctant to bring cases forward. Security of women and their homes is the main issue. There is no safe shelter for victims or women. Caste-based discrimination used to occur—especially at temples. The CDO has used his own office as a “court” and they are trying to set aside a day and area for the CDO's hearings.

The Police in Magdi stated that they viewed the JSCC as an important source of coordination on child custody and SGBV cases. Recently, the Police had used the JSCC to discuss the

issue of fighting between rival soccer clubs that tends to happen at night. The District Attorney in Magdi reaffirmed the value of the JSCC to discussing domestic violence cases and increasing the technical knowledge of all justice stakeholders. One challenge of the JSCC, however, is that there is currently no women's organization involved. The DA and the Court have been utilizing a procedure to give priority to SGBV cases and used the JSCC as a platform to discuss the effectiveness and implementation of this procedure. According to the Magdi DA, one of the best parts of the JSCC is coordination and communication between the court actors to effectively execute judgements and this information has been communicated to the various levels, but this needs to be institutionalized.

According to the police, the best part of the JSCC is the coordination between judiciary and the stakeholders. The education part is difficult and one of the greatest challenges is resources. In order to facilitate the execution part, they want to have outreach. The police suggest that fast-track benches be established for SGB cases. The Police feel that the JSCC has become a very effective device of coordinated awareness raising of rights. The Police also conduct a public hearing (community policing) once per month. The police feel that the head of each police should visit to the districts.

Head of Corrections at the Jail in Magdi District has used the JSCC to discuss issues of prison capacity and the need for new infrastructure. The jail is overcrowded and the CDO and Jail are now talking about an alternative site. Sometimes the jail and CDO keep prisoners longer than their sentences, because families or parents request that the inmate not be released. (note: this practice seems to be widespread in Nepal and CDOs/ Jailors seem complicit.). To date, few other donor projects have targeted the CDOs or jails other than the International Committee of the Red Cross (ICRC).

The Evaluation was also able to interview all JSCC members in *Syangja District*. Syangja is one of the new districts targeted by RoLHR in 2015. The Registrar of the District Court in Syangja stated that JSCC meetings are held monthly at various members' offices each month. Court outputs: help desks; judicial outreach; calendar system. Future goals: more support for interactions with the community and provide training to the CSOs. Procurement (fax, computer; etc.); toll free telephone and calendar system and implementation of the Supreme Court's "one hour stop" initiative. One future plan is that the existing court building is not sufficient. They are looking now for an alternative site.

According to the Chairman of the JSCC in Syangja, the JSCC is working according to the Strategic Plan of the Court. JSCC is also focusing on how to implement the Nepal Judiciary Strategic Plan. The collaboration among the JSCC members can facilitate the fulfilment of the strategic plan. JSCC outreach programmes involved a wide range of justice sector actors. The JSCC has decided that it should hold a meeting at a different JSCC member each month. There are 600 cases in the District Court annually. JSCC Chairman has discretion to invite other entities. Going forward, LDO, Land Revenue Office; Land Survey Office; District Forest office all of these should be included. The court is able to provide legal aid in almost all cases.

The Police in Syangja perceive that the JSCC judicial outreach and awareness programme were successful. The JSCC meetings have been regular and have addressed topics such as judgement execution; apprehension of escaped detainees; release of prisoners back into society and court related documents. Nepal police participated in the judicial outreach and perceive that the JSCC has provided a forum for addressing multilateral issues. The Police and CDO state that there is an increasing trend of cyber crimes in the district; there are some incidents of suicide and drug use among youth. There is a need for a database to link the centre with the regions (i.e. a national crime database). CDO states that lots of laws have been enacted, but people and local lawyers and judges are not aware of the new laws. There needs

to be more awareness orientation. In response to different stakeholders, the JSCC has had legal aid initiatives with the bar association.

According to the Woman Development Officer in Syangja, one of the issues of concern is the increasing trend of GBV and domestic violence in the district. Through the JSCC she has been coordinating with different stakeholders on these issue. The level of awareness has also increased in the district and, in general, the District Court tries to give priority to such cases. The rate of reporting of such cases has improved in the past several years. She attributes this to the RoLHR awareness raising.

The private lawyers interviewed stated that the support from RoLHR has been used to modernize the court in Syangja. This has also strengthened the spirit of cooperation between the CDO, Women Officers, NBA and the courts and police. The situation of the Bar Association, however, remains very poor with resources and infrastructure. They would like to conduct more awareness raising in the districts. There are approximately 50 lawyers in the District, but in practice only 15-16 practice daily in the courts. There are two female lawyers active in the courts. The President of the Bar Association reaffirmed what the lawyers said. He would like to see the bar association's infrastructure improved.

The District Attorney in Syangja also believes the JSCC to be an innovative development, because it is for *all* justice sector actors, not just the court. The mechanism should not only exist at the level of leaders of the various institutions, but JSCC should have programmes for the mid-level staff of the institutions.

According to the Head of Corrections at the Syangja District Jail the JSCC has allowed him to learn more about prisoners' rights and legal aid. The infrastructure at the jail is in very poor condition and inadequate. There are many inmates suffering from serious diseases. The facility was constructed originally to hold 35 men and 10 women, but the 117 inmates of whom 10 are women (one with a two year old child). The budget for the jail and medical treatment for heart conditions, diabetes, etc. is inadequate. One prisoner is 81 years old (was arrested for Trafficking in Persons) and these prisoners' needs are difficult to manage with the budget.

Sindupolchowk District is a special case due to the fact that it is one of the districts hardest hit by the April 2015 earthquake. RoLHR assistance and support to the Sindhupalchowk JSCC was crucial in meeting the needs of the justice stakeholders and beneficiaries in the immediate aftermath of the disaster. The Chief Judge of the District Court informed the Evaluation that support from the RoLHR Programme was crucial in the post-earthquake period. After the earthquake, there was an information gap between GoN authorities and the Sindhupalchowk level authorities and District Court. The entire population of the district was in trauma. This is the point that they got in touch with the RoLHR Programme to provide enhanced assistance. The District Court building was totally collapsed. RoLHR visited the district and agreed to provide 50-60K NR to construct a temporary centre for the court. The construction proceeded according to plan. There were multiple aftershocks that further damaged the building. After the second aftershock, construction was stopped. The Programme supported the installation of tents and replaced IT infrastructure, fax machines, etc.

As a direct result of the Programme's assistance, the District Court was able to continue its services. There was no institutional support from the GoN after earthquake and building materials were not available locally. The Programme (and NBA) assistance was crucial. The court has continued to work under the tents provided by the Programme. The court users have never complained. As of September 2015, the district courts delivery rate is 68 per cent (comparable to District courts in Nepal that were not impacted by the earthquake). The Court is now constructing three rooms. A tender has been published for the retrofitting of the old building. There are 40,000-45,000 files some are hundreds of years old and the most

important thing is to save them. The court is considering scanning the old files. The Court requests that the RoLHR Programme provide assistance with digitalizing the old files. This has been endorsed by the Supreme Court. Even after the earthquake the court is still providing closed-door hearings to rape victims in conformity with the in camera procedures.

The OAG in Sindupolchowk stated that the RoLHR Programme was the only source of support after the earthquake. Public nuisance cases and rape cases are increasing in the district and the JSCC has worked on this issue, as well as other issues such as replacement of documents lost in the earthquake. The benefit of the JSCC, which gathers all justice sector actors around the same table was evident to respond to a jail break that occurred during the earthquake in which more than 200 prisoners escaped from the Sindupolchowk jail.

Study tours as a tool of capacity building and enhancing justice sector communication

There have been a number of international study visits made to date. These include:

- 3 high level Supreme Court officials participated in an International Summit of High Courts on transparency in judicial processes, held in Turkey. (2013)
- 5 female judges participated in the International Women Judges Association conference in Tanzania. (2014)
- 10 court officials from the MoLJCAPA participated in a study tour to London on legislative drafting. (2014)
- The Legal Aid Steering Committee under the MoLJCAPA participated in an international conference on access to justice in criminal justice, held in South Africa. (2014)
- The National Dalit Commission went to Bangladesh to strengthen south-south cooperation of South Asian Human Rights Institutions. (2014)
- A delegation of Supreme Court officials went on a study tour to Arizona, Washington and New York focused on judicial outreach and access to justice. (2015)
- The project supported the participation of one member of the NWC at the Commission on the Status of Women at UN Headquarters. (2015)

The study tours have resulted in capacity building of officials, leading to the transfer of knowledge, institutionalisation of some best practices and innovations being introduced through the programme. For example, the impact of the legislative drafting training was very fruitful as it strengthened the capacity of the MoLJCAPA in relation to legislative and treaty drafting. After international training, participants of the international training conducted national level training to 51 other officials of MoLJCAPA to transfer and share the knowledge/skill at the national level. Furthermore following the international training, MoLJCAPA drafted the guiding principles on legislative drafting, which was approved by the Cabinet and is being implemented by all the concerned government agencies, as and when required. Learning from the Judicial Outreach and Access to Justice visit in the US has resulted in rolling out of judicial outreach programmes in Nepal, including the development of resource materials and guidelines on the same. It also led to the formation of the new Access to Justice Committee under the Chief Justice.

The Evaluation notes that study visits must be well targeted and result in positive changes linked to the outputs of the programme. The implementing partners should understand that there should be a balance between international learning visits and the use of international technical expertise and assistance in-country. The need for international exposure and

learning should be met by long-term international technical assistance provided in-country, supported by supplementary international visits.

Strengthening the case management system

RoLHR early support to case management in the courts included sponsoring a series of “case management” and “case calendar system” training sessions. [2013 RoLHR Annual Report]. The claimed output of this activity was that court staff and court officials were able to identify issues and suggest strategies to mitigate bottlenecks and inefficiencies in the court system (2013). The Programme also provided training on case management and the calendar system in 2014 that is reported to have positively impacted upon case backlog rates.

Total numbers of clients accessing and utilizing the deliverables are provided by year, but without baselines adequate to track the impact of RoLHR’s intervention. With regard to CMS, some key indicators in the RoLHR project document’s revised RRF have not been tracked and reported to by the Supreme Court as regularly as they should have been. For example, indicators for “number of deadwood cases removed”; “percentage of cases correctly referred from informal mechanisms to the District Court” were not available. UNDP reported (based upon Supreme Court data) that in 2014 the case disposal rate was 52.65 per cent overall in Nepal and 57.5 per cent in UNDP supported project districts. This was against a baseline of 56 per cent in 2011. Thus, nationally, the case disposal rate had deteriorated over 2011 levels and in the UNDP supported pilot districts there was only marginal improvement reported. What is not clear to the Evaluation is which courts were surveyed in 2011. Going forward, UNDP can improve upon data collection and statistics.

The SMS service, online Trikh (date) and Myad Tameli (date notification) software platforms were developed in 2014-15 by the Supreme Court with RoLHR support. The Supreme Court made a decision to implement the software in all district courts as of February 2015. The RoLHR “package” of support included training of court officials in district and appellate courts on the software and the provisions of hardware and equipment to courts in the pilot districts. According to RoLHR reports, in Q1 2015, 2,863 clients used the SMS service, 134 clients appeared in 41 courts via the online calendar system and the online summoning had been utilized 786 times in 46 courts. In Q2 2015, 1,946 clients used the SMS service, 353 clients appeared in 48 courts via the online dating system and online summoning was used to inform 1,593 persons in 57 courts. While the above data is encouraging, in reality, the data is not presented in a methodical manner by the Supreme Court or RoLHR in a way that clearly evidences the impact of RoLHR support.

Going forward UNDP may wish to reconsider whether further infrastructure and software support to CMS is needed—especially if the Supreme Court cannot track the intervention in more detail. The Evaluation also raises the caveat that generally international development initiatives worldwide that have focused on IT, CMS and digitalization of court case management and services have not met with success. Too often, such costly deliverables are not fully owned by their respective institutions and quickly become obsolete if not continually upgraded and maintained. This evaluation cannot state with any certainty at this point whether such IT deliverables will be made sustainable by the judiciary. UNDP may wish to shift resources to other mechanisms to promote judicial integrity and judicial conduct and discipline.

Strengthening the procedures for “In-Camera” Court hearings and Continuous Hearing

In order to increase the protection afforded to victims of domestic violence, SGBV and child abuse under the law, the Programme began working with the NJA in 2013 to undertake a

study of the procedures for “In Camera” court hearings. A RoLHR supported assessment study (2103) eventually led to a strategy for in-camera benches and hearings at courts in Nepal. The new in-camera procedures apply to cases of rape, sexual abuse, domestic violence, etc. This has helped to align Nepal with international best practise in this regard. [2013 RoLHR Annual Report]. The Programme support to In-Camera hearings continued in 2015. A total of 24 justice sector officials were trained in Q2 2015. RoLHR also supported a needs assessment to determine how to best establish in-camera benches at 10 district courts (Kailali, Kanchanpur, Dadeldhuara, Syanja, Myagdi, Jhapa, Morang, Saptari, Mahottari and Bara). RoLHR also supported the Supreme Court to assess the quality of in-camera hearings in the existing 15 districts covered by the Programme.

In 2014, the Programme supported the Central JSCC to undertake 7 different trainings to judges and court officials on the procedure of Continuous Hearing (whereby courts essentially “fast track” cases of rape, domestic violence, human trafficking, etc.). This has led a number of district courts across Nepal to adopt this procedure. As of end-2014, according to UNDP reports, a total of 1924 cases had been heard by district courts utilizing Continuous Hearing. Not only is this reported to have increased the confidence and security of women and vulnerable groups who are victims of these crimes, but it has simultaneously reduced the case backlog to some extent. The RoLHR programme reports show that the concept of continuous hearing was being used by all district courts to some extent by 2015. In Q1 2015, 1657 cases were heard under continuous hearing rules of court. RoLHR also supported the drafting of a procedural manual for continuous hearing for the Supreme Court that was finalized in Q2 2015. By end Q2 2015, 2725 total cases had been heard in continuous hearing in various districts, of these 1120 were heard during Q2 alone, indicating an increasing in its usage.

The Evaluation verified in its field visits that the in-camera courtrooms were equipped and operational. According to judges and lawyers interviewed, the in-camera courtrooms had significantly advanced due process and protection for victims of domestic violence, SGBV and child abuse. The courtrooms were effectively providing abused women and children, as well as witnesses, the ability to testify remotely without having to confront perpetrators in open court. According to the district judges and court registrars interviewed, this has encouraged greater numbers of victims to avail themselves of the protection of the formal court system for cases of rape, domestic violence, child abuse and other crimes; and has encouraged witnesses to testify. Yet, there is no hard data available to back-up these qualitative statements. According to the RoLHR RRF, the programme was supposed to track the “percentage of victims and witnesses who do not report cases to the police”, but data was not available to substantiate progress for 2014 or 2015. The evaluation recommends that going forward, the RoLHR Programme continue to support the Supreme Court to establish *in camera* facilities in all courthouses in Nepal on condition that the Supreme Court collect and report the data called for in the RRF.

Establishing E-library in the Supreme Court and Support to archive court’s decisions and Research, design and monitoring capacities of the Supreme Court, OAG and MoLJPA strengthened

The Programme supported the establishment of an E-library in the Supreme Court in 2015 that included the provision of desktop computers, UPS, CCTV cameras, library software and peripherals. RoLHR also provided training for the Supreme Court Staff working in the library. In addition, the Programme is supporting the Supreme Court to digitalize its documents. This has included the design of new software that will permit court users to search court opinions and records by different data fields. The Evaluation was not able to confirm the contents of the E-library and without user data of examples of how judges are actually using the system, it is too early to tell whether this has been a success.

Support to the Judiciary's Strategic Plan and capacity development of female judges

The RoLHR Programme sponsored a number of regional and district level dialogues in 2014 on issues facing the courts and other justice sector actors, including continuous hearing, judgement execution, effectiveness of the JSCC, etc. This facilitated the establishment of the Third Five Year Strategic Plan of the Nepali Judiciary (2014-2019). The strategic plan contains four major goals (speedy justice delivery; predictable judiciary processes, accessible justice system and enhanced public trust) implemented through 16 major strategies and 256 different activities.

The Evaluation notes some carry-over activities from UNDP's predecessor "Access to Justice" Programme. Yet, these are claimed in initial RoLHR reports as activities within the current programme. UNDP should ensure that the contributions of the earlier programme are clearly noted in its reporting, so as to better differentiate the two. The RoLHR Programme is aligned with the strategy by design, but its implementation is currently not being undertaken in a sustainable manner. Moreover, the programme is very broad and addressing absolutely every aspect of the GoN strategies. It is the consensus of many stakeholders interviewed by the Evaluation that RoLHR is underperforming or performing slower than expected and that RoLHR has proved itself to be overly ambitious.

As discussed elsewhere in this Evaluation report, there are many new rights enumerated in the new Constitution that imply new structures and additional areas must be inserted into the Supreme Court's strategic plan going forward. As a result of the new Constitution, a new Constitutional bench will be created within the Supreme Court under the Chief Justice. This will entail work on a) composing the bench; and b) creating the capacity and resources (i.e. a library) for the bench. In light of the new Constitution, restructuring the Judiciary is a challenge. The question is what provinces will be created. The Judiciary must restructure itself within a year according to the new Constitution, but the Supreme Court as of end-2015 is not sure that the federal states will be capacitated that quickly. The existing Court of Appeal will have to be transferred to the provincial courts and the district courts will merge as an appellate court for the quasi-judicial authorities. Thus, there is a need for RoLHR to support assessment studies, preparing for federalism. Within the Supreme Court, the Chief Justice has already formed a committee to work on this issue and make recommendations for the Judiciary.

