

FINAL EVALUATION

Project number

UDF-RAF-07-134/XAFT40

Project title

Access to Legal Aid in Africa

Thematic area

Criminal Justice Reform

Countries

Liberia, Southern Sudan, Sierra Leone

Report of the evaluator

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Abbreviations and acronyms

ECOSOC	United Nations Economic and Social Council
GJG	Governance and Justice Group
OSI	Open Society Institute
OSJI	Open Society Justice Initiative
PASI	Paralegal Advisory Service Institute
PRI	Penal Reform International
UNDEF	United Nations Democracy Fund
UNDP	United Nations Development Programme
UNIOSIL	United Nations Integrated Office in Sierra Leone
UNMIL	United Nations Mission to Liberia
UNMIS	United Nations Mission to Sudan
UNODC	United Nations Office on Drugs and Crime

Summary matrix of findings, supporting evidences and recommendations

Findings: problems and issues identified	Supporting evidences	Recommendations
Project highly relevant, but objectives too ambitiously set.	Project was a direct contribution to the implementation of ECOSOC Resolution 2007/24; while needs in the area of access to legal aid are vast, a project with modest resources should not be expected to create a 'catalysing' impact.	Set more modest, realistic, objectives for small-scale interventions in future projects; while projects with ambitious objectives are likely to attract funding, in the medium-term, such an approach is counterproductive as projects might not be able to deliver. Be more concise in the description of the situation in the countries prior to project start, in particular taking into account existing efforts/interventions of other players working in the area.
Lessons should be learned from implementing arrangements in terms of mandate of UNODC, and cost implications of project implementation vs. control over substantial direction of the project.	The implementing arrangements limited UNODC HQs role to that of performing logistical and administrative work for the project implementation; this support was covered only to a small extent by the 5% budget allocating to HQs, the real costs for UNODC have been much greater. Given the importance of the thematic area the project dealt with, UNODC should have a greater role in influencing the substantive direction of the activities.	UNODC should better cost their involvement in projects of this kind in the future and try to get a good grasp of the resource implications of its involvement. Projects that limit HQs role might, in this form, not be desirable for UNODC, and a greater role should be left for the organisation to leverage project outcomes and outputs. There should also be greater clarity as to the capacity of the implementing partner to produce all outputs foreseen. Expectations towards implementers should be set out clearer.
Outputs are mostly relevant – but require follow-up to ascertain impact and sustainability. Survey and	Survey and assessments have been used to inform project and programme design; but UN and non-UN	UNODC HQs should discuss how to disseminate the outputs of the project to relevant stakeholders. The Handbook, once finalised, should be translated and promoted widely, and feedback should be

Findings: problems and issues identified	Supporting evidences	Recommendations
<p>assessments provide a picture of the situation at the time, but have already been overtaken by developments.</p>	<p>organisations working on similar areas have expressed interest in receiving the final documents/reports.</p> <p>A number of policy and legislative changes have taken place since the finalisation of the assessments.</p> <p>Handbook is considered to be highly relevant as there is a substantial lack of operational-level guidance on technical assistance approaches to legal aid.</p>	<p>solicited from partners as to the usefulness and usage of it.</p> <p>In order to add value and credibility, projects should consider to publicise and disseminate outputs such as the survey and the assessments much faster in acknowledgement of the fact that the legal and policy environment changes even in the course of a year.</p> <p>Data gathering efforts should also acknowledge the need to report back timely to the stakeholders that data has been solicited from.</p>
<p>In particular the training component of the project was ad hoc and isolated, thereby achieving a much less tangible impact beyond the level of the individuals concerned.</p>	<p>Training participants reported consistently on the usefulness of the training at the individual level. However, training was considered to be too short, and the one-off nature was acknowledged to be a problem.</p>	<p>Future projects need to be more strategic in their approach to training. The needs in this area are so vast that better use needs to be made of scarce resources to achieve impact.</p> <p>Future technical assistance efforts should be part of a wider strategic vision for the sector in question, not least because there is likely to be a continued mismatch between the resources available and the actual assistance needs.</p>
<p>The South-South aspect of implementation has been very much appreciated by stakeholders. But approximately one third of the project budget has been subcontracted by</p>	<p>Executed budget, numerous statements from stakeholders interviewed as part of the evaluation.</p>	<p>It seems important that there is clarity over the issue of subcontracting from a Southern NGO to a Northern/Western NGO between donor, executing, and implementing agency before the project commences.</p>