In addition to its work on the Strategic Plan, the RoLHR Programme supported the capacity enhancement of women court officials in 2014 through a series of learning visits. The recruitment of female judges has been hindered by the lack of available female candidates. Inclusiveness between gender and other vulnerable groups is very weak in the judiciary. RoLHR needs to explore mechanisms to include more women or implement positive discrimination. Therefore, this issue must be addressed at the level of law schools. RoLHR sponsored five female judges to attend a conference of the International Association of Women Judges (IAWJ) in Tanzania in 2014 and held subsequent workshops for women court officials on gender mainstreaming issues. This training was in line with the goals and strategies of the Strategic Plan of the Nepal Judiciary (2014-2019). Going forward, it will be important that the incoming Chief Justice is included in discussions about the RoLHR and its revision to ensure that her point of view is taken into account at the earliest possible opportunity on incorporating more females into the judiciary, developing a GESI strategy for the courts and other issues impacting upon rule of law, access to justice and human rights in Nepal.

Support to the National Judicial Academy of Nepal and Judicial Service Training Centre

National Judicial Academy

The National Judicial Academy (NJA) was established 12 years ago. NJA's budget comes from the GoN and it also relies upon external funding from donors. NJA primarily provides support to the judiciary, but its mandate covers virtually the entire justice sector. There is some overlap and duplication of work between Judicial Service Training Centre (JSTC) and the National Judicial Academy (NJA), but generally, NJA trains the higher-level judges, with only limited training of judicial service. NJA is mandated to train prosecutors, judges, court officials and private lawyers. For example, NJA regularly coordinates with the OAG and Police Academy regarding trainings for prosecutors and police.

NJA also develops and publishes training materials. To date, NJA has published materials for judges and district officers. NJA has also published materials on judicial reform. As of 2015, NJA, with RoLHR support, is in the process of publishing a bench book for judges that handle GBV cases. NJA is also developing a training manual on GESI and GBV to promote capacity enhancement of female judges and court staff. To date, NJA has not had benefit of international experts, but the new federal system will certainly present the need for foreign technical expertise from other jurisdictions.

NJA has yet to receive any major support from RoLHR, however, with the new Constitution, NJA will need to educate judges and develop curriculum on the new Constitution and its provisions. This merits RoLHR support going forward. Also, after the new Constitution, courts below the level of District court can act as the court of first instance and this puts the District court effectively in to an appellate court to review these new lower courts. It is not yet clear how many lower courts there will be. It might be that the quasi-judicial authorities may have appeal to district courts. Even though the judiciary will remain a unitary judiciary under the new Constitution, judges will find that they have to hear cases between the new federal entities. Thus, judges may find themselves interpreting federal-level regulations and conflicts of law. The implementation of the new federal system will raise jurisdictional issues. NJA also has a mandate to train the quasi-judicial officers (CDOs) in light of the recent Supreme Court directive on Quasi-Judicial Officers (2012). NJA will have a role to train as per the Supreme Court's new initiative, the Access to Justice Committee, but at present it is waiting for instructions from the Chief Justice. NJA is covering topics related to A2J already in its training programmes. Finally, two of NJA's training rooms were destroyed in the earthquake and these need to be rebuilt.

Going forward, the National Judicial Academy should receive substantial UNDP support as it plays a more important role in educating the higher-level judiciary. The National Judicial Academy can be used to train the judiciary on the implications of the new Constitution. The new appellate jurisdiction of the district courts is an urgent area of priority. Capacity of female judges is also an area that the NJA can contribute if it gets a place in the project. The National Judicial Academy is also the best available entry point for work on judicial integrity. The NJA library also needs to be substantially upgraded and updated. The RoLHR Programme could carry out a study of the Central Library law collection and significantly upgrade. This is open and accessible to all persons in Nepal (but was heavily damaged in the earthquake).

Judicial Service Training Centre

JSTC is mandated to provide induction training to judicial officers. JSTC trains up to 2nd class officials (under secretaries) and those judicial service employees up to 2nd class (courts, OAG and government attorneys, MoLJPA). The institutions supply the names of trainees and then JSTC tries to accommodate. JSTC sometimes needs to train quasi-judicial authorities (who

can impose up to 15 years of imprisonment), but this is not in the regular programme. JSTC has 22 staff. All staff are civil service employees of the Judicial Service. All the officers are law graduates, but there is no position at the JSTC called “trainer”, therefore, JSTC solicits outside experts for training. In reality, staff at the JSTC has very little incentives and there is a high-turn-over of staff due to perceived lack of opportunities for professional growth.

Because JSTC does not have any full-time trainers, it sometimes finds it difficult to meet its training obligations. JSTC has a Steering Committee that is co-chaired by the MoLJPA and contains a wide range of stakeholders (Supreme Court; OAG; etc.) and advises on the training curriculum. JSTC has subcommittees within the Steering Committee to review different thematic topics. At the beginning of each year, each of the three main groups (court staff, OAG and government and MoLJPA) notifies JSTC of its expected training needs. But, JSTC training is not differentiated according to the needs of each separate branch. JSTC does not customize its curricula to each of the three groups. JSTC currently has an AWP and budget, but lacks a Strategic Plan. JSTC has not explored to date any formal MoUs with law faculty, bar association. JSTC currently has only one annual publication, but maintains a website. The annual publication deals with emerging issues.

In 2014, the Programme supported logistics in the Secretariat of the JSTC, computers, and library maintenance. This support was viewed as instrumental to capacitating JSTC. In 2015, the Programme signed a letter of agreement with the Judicial Service Training Centre to develop a standard training curriculum for non-officer staff of the Nepali Judiciary as well as a training manual. RoLHR supported JSTC to develop three training modules: i) for VDCs to acquaint them with their roles and responsibilities; ii) to develop a judicial training module for non-officer level judicial staff; and iii) a judicial training module for officer-level. The JSTC, however, remains entirely responsible for the training budget.

The RoLHR Programme plans to support the JSTC in the near future to assess its training capacities and find ways to link JSTC with an international training institute such as IDLO. The Programme is supporting a forthcoming visit to IDLO Rome for three JSTC staff and three Nepal Law Commission staff. The IDLO curriculum is well developed and the JSTC Secretary hopes to observe the methodology of training, content and their research methodology and obtain a comparative approach. JSTC is also working with UNDP to undertake training of VDCs (all the laws and legal issues that the VDC secretaries must implement). Also, there is need to train on the provisions of the new Constitution and also the new codes (Code of Criminal Procedure; Criminal Code, and Code of Civil Proc). This issue has not yet been addressed by the Steering Committee. The judicial structure will change slightly. JSTC needs to be clear about its duties to the provincial institutions.

Going forward, the Evaluation recommends that support to the JSTC should be limited to those activities already scheduled and that the Supreme Court be encouraged to capacitate the JSTC. The RoLHR Programme should, however, substantially upgrade the JSTC library with new books.

Support to MoLJPA and its Strategic Plan

The Programme began to work with MoLJPA in early 2015 on the development of its five-year strategic plan. This was deemed an improvement over the Ministry’s existing annual plan, whereby it responded to numerous *ad hoc* requests of GoN agencies, without any strategic approach to legislative drafting. Work on the MoLJPA five year strategic plan was continuing in 2015 with the preparation of a concept note on development of its strategic plan.

Going forward, it is important that RoLHR continue to support MoLJPA to develop its five-year strategic plan, the legal aid policy and legislative reforms impacting upon legal aid—

especially given the fact that MoLJPA bears primary responsibility for overseeing legal aid in Nepal. UNDP must continue to advocate and ensure that the MoLJPA elements of access to justice and legal aid for women and vulnerable groups in Nepal. MoLJPA's overall GESI approach can be improved.

As with the Supreme Court's strategy, the new Constitution will present MoLJPA with many challenges (i.e. legislative drafting, legal aid, federalism, altered jurisdiction of quasi-judicial authorities, etc.) and these will need to be properly taken account of. It is extremely important that MoLJPA's five-year strategy is aligned with the strategies of other stakeholders that are expected to provide legal aid and counselling in Nepal (i.e. the Supreme Court, as concerns court paid lawyers; the Nepal Bar Association and leading CSOs involved in legal aid).

Public information mechanism developed and judicial outreach and court communication

The Programme supported the Courts to undertake a mapping-exercise in 2013 on the needs of court users. This led to the establishment of client information desks at pilot district courts in 15 Programme districts by 2014. The data contained in annual reports of RoLHR as of Q1 2015, over 20,000 persons had utilized client information desks in the 15 pilot districts. In Q2 2015 alone, over 6057 clients accessed the information services from 15 Information Desks. In addition to the information desks, RoLHR provided additional procurements to district courts covered by the Programme (i.e. computers, generators, CCTV, copiers, fax machines, printers, etc.).

According to the Supreme Court and district courts visited by the Evaluation, these procurements have greatly improved the work of the courts and their ability to communicate, manage their dockets and dispose of cases. It is the general impression of the Evaluation and donors that the court information desks and other aspects have been very well done. The main donor concern is ownership and sustainability. According to the NPD the Supreme Court has proposed 5 districts (Morang, Suptari, Kaptu, etc.) where the Court has proposed constructing new rooms for information desks and JSCC meeting hall. The Programme agreed, but this process is taking time.

The Programme has also supported a number of local awareness-raising events, published educational materials such as a version of the UN Guidelines on Legal Aid (1500 copies distributed) (2103) and information about the courts and engaged television networks and Radio Nepal to produce TV PSAs. The Programme also conducted a series of legal awareness trainings for school students in three districts (Gulmi, Palpa and Kapilbastu)(2013). This continued into 2015, with Radio Nepal producing 12 radio programmes during Q1 that discussed among other topics the Annual Report of the Supreme Court, judgement execution, criminal justice and procedures, the OAG, continuous hearing and judicial outreach. These programmes included Q&A's between judges and citizens. According to UNDP, these public outreach activities raised local awareness about legal rights and entitlements, and have enabled people to better seek remedies from GoN. Activities with Radio Nepal and journalists have received wide audience response and should be continued and deepened.

A number of judicial outreach activities were supported by the Programme in 2014 using the JSCC (i.e. communities, schools, etc.). According to UNDP, such outreach enabled the JSCC to identify problems with the course book used in Grade Ten of the school system that negatively portrayed the judiciary and judicial system. This was corrected. This work was expanded in 2015, largely based upon the results of a RoLHR sponsored study visit for justices and senior judicial staff of the Supreme Court to the United States of America in March 2015. The delegation visited courts in Arizona, New York and Washington, D.C. with a focus on court outreach strategies, case management, justice sector strategies, victim protection and court client services. A key lesson learned from the study visit was the way in which U.S. justice sector actors cooperated and coordinated to achieve benchmarks for case

management, etc. Upon their return to Nepal, judges began conducting outreach activities in selected VDCs with the goal of helping citizens to understand the court system. As a result of the study visit, the Supreme Court and Nepal Judicial Academy developed guidelines on judicial outreach in 2015 and conducted ToT sessions for 24 judges and registrars from 8 districts. These judges and registrars in turn have begun to conduct additional trainings on judicial outreach and the JSCCs are also facilitating this.

Regarding judicial outreach and awareness raising activities, RoLHR may have in some respects “put the cart before the horse”. There is no doubt that judicial outreach is a key component of access to justice. Yet, to convince a sceptical and uninformed public on the merits of a problematic court system and judiciary runs the risk of avoiding endemic structural issues and propagandizing the courts. Such activities are no substitute for real structural reforms and safeguards for judicial integrity. Also, according to RoLHR programme reports, in Q1 only 200 villagers in three VDCs (Handikhola, Padampokhari and Hatiya) were covered by judges. This is not a tremendous amount of persons reached by the RoLHR Programme.

Strengthening the judgment execution system

The Programme’s approach to execution of judgements has not been quite as strategic or comprehensive as perhaps it could have been. Between years 2013-2015, with RoLHR support, a total of 408 officials were trained on judgement writing and one national workshop on judgement execution for 110 high level officials and 5 multi-sector workshops on judgement execution were held with the participation of 175 officials. To date, however, despite UNDP’s best efforts, it does not appear that RoLHR supported workshops, trainings and a study on this issue have resulted in changing the *process* of execution of judgements at each institution. As of 2015, it does not appear to the Evaluation that the totality of RoLHR support has yet resulted in the adoption of a comprehensive framework judgement execution by the Supreme Court and JED.

In 2013, RoLHR programme provided support to the Judgement Execution Division (JED) of the Supreme Court to conduct a series of interactive workshops. Importantly, in an attempt to shed light upon inefficiencies in Nepal’s judgement execution system, RoLHR commissioned a report that detailed the challenges in Nepal’s judgement execution system and identified that roles played by police, courts, the JED, local governments, etc. The Project Annual Report for 2013 cites the JED Draft Annual Report 2013 that claims an increase in judgement execution from 7.8 per cent in criminal cases and 13.5 per cent in civil cases; however, baselines are not provided and there is no clear link established between the Programme’s intervention and improvement in judgement execution rates in the courts or data.

Training for judgement writing was provided in 2014 for 136 officials. Data for 2014 indicated a judgement execution rate of 13.64 per cent for fines recovered; 21.40 per cent for prison sentences served and 61.11 per cent for civil court proceedings implemented. The rate of civil court judgements implemented is an improvement over baselines reported in 2011 (53 per cent civil court decisions implemented). There is room for improving upon this data.

In 2015, RoLHR began to work on some of the issues identified in the 2014 workshops on judgement execution. Specifically, the Programme supported the JED to train 26 court officials on how to write better judgement execution sections of court verdicts. The “Tapasil Khanda” (The Below Statement/Underneath) of court verdicts were identified as a source of inefficiencies in the judgment execution process. Poorly drafted Tapasil Khanda with unclear verdicts or instructions create confusion and are not acted upon quickly. UNDP also supported a special “Campaign for Judgement Execution” in 2015 with the participation of 110 high officials. Additionally, 5 multi-stakeholder workshops on judgement execution were held.

Going forward, in revising the RoLHR project document at mid-term, UNDP should carefully evaluate whether to continue work with the JED. This should include a frank and realistic assessment of both RoLHR and the JED capacities in this respect (i.e. RoLHR's abilities to deliver the requisite technical knowledge and JED's capacity and willingness to absorb such technical advice). UNDP should also assess what was the end result from the development assistance provided previously by other bi-lateral donors to the JED. Going forward, if UNDP remains engaged with JED, UNDP should build upon the study on judgement executions commissioned by RoLHR in 2013 that identified the challenges and way forward on judgement execution to transform the execution of judgements systems and procedures in Nepal. The role that each institution plays in the process should be further mapped.

2. Output 2: Capacities for the implementation of Penal, anti-GBV, anti-discrimination and anti-discrimination legislation developed.

Support to the capacities of MoLJPA on legislative and treaty drafting in line with international standards and the Five Year Strategic Plan of MoLJPA

In regard to legislative drafting, MoLJPA has developed a legislative drafting manual and guidelines to be followed by line ministries when drafting legislation, which was supported by the Programme. The guidelines for example, stipulate that the line-ministry initiating legislation, must perform costing estimates, identify any international obligations of Nepal that might be impacted upon, etc. by the draft legislation. At the same time, the legislative drafting is related to treaty making. The new Constitution mandates that MoLJPA to develop guidelines on the making of treaty law. MoLJPA is drafting guidelines with the support of the Programme.

The Programme built upon UNDP's prior work under the predecessor "Access to Justice Programme" by conducting trainings, workshops and study visits on the draft Code of Criminal Procedure, Criminal Procedure, Anti-Corruption legislation and Anti-GBV legislation. In particular, trainings provided to 9 staff of MoLJPA in London in 2014 was perceived to build their knowledge of international treaty drafting. In October 2015, MoLJPA will send 13 staff to London for a one-week training in legislative drafting. MoLJPA states that its' staff is more motivated after the study visits, which has increased the potential for staff retention. MoLJPA tried to include some minorities in the study visits.

The new Constitution mentions a number of laws and the MoLJPA is the authority that must draft these laws. This has widened the scope of the MoLJPA. But thus far, the line-Ministries have not developed the capacity to perform legislative drafting. Also, MoLJPA has never had a Strategic Plan and with the support of the RoLHR Programme, MoLJPA has hired a former Secretary and Minister to support MoLJPA to draft a strategic plan, with costing estimates. This will enable MoLJPA to carry out its legislative drafting activities in a more strategic manner.⁷⁰ Similar capacity building activities could be undertaken in 2016 by RoLHR for other ministries.

⁷⁰ Nepal has mixed practice with regard to whether treaties have direct applicability, most do not and require an implementing statute, but it is not a well settled area of the law. For example, Nepal's law on treaties says that in a conflict, a treaty prevails. Thus this would put Nepal within the Monist tradition. Yet, there is Supreme Court precedent that holds that no treaty will have effect without an implementing statute. Thus, Supreme Court precedent would place Nepal within the Dualist tradition. Nepal is not therefore a pure Monist or Dualist jurisdiction.

RoLHR should continue to support the legislative drafting capacity of key line-ministries. The evaluation questions the ultimate capacity of the Law Commission to carry out a survey of the new legislation needed by the new Constitution. The Law Commission's opinions are not mandatory and therefore, in reality, not given that much weight in Nepal. The RoLHR Programme could amend the existing terms of reference for a consultant to advise the National Law Commission on how to improve its work and assess capacity as a threshold issue to further support for legislative drafting initiatives. RoLHR should closely coordinate with the Office of the Prime Minister (OPM) Joint Secretary and MoF in its activities for NLF. The OPM Joint Secretary also sits on the board of the NLF.

Systems and procedures for revision of laws and formulation of rules and regulations in line with international human rights standards developed. Development of the Nepal Law Commission (NLC) Law Review Policy

In 2015, the Programme supported MoLJPA to hold consultations for the development of a Standard Operating Procedure (SoP) on Treaty Making. This was expected to be finalized at the end of the year. The Programme also supported the Law Commission in 2014-2015 to a limited extent. This was a new partner for the Programme.

The Law Commission has existed for 60 years. After 2007, it was established as an official statutory body with representation of Ministry of Law, senior advocates, OAG's office. The Law Commission is established to research and draft the law, however, its recommendations are advisory only and GoN Ministries are not bound by these. In 2012, the website was created and laws included in the database (the major laws have been translated into English). The Programme was instrumental in the design of the Law Review Policy that will shortly be reviewed by an expert consultant. After this is refined, it will be sent to the Parliament. The policy sets forth a methodology, time framework, etc. and has been put forth to the Council of Ministers (CoM) and proposed as a standard for all GoN Ministries. Also, proposals to review the existing "Right to Food Bill" and "Senior Citizens Bill" are currently being drafted by the Law Commission with UNDP support. NLC is still in discussions to draft the ToR on other laws Right to Employment, Against Obstruction of Justice and Right to Health. These laws are envisioned as implementing legislation mandated to be passed within the next three years by the new Constitution. The Law Commission will also make preparations for the other laws enumerated in the Constitution.

In addition, RoLHR supported NLC in 2015 to upgrade its website, which has allowed members of the public to see NLC draft laws and analysis. UNDP has finalized a ToR for a consultant to advise the Law Commission on improving its work. The Law Commission has 25-30 staff and hires many other experts. Many other ministries also take on the job of drafting legislation. The Law Commission in many cases advises these other ministries in the form of a concept paper on the priorities to be included in draft legislation and the other ministries bring their manpower to the drafting process.

The Evaluation met with the staff of the NLC and found them to be knowledgeable of comparative legal systems and conversant in topics of federalism. There is no doubt that NLC merits some support and additional capacity building. However, it is the Evaluation's assessment that the NLC lacks the capacity to undertake the comprehensive inventory and drafting of new legislation stipulated by Nepal's new Constitution. Thus, RoLHR programme should discuss and decide about following issues in relation to legislative reform related activities for 2016 in consultation with key implementing partners: 1) Who will lead, the overall legislative reform process - Ministry, Law Commission, other line Ministries; and 2) What would be the modality of legislative reform initiatives (hiring consultant as expert, formation of committees under responsible line ministries and line agencies, providing small grant for some period (3 months/ six months or one year or do long term agreement with responsible agencies).

There are over 200 pieces of legislation that will need to be drafted or amended as a result of the new Constitution. This is a monumental task that likely cannot be undertaken by the NLC in its present form. Besides this, the fact is that the opinions of the NLC are advisory in nature and not accorded great weight by the legal community in Nepal. What is required is for RoLHR to conduct an in-house inventory of the major laws stipulated by the new Constitution, identifying the principal Ministry holding the portfolio for each specific law, contact persons within each ministry responsible for drafting legislation and further identifying a potential partner (i.e. lawyer; NGO; consultant) who can prepare a pro forma draft of each law. It is envisioned that RoLHR would then prioritize a list of 10 to 20 laws (i.e. those impacting most upon access to justice, legal aid and the rights of women and vulnerable groups) from among the several hundred new laws contemplated by the new Constitution and support preparation of draft legislation via training of key ministry staff and hiring of consultants were needed. In the event that CSOs or private experts/academics are utilized, then RoLHR has to have a clear modality and approach, which should be approved in advance by the key IPs.

Best practice model for implementing key laws developed (Criminal and civil procedure codes enacted)

RoLHR worked with the National Judicial Academy (NJA) in 2013 on a series of ‘explanatory notes’ to accompany important domestic legislation with a focus on the Criminal Code and Codes of Criminal Procedure. The Programme built on this foundation in 2014 by supporting a study on the Domestic Violence (Prevention and Punishment) Act, 2009 that led to recommendations for law enforcement agencies. The Programme also states that it supported MoLJPA to develop two position papers in 2014 on the legislative process and on Constitutional and other legal provisions relating to international treaties.

It is not clear to the Evaluation why, after nearly 5 years of UNDP support to the CA, the RoLHR Programme felt the need to work on the new Constitution—especially when so much work had been done previously by UNDP and UN DPA. There is little information available to the Evaluation on the current status of the laws that have been drafted as well as evidence as to *what capacity has actually been built within the institutions themselves*. Going forward, UNDP should do a much better job of inventorying laws and tracking progress towards enactment and implementation in light of the new Constitution (as discussed elsewhere in this report).

Affirmative action in legal education

One of the most successful interventions of the RoLHR Programme are its interventions on behalf of affirmative legal education in Nepal. The Programme supported a revision of the B.A.LLB curriculum at Tribhuvan University law faculty in 2014. By 2015, 62 courses had been reviewed in the five-year B.A.LLB and the curriculum was brought in line with international standards. A final version of the entire revised curriculum is expected by end-2015. Notably, the curriculum includes a new course on social inclusion.

RoLHR’s early internship programme for law graduates laid the foundation for an affirmative action law school scholarship programme and clinical legal education programme at Tribhuvan University. Initially, this was a joint initiative between RoLHR and UN Women, but RoLHR assumed full implementation of the initiative as of April 2015.

There is a steering committee and the guidelines for selection of students to the programme were developed by the committee. For the scholarship purpose, the Dean’s office conducted the entrance exam for all students. The selection of students for the scholarship was made only from the students who had gained admission to the Nepal Law Campus. At least 50 per

cent of the recipients must be female. There are some categories (i.e. the two spots reserved for PWDs, if the only candidates are male, then the two spots are both awarded to males). There is also priority given to the students that come from Government schools. The Programme also assisted the administration of Tribhuvan University to develop guidelines for running the scholarship programme and the application and selection process. [See additional information below in the Evaluation's GESI analysis].

A total of 20 law students received scholarships for the 5-year B.A.LLB course of study beginning in 2014. As of 2015, the two terminal exam results during the programme show that some of the students obtaining the scholarship were very good, while others were very weak in some areas. The areas where students performed poorly in the exams are targeted for additional tutoring. The exams are compulsory for scholarship students. Going forward, as soon as enough time has elapsed following their completion of their education, RoLHR and the NBA should track how the scholarship recipients are actually performing in the job market. There is currently no conditionality in the scholarship programme (i.e. no duty to serve in any capacity afterwards).

The Evaluation met with a group of students who had received scholarships. These students reported that they had each faced adverse economic and societal disadvantages due to their ethnicity or caste. Some were raised as children in extremely adverse conditions. Many stated that were it not for the scholarship programme, they would not have been able to afford to study law. Most were motivated to study law, not for the money, but because they believed that a law degree would equip them with the necessary advocacy skills to make a difference in their communities and to fight to end discrimination.

It is the strong recommendation of the Evaluation that the scholarship programme be continued and even possibly expanded. Unfortunately, there is little prospect for this initiative to be made sustainable in the absence of continued donor support.⁷¹ As with the internships for new lawyers (described below), the Evaluation suggests that UNDP may want to explore public-private partnerships as a source of sustaining the scholarship programme going forward. If achieved, this would be a novel approach for sustainability in Nepal.

Bar exam support and Internships for recent law graduates

In addition to the legal scholarship programme, RoLHR in partnership with the NBA has established a scheme to support female and disadvantaged law graduates to sit for the bar examination. According to the Evaluation's meetings with NBA, this initiative was a success. One of the most successful initiatives of the RoLHR Programme was its partnership with the National Bar Association (NBA) to establish a RoLHR-funded internship programme for female law graduates and law graduates belonging to lower castes and from remote and inaccessible regions in Nepal. In 2013, 15 law students (9 female and 6 male) were placed in internships. 12 of these students were from lower castes and vulnerable groups. The internship consisted of a one-month foundation course in the practice of law, followed by placement at a law firm of four and a half months. The interns were also provided with intensive English language training.

⁷¹ Normal tuition for the five-year programme is \$2500 per year, plus campus fees, plus living expenses. This is the same rate charged for the scholarship students. In order to make the five-year programme sustainable it would take approximately \$3,000 per year for each student enrolled. For 20 students enrolled in the five year programme this would amount to \$60,000 per year for 20 students. If 20 new students are enrolled each year, then when it is fully operating, there would be a total of 100 students enrolled in any given year (i.e. five classes of 20 students in each class) and this equals \$300,000 each year.

The first batch of internships proved to be a tremendous success with students placed at practicing law firms. Many of the interns interviewed by the Evaluation stated that they were the first lawyers in their families, had few or no viable contacts within the legal profession and that, therefore, the internships were the only means of access to getting a job. A number of the interns had gained experience with court pleadings during the course of their internships and believed that they were now ready to start their own law firms and felt confident going into court and making appearances before judges. As of Q2 2015, the Programme had concluded the second batch of 20 interns (15 women; 5 men) and almost all of the interns have entered law practice.

The NBA legal internship programme was somewhat delayed in its start, as it was a major challenge to select appropriate students. Also, the modality of transfer of funds from the Programme to the NBA was perceived as overly bureaucratic and time consuming. UNDP's regulations made this difficult and it was not done on time. Nonetheless, the NBA legal internship programme has been a tremendous success. It is clear to the Evaluation that, while early in the intervention, these new law graduates from different ethnic groups and lower castes would have had no other effective means of accessing experience with practicing lawyers and the courts. Importantly, the programme was not only for female lawyers, but also for male lawyers from disadvantaged backgrounds and remote areas. NBA states that priority was given to those law graduates who demonstrated a commitment to entering the legal profession following the conclusion of the internship. The interns are given financial assistance following their internship to assist them with establishing their own law practices. Other interns have been hired by the respective law firm, NGO or court where they did their internship and a number are employed actively by the NBA in its legal aid scheme.

Going forward, the legal internships for female law students and students from disadvantaged groups organized by the NBA should be expanded. Yet, the reality is that it is very difficult to make the scholarship programme and internships sustainable. In this regard, UNDP may wish to explore private-public partnerships with corporations and law firms in Nepal.

OAG performance management strengthened

The most important thing that RoLHR supported with the OAG was the office's human resources policy (the needs for every division of OAG; capacity enhancement; number of staff required for each division, roles, duties, etc.). RoLHR programme relied on its in-house expertise to complete the OAG's human resources plan, which was submitted to the MoF. All senior officials at the OAG participated in the drafting. OAG officials formed a working group and the working group drafted the plan with RoLHR Programme input. The Programme is also currently supporting the drafting. It is generally perceived by Stakeholders interviewed that the OAG has exhibited a high level of ownership over Programme deliverables and has taken an active role

The Programme provided various technical and capacity building support to the OAG. This included basic IT trainings to 220 OAG human resources staff from the central OAG and 27 district offices. RoLHR supported capacity building training for 99 OAG staff members from all 16 Appellate Attorney Offices in Nepal. This consisted of basic computer training. The Programme also supported two regional trainings on "Charge Sheet Framing" and "Code of Conduct of Public Prosecutors." These trainings included representatives from OAG, judges and police. The Programme also supported OAG in 2015 to undertake studies of caste-based discrimination.

In particular, OAG was supported to establish a database and records management system. In general the OAG has exhibited a high level of ownership over the deliverables. As of 2014, 4,171 cases had been updated and posted into the OAG system. By end Q2 2015, an additional 3144 OAG cases had been uploaded/updated to the database. Additional trainings

were supported for officers and staff of OAG in 2015 on the e-attorney software platform for Appellate and District Attorneys in the Eastern Development Region of Nepal.

The Programme also supported the OAG with the provision of laptops and support of its research capabilities. The software contained all Supreme Court decisions and legal journals. Some of these were available online. Each laptop was preloaded with the software. OAG staff had desktops, but needed to work from home. A total of 200 laptops were delivered (Lenovo and Dell).

Preliminary work was also begun in 2014 to study and establish a Crime Trend Analysis Centre (Research Unit). As of 2015, however, the planned Crime Analysis Training Centre activity is on hold due to inter-institutional overlap. There are two UNDP facilitated projects currently working on this UNDP Police and the RoLHR Programme. This is in the process of being worked out. The Evaluation notes a tendency for the Programme to support development of new software at each and every institution. This begs the question of why these institutions are seemingly incapable of utilizing software that is currently available on the market.

One element that appears to be missing from the Programme as originally envisioned is the nexus between support to the OAG and links to the indicators in the RoLHR Programme RRF (i.e., i) is improvements in rates of pre-trial detention as a percentage of the total prison population⁷² and ii) the “number of cases dismissed due to inadequate investigation and criminal procedure compliance”).

The Programme has tracked statistics provided in the OAG annual report for 2014 for these indicators, but has not established a link between UNDP’s activities with these variables. Based upon OAG annual reports it appears that there was a reduction in pre-trial detainees as a percentage of total prison population between 2011 (59 per cent) and 2014 (32 per cent), but the factors attributable to this improvement are not clear.

Meanwhile, the numbers of cases dismissed due to inadequate investigation or poor compliance with criminal procedure has actually increased over 2011 levels. For example, in 2011-12, a total of 6060 cases were dismissed by the District OAG due to inadequate investigation and lack of compliance, whereas in 2014, 6290 cases were dismissed on the same basis in all 75 districts of Nepal. Again, the factors contributing to these numbers are not clear to the Evaluation.

Going forward, as with other IPs, UNDP should support the OAG to accommodate changes implicated by the new Constitution of Nepal. The Evaluation also recommends that future support to OAG be aligned with the needs of women and vulnerable groups and a human rights based approach be strengthened regarding support to OAG. The emphasis of the RoLHR Programme should be upon the rights of the criminally accused, pre-trial detainees and compliance with criminal procedure as originally contemplated in the RoLHR Programme project document and RRF.

⁷² Note: improvements in rates of pre-trial detention is one of the targets/indicators of SDG 16.

3. Output 3: MoLJPA-led consultative legal aid reform process supported and institutional legislative and policy framework for integrated national legal aid system developed.

Consultative national legal aid reform process established and a comprehensive national policy on legal aid and integrated implementation mechanism developed

The Programme has addressed issues of legal aid and access to justice from a variety of entry points, but the comprehensive national policy on legal aid/integrated implementation mechanism as contemplated in the RoLHR Programme document is still being drafted. Keeping things in perspective, however, donors have been active in the legal aid sector since the late 1970s with little progress in making the system comprehensive.⁷³ This is a question of political will as much as it is an issue of available budgetary resources to create an implemented implementation mechanism. The RoLHR vision is that the national policy on legal aid will ultimately be followed by a draft law.

Legal aid in Nepal is principally governed by the Legal Aid Act of 1997. The Act placed legal aid under the ultimate authority of the MoLJPA, but it is overseen by the Central Legal Aid Committee (CLAC). There are five members of the CLAC. Programme representatives appeared regularly at the meeting of the CLAC. Under the Legal Aid Committee exist District Legal Aid Committee in 75 districts. There are also non-governmental actors (i.e. the Nepal Bar Association and its units at the district level and CSOs) that provide legal aid alongside the DLACs. In addition, the courts maintain stipendiary “court paid lawyers” (vaitanik okil) (one per each district court) that represent the criminally accused. The Act of the National Women’s Commission also confers a duty on the NWC to provide legal aid for vulnerable women. In addition, law in Nepal have recently begun to operate legal aid clinics that are providing legal counselling.

The Legal Aid Act and the rule of the Supreme Court and by-laws of the NBA that govern legal aid all have a common objective to provide legal aid to indigents, disenfranchised persons, persons with disabilities, women and juveniles (and in the case of the court prisoners). The Legal Aid Act of 1997, however, does not define a coordination mechanism for legal aid or the respective roles of each agency in providing it or set standards for the quality of legal aid services. Also the standards on eligibility for legal aid need to be reformed. As of 2015, there remain 15 districts in Nepal without a DLAC, but MoLJPA has requested funding from the MoF to establish DLAC in these districts). In order to achieve a higher level of coordination within the DLACs, MoLJPA has mandated the DLACs to invite the District Judges to all meetings.

RoLHR work began in 2013 with support to MoLJPA to undertake a reform of the existing legal aid regime and introduce the concept of “one door” socio-legal aid. The programme held consultations in 2013 with a broad range of stakeholders at the national and local level. [2013 Annual Report]. A baseline study of socio-legal aid services was conducted in 5 districts in 2014 by MoLJPA with the support of the Programme. With further respect to supporting legal aid, RoLHR is supporting the MoLJPA in all of the supervisory work and developing a “One Door Legal Aid Policy” (this is already drafted), and this will lead to a revision of the Legal Aid Act. By 2015, MoLJPA had held a series of consultations over the first draft of the legal aid policy and was in the process of its finalization.

⁷³ See, for example, “Study of the Current Legal Aid System in Nepal”, USAID (2005), available at: <http://pdf.usaid.gov/pdf_docs/Pnadj826.pdf>.

Other trainings of MoLJPA officials in Nepal (51 officials were trained in 2014) led to the production of a 12-point Drafting Instructions/Guidelines on Legislative Drafting, which was approved by the CoM. Additionally, committee members of MoLCAPA's Steering Committee on Legal Aid were supported to participate in a conference held on legal aid in South Africa. This also had derivatives in the form of a guideline for court paid lawyers who are contracted by the Supreme Court to provide legal aid services in each District court along the lines of the South African model.

MoLJPA engaged the RoLHR Programme to conduct a baseline study on legal aid and to develop draft standards. MoLJPA had planned to hold consultations about this report, but was delayed due to the earthquake and the new Constitution. But when the situation improves, MoLJPA will hold consultations. The new Constitution and federalism at three levels of government will impact upon the legal aid programme, because the legal aid delivery aid system will now need to address both district courts and the quasi-judicial entities. But, there are so many different systems now existing, there needs first of all to be some type of clearing house.

The Programme supported the Central Legal Aid Committee and the MoLJPA. RoLHR supported the establishment of a Referral Network in partnership with the NGO "Nepal National Social Welfare Dalit Organization" (NNSWDO). The Referral Network conducted orientation trainings and interaction meetings in 15 VDCs, 3 monitoring visits and 32 VDC public awareness events. The Programme also utilized local FM radio stations to inform citizens about the Referral Network. According to RoLHR programme reports, 78 cases were referred to justice sector institutions and SLACs as a result of these activities.

The SLACs (described in more detail below) appear to be a success, but there are questions concerning their sustainability, the percentage of clients who are in fact receiving psychosocial services, available staff and criteria for legal aid. SLACs need more capacity in the social-work aspect. The RoLHR Programme should expand the SLAC initiative now, but condition the plan to assume ownership by GoN. An amendment to the Legal Aid Act will ultimately be required to make the SLACs sustainable. SLAC support is needed to women and victims of SGBV for longer periods. More existing DLACs should also be supported and additional capacity training provided to their staff.