Findings: problems and issues identified	Supporting evidences	Recommendations
<p>PASI to a Northern/Western NGO, which had the lead in delivering most of the substantive activities. Although permissible under the terms of the grant, this changed the character of the project away from being a genuine South-South effort.</p>		
<p>The UN's mandate makes it extremely well placed to lead advocacy and dialogue efforts with governments. According to various stakeholders interviewed for this exercise, this potential has, not been fully exploited in this project.</p>	<p>Numerous statements to this effect by cross-section of stakeholders interviewed.</p>	<p>Technical assistance efforts should be clearer embedded in an overarching strategy or vision by UNODC for the development of legal aid systems in Member States. Projects should be complementing UN-government dialogue on this issue.</p> <p>UNODC should discuss whether high-level policy dialogue with government should be driven, and seen to be driven, by an NGO, and whether the UN should not retain the lead in this, or seen to take the lead in this.</p>
<p>The validity of the data the project produced was questioned, and concerns were voiced over the limited time span that the consultants spent in-country, which was perceived as being too short to produce a report with reliable data.</p>	<p>Various interviewees across the different stakeholders.</p>	<p>The in-country assessments used a standard UNODC methodology to collect data. This needs to be clearer communicated during the in-country missions, including to UN counterparts.</p>

Findings: problems and issues identified	Supporting evidences	Recommendations
<p>Two highly qualified staff - fully trained and experienced lawyers - have, on a part-time basis, supported the project during its implementation at UNODC HQs, for the most part to provide administrative and logistical support. This cannot be the best use of intellectual resources for UNODC and the tasks the organisation faces in advancing key policies and standards.</p>	<p>Resources spent by UNODC over the course of the project; profile of staff working on the project.</p>	<p>Against the background of the actual resources that UNODC HQ has put into this project, the effective lack of involvement on the substance, largely determined by the implementing modalities, should lead UNODC to reconsider what is in it for the agency before taking on projects of this kind in the future. While UNODC's technical assistance interventions do, to a great extent, depend on extra-budgetary contributions, this should not lead to accepting funds with such restrictive conditions that limit the organisation's role to that of performing auxiliary tasks.</p>
<p>The UNODC project management has sought, where possible, to coordinate project outputs within the agency, and with other UN agencies, most of which were probably not very familiar with the specific implementing arrangements, in particular the fact that UNODC HQ's role was very limited. This led to criticism from UN organisations represented on the ground.</p>	<p>Statements from stakeholders.</p>	<p>Future projects of this kind should consider how to organise the cooperation between HQ and field even better, as well as how to improve the information flow between UNODC and other organisations of the UN family; f.e., information should be shared earlier on during implementation.</p>

Executive summary

The thematic direction of the project has been highly relevant. It complements UNODC's work at secretariat-level on standards and norms following from ECOSOC Resolution 2007/24 on 'International Cooperation for the Improvement of Access to Legal Aid in Criminal Justice Systems, Particularly in Africa'.

The project set out a number of objectives, many of which have been framed overly ambitious. Against this background, these objectives have been achieved only partially.

The outcomes and outputs were set more realistically, and have, by and large, been achieved. They are also, at least in part, sustainable: The **in-depth assessments** (output 2) of the current state of legal aid provision in **Southern Sudan, Sierra Leone, and Liberia** have generated original, and consolidated and up-dated previously available, data in a useful reference format that has already informed UNODC strategy formulation (in Southern Sudan) and joint UNODC – UNDP programming in Liberia. The in-depth assessments should be used as a reference document that guides UNODC's dialogue on the establishment of alternative legal aid systems in the three countries. The reports should also be promoted within the UN-family, and with partner organisations at country-level.