As of 2015, the RoLHR programme has yet to adequately address the deficits in the Legal Aid Act, including the procedures to apply for legal aid. The Legal Aid Act provision states 40,000 NP per year annual income limit, but in practice, the JSCC and SLACs are flexible and make exceptions to this limit in the field. The Legal Aid Act should be amended to officially raise this limit and provide and articulate more detailed criteria. The Act should also be amended to create a new legal aid coordination and clearing house mechanism (or enhance the duties of the CLAC) to coordinate all legal aid actors operating in Nepal. RoLHR provided some support to the Nepal Judicial Academy in 2014 to develop guidelines for the "court paid" lawyers in Nepal's courts.

The Chief Justice's new "A2J Commission" holds promise and should be supported by the RoLHR Programme so long as and in a manner that does not undermine the MoLJPA's mandate for legal aid and the role as an IP in the RoLHR. The Mediation Council of the Supreme Court's "Go to Village" programme holds potential for A2J at the local level and the Programme could strengthen its support to mobile justice initiatives and mediation. Activities with Radio Nepal and journalists have received wide audience response and should be continued and deepened.

Additionally, the RoLHR Programme has not explored partnerships with other UNCT members to the extent that it could regarding legal aid. The Evaluation recommends that UNDP especially need to partner with UN Women for A2J and legal aid. The capacity and

strengths of MoWCSW should also be assessed by the Programme to determine what that ministry can offer. Beyond this, the existing partnerships with the Nepal Bar Association and CSOs should be expanded—possibly via small grants to CSOs capable of providing legal aid to women and most vulnerable groups in remote areas.

Socio-Legal Aid Centres and legal aid service provider capacity development and oversight framework developed and implemented

Socio-Legal Aid Centres (SLACs)

The RoLHR Programme is supporting the SLACs (10 as of 2015). 5 started in 2014 and 5 as of August 2015. There is a high-level of ownership over the SLACs by the MoLJPA. Staff is paid on the GoN civil service scale and treated as contracted GoN staff (they do not even receive full benefits as per normal GoN). The Central Legal Aid Committee supervises the DLACs, while the DLAC chairman in each district also serves as the SLAC chairman for each district. DLACs are not separate from SLACs; rather, in the pilot districts, RoLHR support has transformed existing DLACs into SLACs. Thus, in the 10 districts with an SLAC, SLAC uses the same offices of the DLAC.

SLACs are resulting in greater numbers of women and vulnerable groups receiving legal and psychosocial assistance; the approach is innovative for Nepal and serves a distinctly different purpose and target beneficiary group than DLACs. There is, however, little, if any, plan to extend pilot districts or make them sustainable; the pilot district courts supported by the predecessor UNDP A2J project are not at all included; there is some indication that MoLJPA intends to use the lessons learned from SLAC to eventually amend the Legal Aid Law to include SLACs. The RoLHR Programme should expand the SLAC initiative now, but condition the plan to assume ownership by GoN. An amendment to the Legal Aid Act will ultimately be required to make the SLACs sustainable. SLAC support is needed to women and victims of SGBV for longer periods. More existing DLACs should also be supported and additional capacity training provided to their staff.

Five pilot SLACs were established in (2013)(Kailali, Dadeldhura, Bardiya, Surkhet and Dailakh.-operational as of December 2013. SLACs essentially are a revision and supplementation of the existing DLACs offering both legal counselling, as well as socio-legal counselling. In this sense, they can be thought of as “DLACs++”. By the end of 2014, 1,110 people across the five districts had received socio-legal assistance from an SLAC. An additional five SLACs were rolled out in 2015 (Khotang, Taplejung, Saptari, Rukum and Repandhehi), bringing the total SLACs to 10 districts. The SLACs have continued to address the needs of women and vulnerable groups, as well as conduct awareness raising in local VDCs. The SLACs conducted outreach activities and mobile legal aid clinics in 2015 in 10 VDCs. The majority of beneficiaries from these interventions were women.

The Programme statistics for SLACs are not as robust as they could be. Programme generated data showed that as of 2015 issues included separation, divorce, domestic violence, rape and SGBV, while services offered by SLAC’s included legal documentation (37 per cent), court representation (19 per cent), quasi-judicial representation (20 per cent), psychosocial counselling (1 per cent), legal referral (6 per cent), immediate (“emergency relief”)(16 per cent) and ADR (mediation)(1 per cent). By end-Q2 2015, these numbers were reported somewhat differently as: legal information (54 per cent), legal documentation (21 per cent), court representation (11 per cent), quasi-judicial representation (5 per cent), legal referral (2 per cent), and immediate (“emergency relief”) (7 per cent). RoLHR did not report any disaggregation in Q2 2015 for and ADR (mediation) or psychosocial counselling.

The UNDP M&E field visits found that the SLACs have been effective in the dissemination of legal aid information and providing legal support to vulnerable people. Many poor, women and socially discriminated people have benefitted from the SLAC in Bardiya, Surkhet, Dailekh, Kaliali and Dadeldhura. The most relevant beneficiaries are aware about the Programme provision and transportation cost, case registration and advocacy through SLAC. The awareness raising camps have been effective as women and rural people are better informed about their rights and access to justice. SLACs have a good level of coordination among different stakeholders in the districts including JSCC and quarterly meetings are held. However, there is inadequate coordination between the SLAC and the Nepal National Social Welfare Dalit Organisation (NNSWDO), there is delayed budget release in all districts from the Programme to the district level, there is a lack of Programme visibility in the support to court, there is poor coordination among UNDP Programmes in the field, security of victims is an issue, there is inadequate awareness raising in the field (especially in Bardiya and Rajapur areas) and there is a lack of coordinated support with community mediation centres and Badghars (traditional Tharu community leaders).

In order to address these issues, some of the recommendations include the provision of mandatory counselling before seeking a legal remedy, an increase in the outreach network of the Programme, to include social representatives such as the Village Development Committees (VDC), para-legal committees, co-operatives, Community Forestry User's groups (CFUGs) Mother's groups and the ward citizen forums, in order to case the information net far and wide. SLAC staff should be mobile rather than gathering community people in a common place and the Programme should facilitate mobile teams of SLAC representatives who can reach the most vulnerable and marginalised communities and people. Refresher training on legal aid and outreach should be provided and the Programme should recruit more female lawyers, who are needed for effective counselling and the provision of support to women victims.

Stakeholders interviewed by the UNDP M&E unit reported that the SLACs were innovative, largely as a result that they are better funded than the previous DLACs. For example, a District Attorney from Kowali District (who is the Chairman of the DLAC) noted that the addition of the SLAC component had permitted the DLAC to become more effective at gathering different justice sector institutions around the table and perform more effective outreach activities. The SLAC was delivering a much higher volume of legal aid and services, including socio-legal counselling than the DLAC. Most of the cases in Kowali involve women victims of domestic violence who have been kicked out of their homes. The District Attorney interviewed views the SLACs as an improvement over the DLAC model. The DLAC was previously only dealing with court cases. Thus, there was no other service made available to clients and the DLAC was also passive and represented only client that came to DLAC. By way of contrast, SLAC has a robust outreach and awareness capacity that drives clients to the SLAC for services. SLAC provides both legal and social work. SLAC involves a larger group of stakeholders. The biggest change that he has observed is a certain awareness and confidence of women of their rights and their willingness to fight for their rights. When women feel that a government attorney is on their side at SLAC, they feel more willing to fight for their rights. He recommended that the RoLHR programme support to SLAC should continue for some time, until there is a clear societal backing of the SLAC programme, then GoN can be pressed to continue the programme. But at this point, the pilot needs to be continued longer to gather lessoned learned.

The Evaluation Team was able to interview a number of SLAC lawyers from the West and Far Western development districts of Nepal (i.e. Dadeldhura, Dailek, Surkhet, Bardiya, Kailali). These SLACs were all capacitated in 2014. These attorneys also stated that the SLACs represented an advancement over the DLAC, citing RoLHR supported awareness-raising activities as a driver of clients coming to the SLACs in increasing volumes. Importantly, the enhanced budgets of the SLAC have enabled some SLACs (i.e. Dailek) to

reach remote areas and populations that were previously out of reach of the DLAC. SLACs reported that they were servicing larger numbers of persons than previous DLACs. For example, almost all of the SLACs had engaged in awareness raising and mobile legal aid clinics at selected VDCs and conducted outreach on SGBV.

As with the example of Kowali District discussed above, the SLACs in the Mid-West and Far Western regions were handling many cases of domestic violence. Bardiya SLAC is illustrative. In Bardiya the SLAC began awareness raising and reached out to 1166 persons. SLAC has handled 27 cases in 2014-2015 out of which 14 are decided. These include domestic violence, sexual violence (6 cases). SLAC has attempted to settle the domestic violence cases out of court. Meanwhile, in Kailali SLAC, in 2014-15, 604 cases were registered and 104 cases were referred to CDO, police and the courts.

However, other SLACs reported significant challenges. Some of these included, resources, manpower and the need to offer more psychosocial counselling. There is a need to expand the geographical reach of the programme in mountainous areas where the terrain is very difficult. For example, the SLAC in Dailek reports that it cannot reach the remote places quickly. This has impeded the SLAC from completing envisioned awareness raising and counselling. The SLAC is working with many poverty stricken people who are less literate and it is often very difficult to identify the real source of their problems and issues in the absence of a qualified socio-legal counsellor. SLAC have been trying to get the local authorities to take into account the perspective of minorities. Meanwhile, a challenge in Surket was that the DLAC stopped when the lawyer left and there was no replacement. In this situation, the SLAC also provided support to one of the former DLAC staff.

The Kailali SLAC lawyers stated that challenges include inadequate staff to address all of the issues. There is only one full time lawyer in the SLAC office. Women come and are sometimes kicked-out of their homes with their small children. When SLAC files a case in court, it claims both property rights and right maintenance. The court, however, often does not see the fact that the woman was abused, only that she left her family. Another challenge is obtaining certificates and document from the VDC and government agencies. When citizens from different places come to the SLAC, they are sometimes unable to get back to their village. The SLAC needs additional financial support to pay for such overnight stays for victims.

Meanwhile, the SLAC in Surket stated that one challenge is that since the service seekers are mostly women, the SLAC proposed to train the social workers with some legal knowledge and the lawyers with some knowledge of social work. SLAC made a proposal to RoLHR for female lawyers. The lack of female lawyers forces rape victims to have to deal with male lawyers and they are reluctant to do so. SLAC also has to provide emergency support (i.e. taking sick people to the hospital) and SLAC does not have resources for this. SLACs can reimburse up to 5000 Rupees (i.e. SGBV cases, etc.). Yet, clients will go to buy medicines without obtaining receipts or official receipts and then these are not accepted by the central office of the District. There are also issues relating to SLAC relationships with VDCs and districts: 1) people are coming from VDCs that are not included in the 10 VDCs supported by RoLHR and this disappoints people who have demands, but are turned away at the SLAC; 2) no money is provided to participants in the SLAC training seminars and the SLACs lack ability to give expenses.

There is a need to involve all the justice sector stakeholders in the process, as well as the Ministry of Finance, and budget accordingly. In theory, the SLAC lawyers are GoN employees, but the MoLJPA has not empowered them. When they go into the field, they are not treated as GoN officials. There is supposed to be a guideline, but this is not finalized. The SLACs state that they need additional psychosocial workers. Additional trainings on mediation are also desired.

The Evaluation notes that the low numbers of social workers might explain why in Q1 2015 only 1 per cent of all SLAC cases were psychosocial services and in Q2 no data reported, when the Evaluation Team heard extensively about the high demand for psychosocial services. Also, so called “immediate relief” accounts for 16 per cent of the SLACs services in Q1 2015 and 7 per cent in Q2 2015. The category of “immediate relief” appears to amount to a cash distribution to persons for medical assistance, medications, etc. It is not at all clear to the Evaluation why this was included or whether it is in any way sustainable for an SLAC.

The Evaluation recommends that RoLHR expand the concept of SLACs to additional districts in Nepal going forward, but at the same time, allow some SLACs to survive on a reduced budget to see if they can operate within or near budget levels for existing DLACs. A major remaining challenge of the initiative is targeting very remote villages and reaching villagers in remote areas. The other challenge is that since SLACs effectively represent an expansion of the DLACs services, there was some resistance from the NBA based out of concerns that cases in the districts would be handled by SLACs taking business away from practicing lawyers.

DLACs

It is instructive to compare the activities of DLACs (in districts that do not have an SLAC). The Evaluation interviewed a member of the DLAC in Syangja District who stated that the legal aid project has been run in the District for 12 or 13 years. Most of the cases are domestic violence; gender violence; divorce; separation. Most of these cases involve women, GBV. There were 42 cases in 2014-15. 10 or 12 were domestic violence cases; 16-17 were cases of divorce. The DLAC sends many divorce cases for mediation that ends in divorce and this necessitates partition of property. The expenses of the DLAC are borne by the DLAC and they get reimbursed by the GoN. DLAC reports to the Central Legal Aid Secretary (CLAS) of the MoLJPA. The DLAC member was aware of the MoLJPA’s new SLAC pilots, but stated that he was unaware of the details. The District Attorney in Syangja stated that the DLAC has a good track record of providing legal aid to indigent and most vulnerable groups. There are a number of SGB and domestic violence cases in the district. The tendency was for victims to go the police who tried to settle out of court. Now the in camera proceeding has increased victim’s willingness to come to the court system. In 2014-15 there were 10 cases filed for SGB and no caste-based cases filed.

Most of the cases are referred to Syangja DLAC by the police. For other people, clients must be referred to the DLAC by the VDC chairman. Members of the public are not permitted to file a petition to DLAC directly, but must come through their VDC Chairman. In practice, DLAC accepts cases from the Women’s Development Centre. Over 70 per cent of cases involve women. Of particular interest to the Evaluation was the DLAC member’s description of how the Syangja District Court responds to rape victims. The court itself will perform research as to what is behind the case and when necessary the court provides psychosocial support. In juvenile cases (of age 16 or younger) the court maintains a register of local psychosocial workers. This is a practice of courts all over Nepal to maintain lists of social workers. *The court assigns social workers only to defendants.* There is no support for victims. [Note: while it was encouraging for the Evaluation to learn that maintaining registers of social workers at district courts is, apparently, a standard practice in Nepal, it raised a question in the mind of the Evaluation as to how district courts located in districts that have a pilot SLAC may be operating and how the existence of the SLAC may be aligning with the register of social workers maintained by the court].

Legal Aid Service Providers working with or in parallel to SLACs

Nepal Bar Association

The Nepal Bar Association (NBA) plays a key role in delivering and coordinating legal aid. NBA began with representation in the courts, but is expanding to legal counselling (not just litigation). NBA's legal aid programme not currently targeted by RoLHR or integrated into any comprehensive system of legal aid providers. The RoLHR Programme did support NBA to develop a Capacity Development Strategy for civil and criminal legal aid lawyers in 2014 and NBA is currently developing a roster of pro bono lawyers and also partnering with larger law firms in Nepal to establish a pro bono concept in Nepal.⁷⁴

Gong forward, RoLHR could further support NBA to develop its roster of legal aid attorneys (bar members who are available to represent indigent clients) and also have an outreach programme to lawyers about pro bono legal services to attract better quality lawyers going forward. The Programme could also support NBA and the Bar Council⁷⁵ to develop concepts of Continuing Legal Education (CLE), standards of professional responsibility and attorney discipline for the Bar. RoLHR should also assist NBA to develop mandatory minimum pro bono requirements for lawyers under the Bar Council.

Civil Society Organizations

CSO legal service providers were contracted by RoLHR during 2014-2015 to provide supplementary legal and psychosocial services to the SLACs. These contracts were of one-year in duration and are scheduled to expire in the near future. As of 2015, it is not clear whether the Supreme Court wants CSOs to continue to be involved in the SLAC initiatives.

The evaluation interviewed representatives from Dalit CSOs, human rights organizations, government research think tanks (that have provided baseline analysis to the programme in connection with the establishment of the SLACs), Advocacy Forum (the leading legal aid civil society organization of Nepal) and several other organizations. According to these individuals, the RoLHR Programme initiative and SLACs have expanded A2J for women and vulnerable groups, pushed local officials work on SGBV cases and promoted synergies between various justice sector agencies.

The Programme supported CSO's to conduct a variety of activities in remote and inaccessible regions of Nepal. These included conducting multiparty stakeholder policy dialogues on antidiscrimination, workshops, studies on legal aid and the applicable criteria for representation, cataloguing and profiling of victims of sexual violence in armed conflict, facilitating victim support forums, training and publications. In particular, a baseline survey funded by the RoLHR Programme on existing legal aid mechanisms in five pilot districts resulted in a finding that citizens did not have awareness of field level legal aid and that the legal aid criteria of the government of Nepal (developed nearly 20 years ago) is in the upper vision.

⁷⁴ According to the NBA, the fundamental issue that Nepal is struggling with in terms of legal aid provision is quality control. As yet, this is not institutionalized on the supply side. It is a challenge to get lawyers to apply the same level of representation to a pro bono client as a paying client. Lawyers refuse to visit the jail or detention centre to visit their clients. The prejudice in the profession is that good lawyers or senior lawyers do not visit these places, only young lawyers. Also, the jails in Nepal have no procedures for lawyers, including any visitation or meeting rooms.

⁷⁵ The Nepal Bar Council is the official licensing authority for the legal profession in Nepal, while NBA is a professional association of licensed lawyers (nearly all Bar Council members, however, are also NBA members).

There were some problems reported, however, in the way that the CSOs were utilized and concerns as to the sustainability of the intervention and lack of an exit strategy that respected the ethical obligations of lawyers to their clients. The CSOs state that one-year contracts proved to be too short in duration to make a meaningful impact and the project grants/contracts expired just about the time that the CSOs were beginning to gain the trust of the local population. There are large numbers of conflict victims in the districts, but the conflict victims' views are not being brought forward. As stated above, not a single conflict victim case has been handled by SLAC.

For, example, Advocacy Forum, with Programme support developed 571 victim profiles (including 45 victims of sexual violence in the armed conflict). This process raised the expectations of conflict victims in the districts where the project was operating, but after 15 months, the RoLHR Programme support⁷⁶ abruptly ended and Advocacy Forum had to exit the district, leaving the conflict victims without a remedy. Advocacy Forum handed over the victim profiles database to the SLAC, but not a single case had been taken forward as of mid-2015; and it does not appear that SLAC is ready to handle such cases.

The CSOs interviewed also reported that they perceived some confusion within the RoLHR Programme and the Supreme Court regarding the objectives of the RoLHR. CSOs were not included to the extent that they could have been in the project design. The CSOs also believe that the RoLHR Programme is too broad. The Programme should focus on two districts and deepen the project and gather lessons learned to penetrate beyond the district level. The CSOs emphasize that even CSOs have not been able to date to reach vulnerable groups in remote areas to the extent that they would like, so the GoN likely will not be successful without sustained resources, national ownership and political will.

Going forward, the Evaluation recommends that the RoLHR be redesigned to include more partnerships and coordination with CSOs in the delivery of legal aid and psychosocial services.

The status of “court paid” lawyers in the district courts

One component of legal aid provision in Nepal that does not appear to have been addressed is the issue of “court paid” lawyers in each district court who are under the supervision of the Chief Judge of each district court. On the *demand-side*, there is an increased demand for legal aid, legal and psychosocial counselling services. In some districts there are many cases of rape and domestic abuse. The Legal Aid sections of district courts and “court paid” lawyers, however, remain woefully under-resourced.

The Evaluation was able to interview “court paid” lawyers in several districts to determine and discuss their duties, caseloads and needs. The Lalitpur District court has a legal aid section composed of one full time lawyer at the court. Each year a total of 400-500 cases approximately request legal aid. The role of the legal aid lawyer is to represent the defendant before the bench. Sometimes the court requests the bar association or ILF NGO to come to court to represent defendants. But the “court paid lawyer” (i.e. the sole lawyer in the court’s legal aid section) handles most cases. The Chief Judge states that there is no major deficit of lack of legal aid. For socio-legal aid, vulnerable groups are directed to the Bar Association. The Lalitpur District Court states that private lawyers are a weak link in the system at the moment. Lawyers do not have any training or capacity building programme within the NBA. Thus, they are not aware of procedures. Also, not every court has an in-camera room. The

⁷⁶ The RoLHR support was part of the transitional justice component funded by the UNPFN. When the Project Board made the decision to separate the TJ component from RoLHR, there was not enough money to continue the Advocacy Forum initiative and RoLHR had to cease this activity.

courts continue to need technical assistance. For example, only one of the courtrooms in Lalitpur District Court has a in camera room. Mediation as an initiative of UNDP started more than 15 years ago and the RoLHR Programme has continued this support. The Lalitpur District court has a separate mediation centre supported by the Programme.

The court paid lawyer in Magdi District informed the Evaluation that the secretary of the VDC was the original mechanism for petitioning the court for legal aid, but this in practice has expanded. Now, CSOs are also referring people. The number of legal aid cases in the district has recently declined. In 2014, 363 cases were filed, 217 were disposed. Of these cases, he represented 12 persons in 2014. The court paid lawyer feels that the RoLHR programme has disseminated a lot of info on legal aid. The Bar Association in Magdi states that the national level Legal Aid Committee is not that effective practice, so they want RoLHR support to conduct their own trainings at the local level for lawyers and to conduct awareness raising activities.

The court paid lawyer in Syangja District related that the main challenge of his work is that he lacks sufficient time to go through all the documents (and formerly lacked a dedicated workspace within the court, but that this had recently changed after the court provided him with a room and desk). He had handled approximately 15 cases within the previous five month period of which nearly half (seven cases) had involved attempted rape, but that there had been no cases involving juveniles.

Going forward, the Evaluation recommends that the RoLHR Programme support court paid lawyers in terms of building their capacity and to provide high quality legal representation to clients. This includes the upgrading working spaces for such lawyers at the courts, office furniture and law books. At present, each district court has only one “court paid” lawyer on contract to provide legal representation and legal aid to indigent clients. Obviously, this number is woefully inadequate to address the total demand for such services in Nepal. Therefore, the Evaluation recommends that the RoLHR Programme enter into a dialogue with the Supreme Court and Ministry of Finance to explore possibilities for increasing the number of court paid lawyers in the districts having the highest volume of cases.

Community-level legal education programme of MoLJPA strengthened and implemented /Legal Awareness Programme

The Programme also engaged in substantial awareness raising at the level of VDC to acquaint women and vulnerable groups about the SLACs existence and services. Substantial resources were devoted to MoLJPA legal awareness programmes targeting vulnerable groups in 2014. According to the 2014 Annual report of the Programme, more than 22,881 persons were targeted by such awareness sessions including school awareness trainings (2,215 persons), Legal Awareness Programme and Mobile Legal Aid Camps conducted by SLACs (8,763 persons), Street Dramas (7,000 persons) and legal awareness for conflict victims (4,903 persons). Men and women appear to have been equally addressed by the awareness initiatives (51 per cent men and 49 per cent women).

Another major component of RoLHR support to MoLJPA is the “Village to Village” programme (a basic legal and human rights information dissemination programme of MoLJPA) that has enjoyed large participation in its awareness raising sessions in remote areas. Lawyers accompany the “village to village” programme into the field and the mandatory participation of the VDC Chairman is required, so that the VDC can address any grievances related to service delivery at the local level. MoLJPA has no district representation and relies upon DLACs and the “Village to Village” programme in remote areas. With Programme support, MoLJPA developed a legal aid booklet describing what rights are

available and where to go if rights are violated. The booklet covers UN Res. 1325 and 1825 issues.

It appears that such heavy awareness raising by the Programme has resulted in an increase in the numbers of persons (in the last 6 months of 2014, 300 cases were registered by the SLACs; although, because the Programme's statistics for case registrations in the SLACs do not provide any baselines it is difficult to state what these numbers represent—especially since the SLACs are “merged” into the existing DLACs in these districts). As discussed elsewhere in this report, the Evaluation is recommending that existing number of SLACs be expanded; however, it will be important for RoLHR to collect disaggregated data within these SLACs to better determine their success. As a “control” to this initiative, some SLACs should be established without such massive awareness raising. This will allow MoLJPA and RoLHR to also better gauge the “organic” demand for such services]. The Programme has continued to support such legal awareness initiatives in 2015. For example, in Q1 2015, MoLJPA conducted 5 legal awareness programmes in Khotang, Shiraha, Nawlparasi and Chitwan districts reaching an estimated 787 students.

RoLHR also entered into partnerships with *Radio Nepal* for legal awareness raising that proved to be tremendously successful reaching many citizens. Radio Nepal has produced nearly 70 broadcast segments for RoLHR. These discussed legal issues of family law and also human rights issues. Each segment included a Q&A session where a legal expert was available to respond to questions from citizens. Radio Nepal has several M&E systems built in to gauge the penetration of the broadcasts and response. Radio Nepal has conducted two rapid assessments that concluded that the broadcasts had resulted in a greater awareness of legal rights and driven clients to the SLACs. Radio Nepal also hired an outside independent consultant to evaluate the intervention. RN has run the programme for 5 seasons. There was a gap between the 4th and 5th production season due to the earthquake. RN also has an internal monitoring system for the initiative with RoLHR programme in the form of a steering committee. RN also conducts field monitoring after one month to gauge response. RN also has promotional activities (i.e. a listeners audience club and make a debate on legal issues and these are then broadcast). RN invites the local newspapers and the FM radio stations. All these activities are a result of the RoLHR programme. The conclusion is that the RN programme is relevant. RN has also made PSAs and jingles made by well-known artists. [Note: one of the RN programmes resulted in a citizen obtaining citizenship due to the information provided by the programme].

Federalism is a confusing topic for most people. Going forward, it will be especially important that Radio Nepal is engaged to produce segments on the new Constitution and federalism. Radio Nepal plans to play the role of soliciting the relevant questions from citizens at the local level about federalism and the new Constitution and will continue to address questions from citizens about every day legal issues such as divorce, custody, contracts, benefits from the state, etc. The programmes will run for 20 minutes and also are streamed online. The programmes are available online in an archive for download. The programmes are run during prime times (i.e. 7am-9am and then 6pm-9pm in the evening).

The Evaluation recommends that RoLHR also seek to include more representatives of print media in its trainings and programmes for journalists on human rights and rule of law. In 2014, 40 journalists (including 4 women) from various print media visited some provinces and completed trainings from KTM experts, with the support of UNDP RoLHR. There is, however, scope for expanding these types of training programmes nationally in 2015-16. This is especially important given the fact that the new Constitution actually is more restrictive of press freedoms than the old Constitution. The new Constitution provides for a Press Council of Nepal that should regulate the media and take issue with journalists. The new Constitution provides many “back doors” to closing media outlets, etc. [See, Constitution of 2015, Article 19.] There is also a Cyber-Crime Law in Nepal that has been used against

any journalist that publishes online content that is deemed insightful. The GoN has shut down websites in the past that have reported on certain issues (i.e. coverage of police violence in the Terai). Online journalists face uncertainties and arbitrary interpretation of laws.

Strengthening the interface between formal and informal justice systems

The traditional dispute settlement mechanisms in Nepal are currently not legally recognized. Under the Mediation Act of 2011, however, such systems can officially get registered with the Mediation Council and provide mediation services, but this possibility is not popular among the traditional institutions or often utilized. Likewise, the legal provisions of the Local Self Governance Act have not been enforced which authorize local bodies (Village Development Committees and Municipalities) to do mediation and adjudication.

In 2015, RoLHR began supporting the Mediation Council of Nepal. The Mediation Council coordinates nationwide mediation as a whole, including the 92 Mediation Centres of the courts. There is a Mediation Committee within the Supreme Court to coordinate the 92 Mediation Centres]. At the community level, mediation is done by CSOs, but this is also monitored by the chief judges at each district court in their capacity as local representatives of the Mediation Council.

UNDP support under the RoLHR Programme has included developing a ToR for a consultant to advise the Mediation Council on formulation of a Code of Conduct for Mediators in Nepal. The Mediation Council is the lead national mediation body of Nepal as per the Mediation Act of 2011. RoLHR supported the Mediation Council by inviting its members to a roundtable of all groups active in mediation in order to identify sectoral needs. In the second half of 2015, RoLHR is supporting the Mediation Council to undertake a mapping of mediation in Nepal. The Mediation Council requests that the RoLHR Programme prepares an action plan for work with the Mediation Centre. The Mediation Council has consulted with other stakeholders in the Programme supported roundtable and identified some preliminary areas.

The new programme of the Constituent Assembly “Go to Village” tasks the Mediation Council with conducting mediation in VDCs. RoLHR also supported the Mediation Council to conduct awareness-raising activities with three VDCs and one municipality as part of the “Go to Village Programme on Mediation.” The Mediation Council has decided to conduct 15 such visits during 2015. Each visit will cover three VDCs and one municipality. Each package covers awareness of mediation, etc. The expenses will be borne by the Mediation Council itself. The Mediation Council is also responsible for community mediation and this is a large mandate under the Mediation Act (in force as of 2014). This has been largely unaddressed to date and is an area the RoLHR Programme could support going forward.

Going forward, the RoLHR Programme could strengthen its support to the Mediation Council of the Supreme Court and its “Go to Village” programme (a mobile justice initiative), which holds potential for A2J at the local level. The Mediation Council has requested RoLHR to support in court and community mediation practices (note: court referred mediation was initiated by UNDP but it seems there is no intervention of UNDP since last few years). In totality, there is a huge scope for the project to work in this area, which should include capacity enhancement of the Mediation Council as well as of CSOs and policy level interventions. Community Mediation would ideally be incorporated into the referral networks (formal and informal) for legal aid currently being supported by the RoLHR Programme—such networks could be expanded.

Output 4: Human rights monitoring and reporting system, Supporting NHRIs for UPR submission through consultative processes.

Supporting UPR reporting and the implementation of human rights framework

The Programme supported NDC and NWC in 2015 to prepare a joint submission to the U.N. Human Rights Council as part of the UPR process for Nepal. This included consultations with a wide range of stakeholders in five regions of Nepal as well as sector-by-sector dialogues at the national level. At this early stage there has not been much follow-up to the UPR report in terms of tracking GoN progress in implementing or responding to the recommendations of NDC and NWC. As of 2015, however, RoLHR was facilitating the two institutions to work on a joint monitoring mechanism to monitor progress against the UPR going forward.

Going forward, RoLHR should continue to support Nepal's NHRI's (NHRC, NDC and NWC) to monitor and hold government to account for implementing the UPR recommendations. Additionally, UNDP and RoLHR can do a better job of publicizing the NDC-NWC report and its recommendations (there was for example, no joint press conference held or other event surrounding the report). Beyond this, UNDP should support NDC and NWC to incorporate the recommendations of the joint UPR report into the strategic plans of the institutions. This and other aspects of RoLHR support to NDC and NWC are discussed below.

Enhancing the Institutional capacity of the National Dalit Commission and National Women's Commission/Advocacy for the Elimination of Racial Discrimination

NDC

The Programme's work with the NDC began in 2013 with supporting NDC to carry out a 100 days awareness campaign on anti-caste based discrimination. Since then, the Programme has supported the NDC to develop strategic plans, build capacity, undertake monitoring missions and participate in the Joint Monitoring Group (discussed in more detail below). Programme support was instrumental in lobbying for the NDC to be given Constitutional status and also supported the NDC human rights defenders. RoLHR has also provided computer training, training on human rights, management training and improving its documents and procedures.

This has resulted in improved processes at NDC and the production of a strategic report, enhanced cooperation with NWC, and human rights defenders in 10 districts. The Programme has also supported the establishment of an online complaints registration mechanism on the NDC website. The Programme has sensitized stakeholders and made it more accessible. The Programme supported a Comprehensive Capacity Development Plan and a GESI Plan, as well as specific human rights monitoring guidelines for human rights defenders. Programme support also resulted in a "Policy Dialogue on non-discrimination" held in Kathmandu with the participation of over 100 organizations from 35 districts in Nepal. The group issued a 14-point "Lalitpur Declaration" on caste-based discrimination and organized a peace march against racial discrimination.

NDC has tried to make the Caste Based Discrimination Offense and Punishment Act (2007) more effective by raising awareness at the grassroots level. Programme support to NDC's awareness and outreach functions included the development and broadcasting of a 25 minute documentary and 2 radio PSAs, performance of street dramas in various districts and publication and dissemination of 6000 posters throughout Nepal. According to both the Programme reports and NDC, the awareness campaign was successful. In addition, the Programme supported NDC to train its staff on anti-discrimination legislation and frameworks, development of monitoring tools (i.e. Complaint Handling and Monitoring

Guidelines”). RoLHR in 2013, also supported a series of capacity building workshops sponsored by NDC that were attended by over 450 Dalit rights activists.

The Programme provided international exposure for NDC to other commissions with study visits to Malaysia and Sri Lanka. Regarding the visit to Sri Lanka, NDC staff informed the Evaluation that when visiting Sri Lanka they witnessed discrimination suffered by the Tamils. They realized that Tamils were subject to caste-based discrimination but also religious discrimination. Buddhists also suffered caste-based discrimination and religious discrimination. In Sri Lanka, caste-based discrimination is legally non-existent, but practically it still exists. Thus, the participating NDC staff came to the conclusion that legal provisions alone are not enough to prevent such discrimination, but religious and social awareness campaigns are needed. For example, in Nepal, it is not that Dalits are not educated. In all facets of Nepalese society, there are many successful Dalits, but whatever position a Dalit holds he/she is likely to be discriminated against despite the provisions of the Constitution and anti-discrimination laws.

In 2015, the Programme supported NDC to develop a 5-year Strategic Plan including holding multiple level stakeholder consultations. The Programme also supported the development of an Induction Training Package; helping NDC to train incoming and newly appointed staff members on the mandate of the NDC, international human rights, specific issues such as caste-based discrimination in Nepal and monitoring. The Programme supported the NDC planning division to develop monitoring guidelines (with the assistance of two programme recruited national consultants). The Programme also supported NDC and NWC to prepare their joint UPR report.

Additionally, RoLHR supported NDC to organize and train field-based “Dalit Human Rights Defenders” (DHRD) to document and monitor cases of caste-based discrimination and human rights violations in the field. This training was pro-active and involved case-method teaching and acquisition of knowledge about human rights. The DHRD are partially paid with RoLHR funds. Under the RoLHR programme some cases of caste-based discrimination are registered at the NDC and some at the District level. The Programme supported 12 monitoring missions in 2014-15. But only 12 per cent of the NDC recommendations have been taken-up by the GoN.

The NDC also provides legal aid and counselling to Dalits. Since Dalit are poor and lack the resources to file cases, NDC assists with filing cases and funds court fees. Formerly, the NBA used to pay the fees for these cases. Now, NDC retains a full time legal officer to handle the cases filed at NDC and also a legal advisor who helps. Several high profile cases have involved denial of water rights and access to Dalits. In total, 100 cases were filed in 2014-15, 24 complaints have been filed at NDC alleging denial of access to water and 5 cases have been filed with the district courts under the Act. As yet, RoLHR has not provided any support or training for the NDC legal advisor or in-house lawyer. Going forward, NDC needs to strengthen its capacity for strategic litigation. The NDC legal advisor states that he has, however, received the cooperation and assistance of the Bar Association, NHRC, NWC and bar association. He received training on topics including advocacy, empowerment. A three months training with NBA.

NDC states that it needs support of the RoLHR Programme mainly in implementation of the Anti-Caste Based Discrimination act in remote areas; public awareness; public service announcements; and enhancement of the Joint Monitoring Group and its activities enlarged. NDC needs vehicles. Training for investigation, monitoring and reporting.

As with the NWC, the NDC will become a Constitutional commission as a result of the new Constitution. This will require an implementing law. NDC’s mandate will, however, remain limited (i.e. it still will not have the power to investigate or handle complaints). The new C

status is more of an advocacy role; much like an NGO. It remains a challenge of how NDC gets authority under the law. NDC needs to establish several field offices in the regions. The Programme should support field offices after the new Constitution and issues of federalism are decided.