Devising a targeted approach to the development of legal aid systems is a complex challenge, as a multitude of vectors (customary law vs. the formal legal system; urban vs. rural divides, access across gender and ethnic groups) has to be taken into account. Eventually, **UNODC should attempt to** quantify the needs in the area, i.e. **be more strategic** about how it deploys scarce resources against the background of vast needs. Technical assistance efforts should also be clearly embedded into a medium-to long-term vision of legal aid provision in Member States.

A **Handbook on Promising Best Practices in Providing Legal Aid** (output 3), will contribute to filling what is a substantial gap in technical guidelines in the area. The Handbook has the potential to serve as a practitioners' manual for the design of specific and targeted technical assistance interventions globally. For this, it would need to be actively promoted inside the UN, but also to other organisations; this would have to include translation into other languages.

The **Survey of Existing Legal Aid Systems in Africa** (output 1), which also contains a directory of stakeholders, including government stakeholders relevant for the development of legal aid in Africa, can, if continuously updated, be a useful tool for networking purposes and for facilitating institutional memory.

With regards to the **training of trainers** (output 4), this has been a useful output on two levels. First, by training trainers from PASI, it increased the organisation's capacity to deliver such trainings in different contexts, including post-conflict environments. It has also resulted in the creation of a more formal network of paralegal service providers across Africa. Second, the in-country trainings provided in the three target countries have been empowering for the individuals involved (which came from existing paralegal groups, as well as from official justice sector institutions), as it improved their skills and knowledge on how to provide paralegal

assistance in the criminal justice system; the trainings also brought paralegals together with representatives of the justice systems in a dialogue-building effort.

But in view of the resource constraints, future projects will need to **get away from very limited, ad-hoc training events**, and better incorporate some of the lessons learned and best practices of train-the-trainers and training approaches elsewhere (repeat training over a prolonged period of time, coaching of trainers on the job, provision of feedback to improve etc.).

This project has been a learning experience for both the executing and the implementing agency, and there is scope to draw lessons from the problems that the project encountered during implementation. Most of these are the result of the specific project design, and the issues are, broadly: overly ambitious objectives for a project with relatively modest financial means and a set of outputs that could not have fully delivered these objectives; and implementation arrangements that did not optimally exploit the strengths, mandates, and expertise of the various partners in the project.

Both UNODC and PASI are now better equipped to estimate the resource implications that a project of this type has, and should, in future projects, be able to more precisely cost their respective engagement.

UNODC should better cost their involvement in projects of this kind in the future and try to get a good grasp of the resource implications of its involvement. Projects that limit HQs role might, in this form, not be desirable for UNODC, and a greater role should be left for the organisation to leverage project outcomes and outputs. There should also be greater clarity as to the capacity of the implementing partner to produce all outputs foreseen.

A more general concern is that it is somewhat problematic to describe a project in terms of South-South cooperation, when eventually, substantial parts of the intended work actually needs to be subcontracted to a Northern/Western partner. It would seem important that there is clarity over this issue between donor, executing, and implementing agency before the project commences.

Management response

The implementing partner, PASI, objected to the evaluation report in general arguing that it did not fully acknowledge the success of the project. In particular PASI disagreed with the description of outputs 2 and 3. On output 2 PASI objected to the statement “Criticism also concerned the fact that it was felt that the NGO and the lead consultant used the access to government officials provided through this project as an opportunity to advance their own agenda, as well as to fundraise with donors.” The project management team confirms that in the context of Liberia, and as reflected in the final assessment report, they accepted PASI’s explanation that a previous joint initiative (the 2005 pilot for paralegals) had lead PASI to assume they should advocate for the adoption of a paralegal programme in the country.

The project management team acknowledges that the findings were based on interviews of multiple stakeholders and review of many documents including budget reports, assessment reports, several drafts of the Handbook, the survey and in particular the project final narrative report prepared by PASI and outlining the project’s successes in details. The project management team undertakes to follow up on the recommendations formulated in the evaluation report.