The issue of caste-based discrimination in Nepal is complex and there is a need for continued mapping of incidents. There are so many vulnerable areas in Nepal a baseline survey is needed to plan forthcoming activities. The Programme could also support research on the sectors of the Nepalese economy that employ vast numbers of Dalits. For example, “goldsmithing” is a very important employment sector for the Dalit community and this might be an avenue of public-private partnerships. Furthermore, intra-Dalit discrimination (i.e. between sub-castes) is an area that the Programme could address.

A major continuing challenge of RoLHR working with NDC is that the NDC committee members are nominated by political parties. Thus, NDC is highly politicized and is reluctant to cooperate with Dalit CSOs. There are only two female members of the NDC. Political parties play a decisive role in this issue as the political parties nominate members and the Cabinet makes the appointments to commissions based upon the nominations from the political parties. One caveat as concerns RoLHR support is that many donors are currently supporting the NDC. Thus, RoLHR must be careful to avoid overlap and duplication.

The Joint Monitoring Committee

One of the most effective initiatives of the Programme was its support to the “Joint Monitoring Committee” (JMC) (composed of representatives from NHRC, NWC, civil society and multiple GoN agencies (i.e. OAG and Police)). The JMC was established in 2014 and has 8 members; NDC, NHRC, NWC, Police human rights cell, OPM human rights cell, National Committee for Indigenous Rights. The NDC Chairman is the chairman of JMC. The Programme is currently trying to develop a Joint Monitoring Group Action Plan.

According to the JMC Member Secretary, caste-based discrimination seems to be increasing in Nepal. When any caste-based discrimination take place, a JMC meeting is called and the JMC identifies whether the case is a genuine case and then the JMC forms a team to mobilize to the incident. JMC has developed its own terms of reference to specify its mandate and procedures. It relies on three sources for information about caste-based discrimination: a) cases filed with NDC or other commissions; b) news reports; c) civil society organizations. The Member Secretary reviews the cases and then a meeting is called by the Chairperson or the Member Secretary. Once the JMC meeting is called then the JMC decides whether or not to deploy a field mission. The JMC is lead by whatever JMC members’ organization is most concerned. After the visit, then JMC submits a report to the NDC and NDC makes a recommendation to the concerned stakeholder.

The JMC responded to several cases of caste-based discrimination in 2014-2015 by making monitoring visits to the field. There are a number of caste-based discrimination cases taking place, thus far between 2014-2015 18 cases have been monitored by JMC. 4 cases have been filed in court and 1 perpetrator has been convicted. In the Terai, there are many disputes surrounding water issues (i.e. Dalit not permitted to take water from the well). The Joint Monitoring Group concluded that this was a pervasive issue in the Terai and Dalit routinely face problems obtaining water from the well. NDC has recently requested RoLHR to fund research on the causes of such water disputes.

Additionally, the NDC and JMC responded to allegations of caste-based discrimination following the earthquake in April 2015. During the earthquake, 14 districts were badly affected. The relief distribution was begun immediately thereafter. But NDC witnessed

discrimination in distributing relief. NDC visited 10 districts to monitor the districts, the NDC mobilized the Joint Monitoring Group. All JMC members were involved in the monitoring visits. JMC found discrimination in disaster relief along religious lines, political party lines, caste and ethnicity. JMC witnessed much discrimination against Dalits. After the JMC visit, the aid distribution committees in each district agreed to include a Dalit on the committee, which improved aid distribution.

The JMC members interviewed by the Evaluation reported that over time, the JMC is getting more and more effective at handling cases. When the JMC goes to a district it has widespread support it is very effective at getting results. The JMC is also important for the government because the members bring different skills to the problem and approaches. JMC is a mechanism that has a multi-dimensional approach and has derivative benefits. It makes the local level authorities sensitive to the needs of the Dalit communities. It sensitizes the local people to the fact that JMC has come from KTM and this give confidence. There is also media coverage of the incident and the JMC visit and this raises awareness. It also helps to promote collaboration between human rights institutions. It raises awareness of local officials (CDOs) of the Dalit friendly legal provisions and acts. And, this informs Dalits themselves about their own rights.

One challenge is that when JMC goes into a district to conduct an investigation, it calls meetings for many hours, but lacks even money for basic provisions. The Programme has provided transportation to the JMC, but no specific budget amount for JMC to conduct activities at the local level.

Going forward, the Evaluation strongly recommends that RoLHR support the JMC and ways to institutionalize the JMC.

NWC

NWC signed an MoU with the RoLHR Programme December 2014, this is the first time that UNDP has ever supported the NWC. A continuing challenge as of 2015, is that NWC still has virtually zero in-house capacity to perform its strategic planning. Therefore, RoLHR does not transfer funds to NWC as they lack capacity to execute on their own. As far as NWC is concerned, the RoLHR is still working effectively in a DEX modality.

A major focus of the RoLHR support to NWC during 2014-15 has been on awareness raising and outreach. RoLHR supported NWC in its National Anti-GBV Campaign, as well as a national symposium on Beijing +20 both in 2014. According to the NWC, this enabled NWC to enhance its profile internationally and align itself with international agreements such as Beijing +20 and the Beijing Platform for Action (BPFA). One of the obligations of NWC is to monitor and report to the GoN as part of the UPR. The Programme facilitated this by supporting NWC and NDC to issue a joint report for the UPR in 2014. Additional support was provided to NWC in 2015 to enable one member of the NWC to participate in Nepal's delegation to the 59th Session of the Commission on the Status of Women (CSW) held at U.N. Headquarters in New York from 9-20 March 2015.

The Programme supported NWC to develop an induction package for incoming officials of NWC to acquaint them with NWC's mandate, human rights monitoring and reporting. The Programme also provided procurements to NWC in the form of 10 desktop computers and 2 multi-function printers used to investigate and report on gender-based violence. NWC currently relies upon civil society workers to reach into the districts and needs RoLHR Programme support to train these individuals.

The Programme provided limited support to the NWC in 2014 to hold consultations in all five regions and a national-level consultation to develop recommendations for the Constitutional

Assembly as to the status of the NDC and the new Constitution. NWC conducted a comprehensive capacity survey in 2014 anticipating the new Constitution and this was sent to the MoLJPA. The Programme later hired two national consultants to study the impact of the impact of the new Constitution on the NWC per its mandate. The report has been finalized. Although the new Constitution elevates NWC to a Constitutional commission, NWC needs a draft law on the NWC to implement these provisions. NWC has a two-year time within which to develop the law and needs RoLHR Programme support for this output. NWC also seeks Programme support to enable it to perform studies on issues related to women rights in Nepal. The Programme can also facilitate dialogue between the NWC and other human rights bodies and justice sector actors.

It is difficult for NWC to fulfil its monitoring functions due to lack of funds and lack of any regional offices. The Commission has advocated for field offices for quite some time. With the passage of Nepal's new Constitution NWC will be elevated to a Constitutional body and hopes to expand beyond its Kathmandu HQ with field offices and expanded reporting. NWC believes that it is the Ministry of Women's duty to establish field offices, but there has been no strategic work on this issue or planning to date. The establishment of field offices is subject to the federal structure and this has not been finalized. Thus, at present, NWC is not certain that it will receive budgets to have field offices.

NWC perceives that the JMG is an effective means of cooperation and monitoring. With the support of the Programme, NWC, NDC and NHRC held a Joint Monitoring Workshop on 29 September in KTM to discuss development of a Joint Monitoring Strategy. NWC also has a MoU with LAC, NBA and CLRSD (Centre for Legal Research and Sustainable Development). RoLHR is currently supporting NWC to conduct a study on "GBV and Judicial Responses" the results will be published in 2016.

The Evaluation recommends that RoLHR deepen the level of its engagement with NWC. The institution needs true mentoring of its staff. Additionally, RoLHR can support NWC to adapt to its new status as a constitutional commission per Nepal's new Constitution. Specifically, NWC needs support to proactively draft a law on NWC to implement the provisions of the new Constitution. Again, several other donors are supporting NWC; and UNDP/RoLHR must be careful to avoid overlap and duplication.

Transitional Justice

Note: The Transitional Justice (TJ) component of the RoLHR Programme was designed to be implemented in accordance with the DEX modality due to the specific sensitivities of the subject matter.]

The Programme, as per agreement with the donors, ultimately spun-off its TJ component. As originally designed, in 2013, the Programme began work under UN Peace Building funding, on activities related to TJ that included facilitating-in partnership with civil society organizations—pilot interactions with civil society and other stakeholders, including government agencies. This included awareness raising on decisions of the Supreme court and NHRC related to TJ and the issue of impunity. The Ministry of Peace and Reconstruction (MoPR) was engaged in official meetings and interactions and the Programme facilitated a “Do No Harm” train-the-trainers workshop for stakeholders on TJ and the post-conflict environment.

A major shift occurred in 2014, regarding the RoLHR programmes work on TJ. Controversy arose surrounding the amnesty provisions contained in the TRC Act of May 2013 leading to a wave of litigation at the Supreme Court. The Court’s decision of 02 January 2014, struck down provisions of the Truth and Reconciliation (TRC) Act as not in conformity with international law. Yet, controversy and confusion over the law and the commissions continued. As a result, the RoLHR Programme’s Executive Board, in close consultations with the UN RC office and donors, chose to shift the focus of the RoLHR TJ component away from the GoN and towards a victim-centred approach. This included supporting five Victim Support Forums (VSF) in five pilot districts and providing legal aid to victims (predominantly women). According to RoLHR legal aid was provided under the TJ component by CSOs to 928 conflict victims in 2014.⁷⁷ Moreover, the RoLHR programme support allowed VSF’s to procure some form of compensation from the GoN in five districts covered by RoLHR in 2014. The VSFs also reportedly reached out to over 125 leaders of local conflict victim associations in 2014 and over 175 additional stakeholders. RoLHR support was also instrumental in the formation of the Common Victim Platform (Kathmandu Declaration) in November 2014.

The TJ component was formally “separated” from the RoLHR Programme as of 2015. *Due to the fact that the TJ component now lies within the RC’s office, this Evaluation has not made any substantial recommendations for TJ going forward.*

GESI

Substantively, the programme document is very sensitive to the needs of women and vulnerable groups. The expected Programme Results section is clear and includes GESI indicators. GESI issues are also analysed in the situation analysis. The programme implementation strategy also addresses GESI needs. Outputs 2, 3 and 4 are found more GESI responsive. The key achievements section also addresses GESI issues. Having partnership with NWC and NDC, the provision of a GESI Officer in the programme implementing team is strength of the programme. The programme document contains a clear definition of vulnerable groups. Outputs 2 and 4 are GESI sensitive in the “monitoring and evaluation

⁷⁷ Note: this assistance is under the UNPBFN and TJ component and not to be confused with the SLAC legal assistance in pilot districts.

strategy” section. The document is able to address very relevant GESI related issues in its plan, RRF and Logical framework

Furthermore, GESI has been considered in the staffing structure of RoLHR. There are 83 total staff of which 25 per cent are women. Thus, the RoLHR project has been able to comply with the government policy of 45 per cent representation for inclusive purposes. GESI orientation was conducted for all the RoLHR and SLAC staff. The caste/ethnic breakdown of staff includes, Dalit 5 per cent, ethnic communities 30 per cent, Madheshi 8 per cent, other 2 per cent, and Brahmin/Chetry is 55 per cent. A full time GESI advisor (Social Inclusion Officer) joined RoLHR in 2014. Going forward, the TORs for all positions in the project need to be revised to include GESI aspects. TORs for consultants should include GESI concerns in their deliverables, methodology, and required qualification, experience, knowledge and attitude where appropriate.

The Programme originally envisaged forming a high level GESI Advisory Committee consisting of representatives from all partners to be formed for synergy and guidance for the implementation of GESI responsive interventions. The process of forming a GESI Advisory Committee should be adopted in an appropriate way. For this, realisation among the partners of its need is vital. GESI sensitive training and participatory consultations at different levels would be supportive, which should be made functional and result oriented.

The “monitoring and evaluation strategy” in general (and Outputs 1 and 3 in particular) needs to become more GESI sensitive. Likewise, GESI related indicators and targets in the RRF should be designed in non-GESI targeted activities so that GESI integration will be ensured and truly mainstreamed. The Programme developed a GESI Matrix in 2015 to keep track and systemize GESI outputs and activities across RoLHR implementation. GESI analysis was carried out on the basis of sex, caste, ethnicity, geographic location and economic status in 5 districts. The Programme maintains a profile of socio-demographic features with composition of gender, caste, ethnicity, Madheshi and others of all programme districts.

Going forward, the programme plans to collect GESI disaggregated data of institutions and committees of partners. It will provide the current status of women and vulnerable groups at the decision and policymaking level. The GESI disaggregated data of institutions and partners is yet to be collected by the project.

The RoLHR programme has had some successes in mainstreaming GESI into its activities. For example, it has developed a concept note for developing a programme level GESI mainstreaming strategy and action plan and it has supported the National Dalit Commission (NDC) to develop a GESI policy. Some of the policies, guidelines, manuals, strategic plans of partners are GESI sensitive and responsive. For example, the Third five year Strategic Plan of the Nepali Judiciary, the Law Review Policy, the Concept note for the Access to Justice Commission and the capacity assessment and capacity development plan of the NDC.

Although the project is trying to ensure inclusiveness in its various programme outputs and activities, it is not at the desired level. GESI can be strengthened programmatically across all rule of law and GoN justice institutions. It is recommended that the RoLHR Programme develop some additional plan to increase participation of women and vulnerable groups in the decision and policymaking level and their quality enhancement. Women and vulnerable groups are rarely found especially at the policy making level. While selecting resource persons, guest lecturers, hiring consultants, the Programme also needs to pay attention to diversity and inclusiveness.

The development of the GESI Strategy and action plan for the RoLHR programme has been delayed and it is still in process. There is also an absence of the GESI strategy and action plan in the Nepali Judiciary. Similarly, the strategy for “*empowerment of women and vulnerable groups*,” which is a very important instrument to mainstream GESI effectively is not realized.

As women and vulnerable groups' empowerment is an integral part of social inclusion and GESI mainstreaming, the project should give it a high priority. Some additional activities and the number of benefiting groups from different segments of society and institutions should be designed under "affirmative action" so that it can contribute to meet anticipated expected results. The Programme must design further components and activities related to empowerment of women and vulnerable groups at the community, institution and policy level.

The Programme reports indicate that as of 2015, large numbers of women and vulnerable groups were being reached by RoLHR supported legal education, internships, outreach and awareness activities of RoLHR as well as the legal aid rendered by SLACs. According to the Q1 2015 RoLHR report:

"An analysis of the data received during the reporting period shows that 56 per cent women and 50 per cent vulnerable groups (Dalit, Janajati & Madhesi) benefitted from the total 5276 individuals covered under legal awareness programme. The data also shows that the number of target beneficiaries of SLAC is on increase by 11 per cent (mean) compared to last year. Out of total 709 beneficiaries of SLAC 70 per cent were women and 55 per cent were from vulnerable groups such as Dalit, Janajati & Madhesi. The Programme has increased the focus to increase the participation of women & vulnerable groups in the trainings, workshops, consultations and dialogues organized with its support. This offers an opportunity for them to raise their voice, enhance their capacity and own the outputs. Of the 1912 persons participated in the key events during the reporting period, 24 per cent were women and 51 per cent individuals belonged to vulnerable groups." [Source: 2015 Q1 RoLHR report]

The Programme has trained DLAC members on GESI. Information Desk Staff and District JSCC members were also trained on GESI and GESI responsive services. GESI sensitivity and GESI responsiveness has been adopted in media mobilisation. 'Judicial outreach' and the 'Go to village' programme have considered the participation of women and vulnerable groups. All of these components have not only increased their access to justice but also brought changes in their lives. Gender Justice and Social Inclusion are included in the B.A.L.L.B. course

GESI concerns are included in most of the non-GESI specific training/workshops, research and publications of the project. Some publications are totally GESI targeted, for example, the anti-Caste Based Discrimination Act. The participation of the NWC and NDC during the various levels of consultative workshops was productive, however, participation of women and vulnerable communities including survivors (especially victims of VAW, GBV AND SGBV) was not realized. Participation of beneficiaries including women and vulnerable groups in the programme re-designing process is essential for making a more GESI responsive programme. The Programme contributed to the NDC and NWC receiving the status of constitutional bodies in the new constitution.

In the "improving the administration of justice" title under the "programme implementation strategy", is silent on GESI related responsibility of the JSCC secretariat. As the institutions represented in the JSCC are usually male dominant, the JSCC composition is not highly inclusive from gender and inclusion perspectives. To make it inclusive, a representative from the "Department of Women and Children" and "Women and Children Office" at central and district levels respectively should be provisioned. Moreover, representation from CSOs should be indicated to women and person belonging to vulnerable communities. It is essential to incorporate some GESI aspects in the responsibilities of the JSCC Secretariat, to make the JSCC Secretariat GESI responsive at the operational level.

The number of women staff in the SLACs (21 per cent) and information desks (27 per cent) is low. The lack of female lawyers in the SLAC programme, however, is not gender friendly for victims of domestic violence and SGBV. The Project should give importance to women in its new recruitment plan. SLACs need to ensure 50 per cent of women staff in future recruitment. Female counsellors need to be recruited on a long-term basis to make the counselling service effective.

SLACs are very effective in responding to the genuine needs of indigent women and marginalised people. A total of 3561 beneficiaries (1168 male, 2393 female) benefited from the remedial services and 35104 (17146 male, 17958 female) from the preventive services of five SLACs. The establishment of a help desk responding to earthquake victims in Sindhupalchok required expanding in additional two different of the district's constituencies (Constituency no. 1 and 3), which represents different remote areas.

The involvement of the Ministry of Women, Children and Social Welfare (MWCSW) or the Department of Women and Children (under the MWCSW) and CSOs for women and vulnerable groups, which are very appropriate for strengthening the demand side of the project is not realised. The Department of Women and Children having Women and Children Offices in all 75 districts of the country works with 8,92,474, women (including 16.2 per cent Dalit, 33.85 per cent ethnic communities) through 1,50,842 women groups. It reaches 20155 wards of 3498 VDCs and 1098 wards of 117 municipalities. The department has "GBV" and "Children and Against Human Trafficking" Sections which are directly related to the justice sector. Women and Children Offices at the district level work for women empowerment and address the VAW, GBV, SGBV issues.

MWCSW or the Department of Women and Children at the central level and Women and Children Office at the district level should be included as a partner. Women cooperatives would be further supportive for SLAC sustainability as their mandatory responsibility to invest some portion of profit in the social sector. Mobilisation of these groups will support to achieve the expected programme results and increase from 2555 to 12000 vulnerable people benefiting from legal aid service. Their engagement should be ensured at the implementation level. As there is the challenge of lack of safe houses in most of the districts, women victims of domestic violence, GBV and SGBV are forced to leave home. In this situation, women do not have livelihood opportunities. As a result, they became further vulnerable. Therefore some of the livelihood related aspects should be incorporated to indigent women and other vulnerable groups.

The Programme should extend its awareness programme with special focus on women and vulnerable groups including women's legal rights and Dalit's legal rights. Local FM radio, newspapers and TV channels should also be used while making public announcement and use of local language is further beneficial. It must be applied in the cases of affirmative action and women and vulnerable groups targeted programmes. GESI considerations and issues should be taken into account at all processes of implementation.

Key Achievement of ROLHR in GESI area

- Vulnerable groups have benefited from the remedial services and preventive services of SLACs.
- Built the confidence of women and vulnerable people towards rule of law and justice through legal aid services.
- Major issues of legal aid dealt with include separation, divorce, land related issues, SGBV, domestic violence, caste based discrimination and related to personal incidents etc.
- SLAC psychosocial counsellors have also been involved with suicide prevention.
- Develop the self-confidence of women and vulnerable groups and enjoying their rights after the decision made in favour of them by court and quasi-judicial institutions.
- Legal internship programme has built capacity of young women and vulnerable lawyers. Some of them are dealing with gender related cases.
- Courts are trying to be gender and inclusion friendly through advancing waiting rooms for clients, establishing information desks, in camera hearing and continuous hearing practices.
- Reporting rate of VAW, GBV, SGBV related cases increased and decisions favouring the victims by the impact of different media mobilization.
- Enhanced capacity of young lawyers who received an internship opportunity and are now practicing at court, working with private law firms, NGOs etc.
- Law graduates belonging to marginalized communities who benefited from preparatory coaching classes for the Bar Council exam, 80 per cent of them passed the written exam (2014) among them 39 per cent were women.
- Five women judges participated in the conference of the International Association of Women Judges (IAWJ) in Tanzania. Subsequent workshop for women court officials on gender mainstreaming issues was organized, which contributed to making a GESI responsive strategy paper for the Nepali Judiciary.
- Gender Justice and Social Inclusion are included in the B.A.L.L.B. course.

In addition, the Evaluation has a number of other recommendations regarding GESI. While deciding time, date, venue of each activity, the programme should pay attention to making it convenient for women and vulnerable groups. A further action plan should be developed based on the finding and recommendations of the Research on key issues of FIR (First Information Report) on Caste Based Discrimination.

Conclusions and Recommendations

A. Strategic Conclusions and Recommendations

- 1. *Relevance and Programme Design.*** The Prodoc, its RRF, M&E frameworks and AWP's should be revised at mid-point, so as to better articulate a clear theory of change running through the entire Programme with renewed emphasis on human rights and vulnerable groups in line with the 2030 Sustainable Development Goals, especially Goal 16 and its targets. In addition, RoLHR should be better aligned with the goals of the UNDP Strategic Plan 2014-2017, specifically, the key issues identified by the Quadrennial Comprehensive Policy Review (QCPR). At the moment, the focus of the project is predominantly on the *supply side*; there needs to be more focus on A2J at the local level and the *demand-side* of the justice equation and capacity building at the local level. Having consolidated its partnerships with the national level justice sector institutions, the RoLHR Programme now needs to focus on strengthening its partnerships with CSOs. The Evaluation recommends that UNDP and Donors narrow the scope of and prioritize RoLHR outputs so as to shift more towards legal aid and A2J on the demand side, with a clear emphasis upon legal empowerment of women and vulnerable groups. RoLHR's work with justice sector coordination should be continued, but UNDP's approach should be revised and narrowed to focus more on problem solving at the institutional level, rather than whole-scale institutional reforms. These should be incorporated into the programme to a much greater extent, in order to strengthen the demand side outputs and GESI. For example, the Programme should explore making small grants to CSOs, particularly in the Terai and the Mid West and Far West regions. Meanwhile, components that are not strategic or sufficiently effective (i.e. execution of judgements) should be considered for phasing out.
- 2. *Relevance (The New Constitution of Nepal).*** The RoLHR Programme should also be revised so as to address the implications of the new Constitution for A2J and rule of law. The RoLHR Programme can play a significant supportive role to promote access to justice and social justice delivery in a collaborative way, as emerging Constitutional Bodies of an autonomous nature, such as the Women's Commission, the Dalit Commission, the Social Inclusion Commission, *et al*, have been created by the new Constitution. The open and responsive leadership of the present Supreme Court, with so many new avenues opened by the New Constitution, may add to the importance of the support provided through the RoLHR project in the future.
- 3. *Management.*** Going forward, the NPD mechanism and divisions of authority between the NPD and NPM must be reviewed. UNDP could have done a better job of timely orientating the NPD to his responsibilities and managing expectations on all sides. A clear business process must be articulated and

agreed-upon between the NPD and NPM that can facilitate effective implementation and the representation of all IPs in the project. The role of UNDP vis-à-vis- the NPD and NPM should be clearly identified. Regular weekly meetings between the NPD and the NPM could also be an effective means to bridge the gap and to discuss upcoming activities and implementation processes to ensure that the NPD has full understanding. It is also recommended that the NPM has authority to approve transactions up to a limited amount. This was agreed by the original NPD but was never implemented. This would allow small activities to be undertaken without the prior authority of the NPD, being subject to subsequent review by NPD. The NDP could benefit from the support of a dedicated staff member at the Supreme Court to assist full time. This person could also serve as a liaison between the Chief Technical Advisor and the court. The appointment of Deputy NPDs under each component is also an avenue worth exploring in an attempt to relieve bottlenecks and accelerate programme implementation and delivery. The Evaluation Team recommends that the NPD and all relevant senior justice sector officials receive additional training from UNDP and the PEB, whose responsibilities include “*directing and guiding the National Programme Director.*” There could be some UNDP corporate support for performing the role of NPD either through HQ mission or NPD travel to HQ. UNDP BoM Management Unit and standard-setting team in OSG could be requested to assist. Setting clear management and financial arrangements at the beginning of Programme is essential for accountability and management of expectations, as well as for effective consultation, negotiation and ‘buy in’ from local counterparts for successful Programme delivery. This is particularly true for Programmes following the National Execution Modality. This additional training or direction from the PEB would clarify the roles and responsibilities of all implementing partners, as well as provide a better understanding of all processes and procedures as set in the NEX Guideline so that activities can be implemented more efficiently.

4. *Staffing (Technical Advice).* The provision of international technical advice (via a CTA and P4 legal aid advisor) is a key component of the RoLHR Programme’s design and implementation rationale as agreed upon by UNDP, the Donors, the Supreme Court and all other IPs in 2013. Going forward, the issue of the CTA and A2J Specialist must be finally addressed by UNDP, donors and the Supreme Court and other IPs. If by the completion of revision of the project document UNDP and its donors are unable to reach an accommodation and firm commitment from the Supreme Court and IPs to utilize the CTA and A2J Specialist, including an agreed detailed work plan and schedule of deliverables for the CTA, then the CTA and A2J Specialist should be eliminated from the project document and these funds reduced entirely or reallocated within the RoLHR programme.
5. *Staffing/Geographic Coverage of the Programme.* Considering the size of the Programme, it is clear that more staff are required. To optimise the Programme structure, necessary decisions should be made by the Programme in consultation

with the implementing partners, as per the needs of the Programme. The Evaluation Team recommends that the Programme structure be optimised in the shortest possible time. Implementation of the Programme is currently spread out over 28 districts, but outputs for Supreme Court and MoLJPA overlap in only 5 of these districts. Furthermore, the Programme only operates one field office in Nepalgunj. Going forward, optimisation of the programme structure should not only include a review of needed positions but should also include a review of the lines of reporting within the Programme, the creation of specific job descriptions for each position and a clear scope of authority for each staff member. This will avoid duplication of tasks and overlap and confusion in lines of reporting and duties, all of which have at times been present. The Evaluation recommends that the key implementing partners Supreme Court and MoLJPA be encouraged to jointly review the location of their existing pilots in districts in order to agree to converge in the same districts in as many cases as possible. This will consolidate RoLHR programme resources and make the justice chain and A2J interventions mutually supportive of each other at the local level. Going forward, UNDP should establish a RoLHR Programme field office in Biratnagar, which would become a regional hub, to implement and monitor the field activities in the Eastern part of the country. Going forward, it would benefit sustainability and implementation if the field-level authorities were given some limited authority by the Supreme Court and other implementing partners to decide some issues themselves.

6. *Monitoring and Evaluation.* The M&E framework of the existing prodoc should be revised. The overall RoLHR M&E and briefs to donors have often been devoid of baselines during the first half of the RoLHR Programme (UNDP updated the indicators and log frame at end-2014). Many of the indicators in the RRF are still not measurable, however, or well constructed. Some progresses against indicators is not updated, mainly because of unavailability of relevant information and lack of linking of those indicators with project's interventions. Similarly, most of the indicators are not linked with the suggested activities/interventions as mentioned in the project's RRF. The Programme's annual reports adhere to the same outputs as the original project document, despite the fact that the project RRF was revised in 2013/2014 to reflect different outputs and numbering. This makes it somewhat difficult to track progress to the indicators contained in the revised RRF. In fact, it is not clear to what extent that revised RRF was even utilized. The indicators clearly need to be reviewed one-by-one and revised. The project has tried to disaggregate data and indicators from a GESI perspective; however, GESI data is still not at the required level as of 2015. The revision of the project document provides an opportunity for the inclusion of disaggregated data. This is also in line with the M&E requirements that the Government will be responsible for in relation to SDG 16. A risk log needs to be developed and updated. The Programme could consider hiring a full-time M&E specialist to oversee development of baselines, indicators and reporting.

- 7. *Sustainability.*** The Evaluation Team recommends that the Programme immediately create a Programme Sustainability Strategy, which can be updated and adapted according to the Programme needs and changes in Programme implementation. It is the view of the Evaluation Team that to leave the creation of such a strategy until the final year of Programme implementation is far too late and that the Programme should constantly be addressing ways in which it can sustain the Programme activities at the end of the implementing period. UNDP should involve the MoF in discussions about sustainability. In revising the prodoc it presents a good opportunity to create a sustainability strategy, ahead of the sustainability strategy envisaged during the last year of the Programme's implementation.

- 8. *National Ownership.*** The Evaluation Team found that the issue of ownership is not equally shared among the officials of the implementing partners. In order to strengthen ownership, particularly at the national level beyond that of the Supreme Court, there needs to be a shared vision, a clear understanding of roles and responsibilities and enhanced communication mechanisms among all parties, as well as a clear understanding of the role and responsibilities and fiduciary duty of the NPD. The Programme should improve RoLHR abilities to follow-up on requests from IPs. UNDP should consider relocating or co-locating project staff in the Supreme Court and/or MoLJPA. At least the Supreme Court should dedicate a room for the programme so that programme staff has a dedicated space to meet with mid-level court officials, visiting judges and court employees, as well as representatives from other IPs whenever need be at the Supreme Court, rather than RoLHR Programme office. UNDP should continue to take a proactive role in encouraging its Implementing Partners to openly discuss their respective motivations, purpose and expected results of the partnership, and to collectively explore how the partnership can be designed to simultaneously and holistically achieve its collective purpose and the aims of individual partners. Successful partnerships are those that first and foremost deliver against the individual aims of each partner. In addition to clearly defining the purpose and expected results of the partnership, it is highly recommended that specific roles and responsibilities of each partner be explicitly agreed. This involves making sure that the right parties are “in the driver's seat” and that the designated responsibilities of each partner are commensurate with their legitimate rights and appropriate societal roles as well as their specific competencies and interest.

- 9. *Communication and Coordination.*** The implementing partners still lack sufficient information about what the other institutions are doing. The Evaluation Team recommends that the Programme develop a comprehensive Communication and Coordination Strategy, focusing largely on internal communication and coordination, which the Team has found to be weak. These weaknesses in internal communication and coordination, for example between the Programme and the donors and among the implementing partners, impact on performance and decrease the effectiveness of the Programme.

10. **Partnerships.** Going forward, the Evaluation recommends that partnerships with UNCT members be strengthened. UNDP and UN Women should be encouraged to cooperate with regard to access to justice and legal aid for women and vulnerable groups. There are a number of places in the 5 year RoLHR programme that mention UN Women, so now the challenge is to operationalize these. UN WOMEN was UNDP's partner in the previous RoL programme cycle, and was involved in consultations leading to the development of the RoLHR project document. RoLHR needs to explore a partnership with UN Women for A2J and legal aid. The Programme needs to partner with UN Women. This is in-line with the UNDP Strategic Plan 2014-2017 and the QCPR. The capacity and strengths of MoWCSW should also be assessed by the Programme to determine what that ministry can offer.
11. **Gender.** GESI can also be strengthened across the RoLHR Programme. RoLHR should support orientation/training on "GESI sensitization and mainstreaming" to the judiciary and all IPs. A GESI strategy of RoLHR should be finalized immediately. The Programme should also continue support for the development of a GESI strategy for the Supreme Court. Additional outputs would include formulating a GESI action plan for the JSCCs national-level secretariat; drafting and publishing bench-books on GESI practices and procedures; revising the Prosecutorial Code of Conduct for GESI; Preparing GESI legislative drafting guidelines; upgrading the Law Review Policy to incorporate GESI. The function of the NPD, needs to be reviewed from GESI aspects to identify the GESI issues to be incorporated in his daily work. Similarly, the policies, guidelines, manuals etc. that are planned to be developed or reviewed with the support of RoLHR should be made GESI responsive. The RoLHR Programme and IPs also need to collect further disaggregated data in terms of GESI. RoLHR needs to meet more frequently with the NWC and NDC going forward to provide technical expertise, and to determine and identify their needs and provide mentoring where needed.

B. Programmatic Conclusions and Recommendations

12. It is the Evaluation's assessment that the JSCCs within the pilot districts are working well. As with other aspects of the Programme, the sustainability of the JSCCs and maintaining momentum of their dialogues and activities will be a sustainability issue going forward. The Evaluation recommends opening up the JSCC to additional governmental actors, but not at present to civil society organizations (although this should be the long-term aim). Many of the issues discussed at JSCC meetings are internal to the justice and security institutions and inclusion of civil society in the JSCC's official meetings carries a risk of distracting the JSCC from its coordinating mission and work. Regarding the quasi-judicial bodies, there is reluctance on the part of the Judiciary and JSTC to bring the quasi-judicial bodies on board. JSCC should be made more inclusive of women and emphasize the full participation of line Ministries and quasi-judicial authorities. (i.e. Women Development Officers; Land Survey; NHRC). There is frequent transfer of the judiciary and other officers of

committee. At the District level, the JSCCs are very enthusiastic, but they need to focus more upon the quality of justice, judicial integrity, transparency, due process of law and fairness.

13. Going forward UNDP may wish to reconsider whether further infrastructure and software support to CMS is needed—especially if the Supreme Court cannot track the intervention in more detail. The Evaluation also raises the caveat that generally international development initiatives worldwide that have focused on IT, CMS and digitalization of court case management and services have not met with success. Too often, such costly deliverables are not fully owned by their respective institutions and quickly become obsolete if not continually upgraded and maintained. This evaluation cannot state with any certainty at this point whether such IT deliverables will be made sustainable by the judiciary. UNDP may wish to shift resources to other mechanisms to promote judicial integrity and judicial conduct and discipline.
14. The evaluation recommends that going forward, the RoLHR Programme continue to support the Supreme Court to establish in-camera facilities in all courthouses in Nepal on condition that the Supreme Court collect and report the data called for in the RRF.
15. Going forward, it will be important that the incoming Chief Justice is included in discussions about the RoLHR and its revision to ensure that her point of view is taken into account at the earliest possible opportunity on incorporating more females into the judiciary, developing a GESI strategy for the courts and other issues impacting upon rule of law, access to justice and human rights in Nepal.
16. Going forward, the National Judicial Academy should receive substantial UNDP support as it plays a more important role in educating the higher-level judiciary. The National Judicial Academy can be used to train the judiciary on the implications of the new Constitution. The new appellate jurisdiction of the district courts over first-instance decisions made by the quasi-judicial authorities is an urgent area of priority. Capacity of female judges is also an area that the NJA can contribute if it gets a place in the project. The NJA library also needs to be substantially upgraded and updated. The RoLHR Programme could carry out a study of the Central Library law collection and significantly upgrade. This is open and accessible to all persons in Nepal (was heavily damaged in EQ).
17. Going forward, the Evaluation recommends that support to the JSTC should be limited to those activities already scheduled to be completed in 2015 and that the Supreme Court be encouraged to capacitate the JSTC. The RoLHR Programme should, however, substantially upgrade the JSTC library with new books.
18. Going forward, UNDP must continue to advocate and ensure that the MoLJPA elements of access to justice and legal aid for women and vulnerable groups in Nepal. MoLJPA's overall GESI approach can be improved. As with the Supreme Court's strategy, the new Constitution will present MoLJPA with many challenges (i.e. legislative drafting, legal aid, federalism, altered jurisdiction of quasi-judicial authorities, etc.) and these will need to be properly taken account of. It is extremely important that the MoLJPA-led comprehensive national level legal aid strategy is aligned with MoLJPA's five-year strategy and the strategies of other stakeholders that are expected to provide legal aid and counseling in Nepal (i.e. the Supreme Court, as concerns court paid lawyers; the Nepal Bar Association and leading CSOs involved in legal aid).

19. Regarding judicial outreach and awareness raising activities, RoLHR may have in some respects “put the cart before the horse”. There is no doubt that judicial outreach is a key component of access to justice. Yet, to convince a skeptical and uninformed public on the merits of a problematic court system and judiciary runs the risk of avoiding endemic structural issues and propagandizing the courts. Such activities are no substitute for real structural reforms and safeguards for judicial integrity. Also, according to RoLHR programme reports, in Q1 only 200 villagers in three VDCs (Handikhola, Padampokhari and Hatiya) were covered by judges. This is not a tremendous amount of persons reached by the RoLHR Programme. Comprehensive trust building measures for justice institutions are required.
20. The Programmes’ approach to execution of judgments has not been as strategic or comprehensive as it could be. As of 2015, it does not appear to the Evaluation that the programme has delivered the requisite level of technical expertise or taken a comprehensive approach to judgment execution. Going forward, in revising the RoLHR project document at mid-term, UNDP should carefully evaluate whether to continue work with the JED. This should include a frank and realistic assessment of both RoLHR and the JED capacities in this respect. UNDP should also assess what other support has been previously given to the JED and what was the end result from such development assistance.
21. RoLHR should continue to support the legislative drafting capacity of key line-ministries. The evaluation questions the ultimate capacity of the Law Commission to carry out a survey of the new legislation needed by the new Constitution. There are over 200 pieces of legislation that will need to be drafted or amended as a result of the new Constitution. This is a monumental task that likely cannot be undertaken by the NLC in its present form. The Law Commission’s opinions are not mandatory and therefore, in reality, not given that much weight in Nepal. The RoLHR Programme could fund a consultant to advise the Law Commission on how to improve its work and assess capacity as a threshold issue to further support for legislative drafting initiatives, RoLHR should consider including OMP, MoF and law schools in its activities. Going forward, UNDP should conduct an inventory of all laws/legislative reforms required by the new Constitution, identify partners capable of undertaking the drafting of such legislation and track progress towards enactment and implementation. [Note: Comprehensive strategic planning and budgeting for legal reform in support of implementation of the new constitutional framework has recently effectively been done by UNDP in Kyrgyzstan. Kyrgyzstan’s experience may provide lessons learned for UNDP Nepal in the event that UNDP undertakes such a comprehensive inventory and legislative drafting initiative].
22. One of the most successful interventions of the RoLHR Programme are its interventions on behalf of affirmative legal education in Nepal. It is the strong recommendation of the Evaluation that the scholarship programme be continued and even possibly expanded. Unfortunately, there is little prospect for this initiative to be made sustainable in the absence of continued donor support. As with the internships for new lawyers, the Evaluation suggests that UNDP may want to explore public-private partnerships as a source of sustaining the scholarship programme going forward.
23. Another one of the most successful initiatives of the RoLHR Programme was its partnership with National Bar Association (NBA) to establish a RoLHR-funded internship programme for female law graduates and law graduates belonging to

lower castes and from remote and inaccessible regions in Nepal. Going forward, the legal internships for female law students and students from disadvantaged groups organized by the NBA should be expanded. Yet, the reality is that it is very difficult to make the scholarship programme and internships sustainable. In this regard, UNDP may wish to explore private-public partnerships with corporations and law firms in Nepal.

24. One element that appears to be missing from the Programme as originally envisioned is the nexus between support to the OAG and links to the indicators in the RoLHR Programme RRF, i.e. i) improvements in rates of pre-trial detention as a percentage of the total prison population and ii) the “number of cases dismissed due to inadequate investigation and criminal procedure compliance”. The Programme has tracked statistics provided in the OAG annual report for 2014 for these indicators, but has not established a link between UNDP’s activities with these variables. Going forward, as with other IPs, UNDP should support the OAG to accommodate changes implicated by the new Constitution of Nepal. The Evaluation also recommends that future support to the OAG be aligned with the needs of women and vulnerable groups and a human rights based approach be strengthened regarding support to OAG. The emphasis of the RoLHR Programme should be upon the rights of the criminally accused, pre-trial detainees and compliance with criminal procedure as originally contemplated in the RoLHR Programme project document and RRF.
25. The Programme has supported MoLJPA to lead the development of a comprehensive national policy on legal aid and integrated implementation mechanism. The main objectives of the draft policy is to provide concrete content and framework with options so that it can be taken to border level consultation with relevant stakeholders. The main provisions of the policy are as follows: identification of beneficiaries, definition and scope of legal aid, institutional set up, referral mechanism, eligibility criteria for free legal aid, procedure of providing legal aid, budgetary mechanism for legal aid, quality of legal aid, development and management of Human Resource for legal aid, monitoring and evaluation mechanism etc. The draft will incorporate concerns and inputs from national level legal aid policy makers that include personnel from MoLJPA, Central Legal Aid Committee (CLAC), Office of the Attorney General (OAG), Supreme Court, Nepal Bar Association (NBA), and Ministry of Finance etc. Going forward, UNDP should continue to support a revision of the Legal Aid Act to articulate more detailed criteria for legal aid; raise minimum income thresholds for eligibility; and create a new legal aid coordination and clearing house mechanism (or enhance the duties of the CLAC) to coordinate all legal aid actors operating in Nepal.
26. The Evaluation recommends the programme especially needs to partner with UN Women for A2J and legal aid. This is in-line with the UNDP Strategic Plan 2014-2017 and the QCPR. Beyond this, the existing partnerships with the Nepal Bar Association and CSOs should be expanded—possibly via small grants to CSOs capable of providing legal aid to women and most vulnerable groups in remote areas.
27. SLACs are resulting in greater numbers of women and vulnerable groups receiving legal and psychosocial assistance; the approach is innovative for Nepal and serves a distinctly different purpose and target beneficiary group than DLACs. There is, however, little, if any, plan to extend pilot districts or make them sustainable; the pilot district courts supported by the predecessor. The number of clients seeking psychosocial representation is still low as a percentage

of all SLAC clients. There is a need to enhance this aspect of the initiative. The category of “immediate relief” appears to amount to a cash distribution to persons for medical assistance, medications, etc. It is not at all clear to the Evaluation why this was included or whether it is in any way sustainable for an SLAC. The Evaluation recommends that RoLHR expand the concept of SLACs to additional districts in Nepal going forward, but at the same time, allow some SLACs to survive on a reduced budget to see if they can operate within or near budget levels for existing DLACs. A major remaining challenge of the initiative is targeting very remote villages and reaching villagers in remote areas. The other challenge is that since SLACs effectively represent and expansion of the DLACs services, there was some resistance from the NBA based out of concerns that cases in the districts would be handled by SLACs taking business away from practicing lawyers. There is a question as to how the SLACs are aligning with the registers of social workers maintained by the district courts.

28. The RoLHR Programme supported the NBA to develop a Capacity Development Strategy for civil and criminal legal aid lawyers in 2014 and the RoLHR Programme supported SLACs are being implemented in partnership with the NBA. NBA’s own in-house legal aid programme, however, is not currently targeted by RoLHR or integrated into any comprehensive system. Going forward, RoLHR could further support NBA to develop its roster of legal aid attorneys (bar members who are available to represent indigent clients) and also have an outreach programme to lawyers about pro bono legal services to attract better quality lawyers going forward. The Programme could also support NBA and Bar Council to develop concepts of Continuing Legal Education (CLE), standards of professional responsibility and attorney discipline for the Bar. RoLHR should also assist NBA to develop mandatory minimum pro bono requirements for lawyers under the Bar Council.
29. There were some problems reported in the way that the CSOs were utilized by RoLHR and concerns as to the sustainability of the intervention and lack of an exit strategy that respected the ethical obligations of lawyers to their clients. The CSOs state that one-year contracts proved to be too short in duration to make a meaningful impact and the project grants/contracts expired just about the time that the CSOs were beginning to gain the trust of the local population. There are large numbers of conflict victims in the districts, but the conflict victims’ views are not being brought forward. As of 2015, it is not clear whether the Supreme Court wants CSOs to continue to be involved in the SLAC initiatives. Going forward, the Evaluation recommends that the RoLHR be redesigned to include more partnerships and coordination with CSOs in the delivery of legal aid and psychosocial services.
30. Going forward, the Evaluation recommends that the RoLHR Programme support court paid lawyers in terms of building their capacity and to provide high quality legal representation to clients. This includes the upgrading working spaces for such lawyers at the courts, office furniture and law books. At present, each district court has only one “court paid” lawyer on contract to provide legal representation and legal aid to indigent clients. Obviously, this number is woefully inadequate to address the total demand for such services in Nepal. Therefore, the Evaluation recommends that the RoLHR Programme enter into a dialogue with the Supreme Court and MoF to explore possibilities for increasing the number of court paid lawyers in the districts having the highest volume of cases.

31. The RoLHR engaged in substantial awareness raising and public outreach campaigns. It appears that this has resulted in greater numbers of persons approaching SLACs and other legal aid providers, although detailed and disaggregated data is lacking. Of particular note was RoLHR's partnership with Radio Nepal that resulted in a series of innovative radio broadcasts discussing topics on human rights, family law and service delivery. These proved to be a highly relevant and efficient means of addressing large numbers of people in remote areas of Nepal. The Evaluation recommends that going forward the partnership with Radio Nepal be continued. Additionally, RoLHR should seek to include more representatives of print media in its trainings and programmes for journalists on human rights and rule of law. It will be especially important that Radio Nepal is engaged to produce segments on the new Constitution and federalism.
32. The Mediation Council of the Supreme Court's "Go to Village" programme holds potential for A2J at the local level and the Programme could strengthen its support to mobile justice initiatives and mediation and could be supported by RoLHR going forward. The Mediation Council has requested RoLHR to support in court and community mediation practices (note: court referred mediation was initiated by UNDP but it seems there is no intervention of UNDP in the last few years). In totality, there is a huge scope for the project to work in this area, which should include capacity enhancement of the Mediation Council as well as of CSOs and policy level interventions. Community Mediation would ideally be incorporated into the referral networks (formal and informal) for legal aid currently being supported by the RoLHR Programme—such networks could be expanded.
33. Going forward, RoLHR should continue to support Nepal's NHRI's (NHRC, NDC and NWC) to monitor and hold government to account for implementing the UPR recommendations. Additionally, UNDP and RoLHR can do a better job of publicizing the NDC-NWC report and its recommendations (there was for example, no joint press conference held or other event surrounding the report). Beyond this, UNDP should support NDC and NWC to incorporate the recommendations of the joint UPR report into the strategic plans of the institutions. This and other aspects of RoLHR support to NDC and NWC are discussed below. As with the NWC, the NDC will become a Constitutional commission as a result of the new Constitution. This will require an implementing law. NDC's mandate will, however, remain limited (i.e. it still will not have the power to investigate or handle complaints). NDC also needs to establish several field offices in the regions. The Programme should support field offices after the new Constitution and issues of federalism are decided. The issue of caste-based discrimination in Nepal is complex and there is a need for continued mapping of incidents. The Evaluation recommends that RoLHR deepen the level of its engagement with NWC. The institution needs true mentoring of its staff.
34. One of the most effective initiatives of the Programme was its support to the "Joint Monitoring Committee" (JMC) (composed of representatives from NHRC, NWC, civil society and multiple GoN agencies (i.e. OAG and Police)). One of the most effective initiatives of the Programme was its support to the "Joint Monitoring Committee" (JMC) (composed of representatives from NHRC, NWC, civil society and multiple GoN agencies (i.e. OAG and Police)).

Lessons learned

Recognising that strengthening the rule of law at the national level is a difficult, complex and long-term task, the success of which depends on the commitment of the national communities with whom UNDP works, the following lessons learnt from the initial period of programme implementation can be drawn. The evaluation notes that programme design and implementation are most successful when there is government capacity in place and commitment to apply a programme approach, supported by an institutional framework at central or local levels, with efficient mechanisms for aid coordination and oversight.

- **If the RoLHR Programme is precluded from delivering technical expertise to the Government, then UNDP’s comparative advantage as a development organization is at risk of becoming greatly diminished. UNDP’s “value added” is that it can operate as a neutral and apolitical broker and implementer and deliver its global rule of law expertise. UNDP offers comparative advantages in RoL programming, drawing on its global knowledge base, best practices, lessons learnt, and past cooperation within both UNDP and the United Nations system. UNDP has gained vast and proven experience in a variety of different areas of rule of law programming, which the RoLHR programme should seek to maximize through the use of both long and short term international expertise and technical assistance. UNDP’s reliance on national staff with the relevant know-how, in-depth-knowledge about the realities of the country and knowledge of language is another added advantage. In the case of Nepal, UNDP’s position is dignified and well respected, including its neutrality. Hence, it should be entrusted with the task of working in the sensitive judiciary sector.**
- **If all parties involved in the implementation of the RoLHR Programme are not absolutely clear on their respective duties and when expectations on all sides are not openly discussed and managed, then there is risk that the programme will become compartmentalized and implementation slowed.**
- **UNDP is most effective as an organization when it has clearly formulated its own political positions—at least internally within the Country Office— on certain key issues, risks and contingencies. This allows UNDP to operate in a well-coordinated manner at all levels of the organization. UNDP can benefit from an increased capacity to perform conflict analysis and regular political (economy) analysis, throughout the programme cycle.**
- **When UNDP programming documents are realistically scaled and sequenced, rather than overly ambitious, UNDP has a higher chance of meeting the expectations of Donors and Government Partners. The fact that the programme has not met many of its indicator targets to date calls for the need to examine the indicators and improve their number and quality going forward. The RoLHR Programme may be overly ambitious, given the time frame and capacities available.**
- **Including GoN counterparts as early as possible in programme planning and involving them in programme monitoring can increase national ownership and**

political will. Sustainability of interventions can be best assured by GoN co-financing, budgeting and up scaling.

- **If RoLHR and its implementing partners do not continue to mainstream GESI at each and every possible occasion, then there is a risk that GESI quickly becomes lost as an approach.**
- **In a post conflict situation, and in a country of extreme cultural, geographical, natural, and ideological diversities, a complex programme on the rule of law of this kind takes time to get assimilated in the society.**

Appendix A: Documents Referenced

UNDP and UN Strategic Documents

- UNDP Global Programme Strategic Plan
- UNDP Nepal Annual Reports
- UNDP Nepal Human Development Reports
- UNDP Nepal ROAR reports and narratives
- CPAP
- UNDAF
- CPD
- CA
- U.N. DPA analysis
- Reports of UNDP's sister agencies (i.e UN Women; UNICEF; etc.)
- 10 Year Evaluation of UNDP's A2J and HR Programme
- RoLHR M&E Plan 2015

Sector reports and reviews of Bi-laterals

- Denmark
- Finland
- Sweden
- U.K.
- U.S. Department of State
- USAID
- JICA
- Norway
- GiZD

- DFiD, Danida, UNCT – Access to Justice, Security and RoL October 2011
- Baseline Report CeLRRD 2014
- 2014 Baseline Perception Survey (if different to above)

JSCC meeting notes

- Agenda for JSCC induction programme
- Copies of draft research reports prepared by JSCC working groups
- reports and designs of CMS in pilot district courts
- Strategic plans/budgets developed with UNDP support (Supreme court; OAG; MOLICAPA)
- Bench books; court directives prepared with UNDP support
- draft ToR for Code of Conduct for Mediators
- [Court information and orientation desks in pilot locations]
- [Judgement execution system and calendar system]
- Data on case disposal rates; case backlog; disaggregated data on legal aid
- [NJA training hall]
- MOLICAPA/academic drafts of anti-discrimination/ anti-GBV legislation
- Concept notes for JSTC trainings
- Notes from planning meetings for MOLICAPPA SoP
- Disaggregated data on legal aid beneficiaries (i.e. # of clients served; #of legal aid clinics held etc.) [See table in RoLHR Programme report for Jan-Mar]
- Programme and minutes from “Conference of Nepal Bar Association” in Chitawan (March 2015)
- Draft legislation prepared by the Law Commission with UNDP support
- Other pending draft legislation that UNDP might consider supporting going forward
- Copies of MOLICAPPA draft publications on human rights prepared with UNDP support
- Legal Scholarship Steering Committee meeting notes
- Report and notes from SLAC training sessions

ToR for NWC consultants

Report on the Monitoring Mission re: Anti-Discrimination Act

Reports on the Monitoring Mission on situation of Dalits

UN Docs on Human Rights in Nepal (i.e. reports of the Special Rapporteur)

Reports of leading INGOs (i.e International Crises Group, Amnesty International, etc.)

UPR report – relevant UPR Recommendations to be extracted and provided to the team

JDs of RoLHR programme staff

Policy Documents

Peace and Development Strategy

Strategic Plan of the Judiciary 2014-2019

National HR Strategy and Action Plan

Legal Aid Reform Policy (if finalised or a draft if possible)

Appendix B: Stakeholder Meetings Held

UNDP Senior Management
UNDP-ROLHR Programme managers and staff
Bilateral Donors
UN Women
PEB members
JSCC members
JSCC Secretariate
Supreme Court
 Chief Justice
 Registrar

OAG

 Crime Trends Analysis Center
MoLICAPA
 Judicial Services Training Centre (JSTC)
Law Commission
Judges and district courts
NBA and legal aid lawyers
JED task force
NJA and training hall
Police
NGOs active in legal/socio-legal aid and anti-GBV
Women's Commission
National Dalit Commission
University of Nepal Law School (deans and student recipients of scholarships)
Tribuvan University Law Faculty
Central Legal Aid Committee
Pilot Districts for SLAC
Village-level (VDC) legal aid committees
VDC officials
Mediation Council of Nepal
National Human Rights Council
National Dalits Council
National Womens Council
Blue Diamond Society
Federation of Journalists
Youth federations
Other INGOs or local NGOs active in targeted sectors of rule of law and human rights