I. Introduction

A. Background and context of the project

The project has responded to a 2007/2008 call for proposals by UNDEF. It was seen to offer a timely opportunity to contribute to UNODC's mandate in providing technical assistance to member states to implement the requirements of the Lilongwe Declaration and ECOSOC Resolution 2007/24, both of which deal with improving access to legal aid in Africa. For the funds to be released, UNDEF required that the project would work with a local NGO as the implementing partner, and that there would be an element of working with the poor and disadvantaged at the country level. UNODC had previously cooperated on various occasions with the Malawian Paralegal Advisory Services Institute (PASI), including with predecessors to the organisation (Penal Reform International/PRI), and UNODC HQ therefore approached PASI to discuss the submission of a joint proposal for UNDEF funds. The initial project proposal saw several revisions in particular with regards to the choice of countries that would be targeted – Guinea-Bissau was included in an earlier outline, but then abandoned, partly because of the budgetary implications of including a non-English speaking country, but also because UNODC had launched separate technical assistance interventions in the meantime specifically for Guinea-Bissau.

PASI was consulted on various versions of the project document prior to submission to UNDEF for funding approval. PASI pointed out, at that stage in the process, that one of the outputs to be delivered (training) would, in their view, fail to contribute substantially to the achievement of the intended objectives, as it was too isolated to achieve an impact in absence of funding for wider pilot training schemes in the three countries; also, some of the indicators were deemed to be too ambitious to be achieved in the framework of the project. PASI also pointed out that the organisation would need to receive financial support in order to deliver the project. Both concerns were not reflected in the final draft. Other concerns – specifically concerning the geographic coverage of the survey on legal aid – were addressed during the inception phase of the project.

PASI was also asked to specify the organisation's specific strengths and weaknesses with regards to the intended outputs, and was confident that they had sufficient expertise and capacity to deliver these, either themselves, or through their network of contacts, while they would also welcome suggestions on the choice of experts from UNODC. Eventually, considerable parts of the work were sub-contracted from PASI to a Northern/Western NGO (the Governance and Justice Group), a development that caused some concern in UNODC which had not anticipated the full extent of this. A number of stakeholders interviewed for this exercise have seen this as changing the character of the project away from being a South-South effort – the premise on which the project was funded by UNDEF. There are, of course, valid arguments in favour of such an arrangement. For example, in the event, the Governance and Justice Group (GJG) was possibly better equipped than PASI to facilitate the conduction of the survey of the status of legal aid in Africa, as well as to put together the first draft of the Handbook on Promising Practices in Legal Aid in Africa, and the expert meeting that discussed the first draft. The point is, rather, that there should

have been more clarity between all sides about this relative share of tasks prior to the start, or early on in the project.

B. Purpose and scope of the evaluation

The **purpose** of the evaluation was to undertake an in-depth analysis of the project in order to validate results reported during its implementation, and to highlight project successes. The key evaluation questions, stipulated in more detail in the Terms of Reference (attached in Annex A) circle around the issues of effectiveness, relevance, sustainability, project design and implementation, efficiency, impact, and lessons learned and best practices.

The **scope** of the evaluation is the timeframe from 2009 to 2011, during which the project was implemented. Geographically, the project targets specifically at Liberia, Sierra Leone, and Southern Sudan, as well as Malawi (the country of origin of the implementing agency), and at the overall bearing of the project on legal aid provision in Africa.

C. Executing modalities of the programme or project

The Project was funded by UNDEF (UNDEF Project Number UDF-RAF-07-134) during its second funding round in 2007. UNODC is the Executing Agency (inside UNODC, the Project is registered as XAFT40). The Implementing Agency is the Paralegal Advisory Services Institute (PASI), a Malawian non-governmental organisation.

The specific funding and executing arrangements meant that UNODC HQs' role on substance was severely limited, and its support in many ways restricted to facilitating administrative and organisational aspects. During implementation, it became clear that PASI would not be able to organise the trainings without the help from UNODC HQs. For example, in the case of Southern Sudan, it was impossible to transfer funds from Malawi, so the money had to go from PASI to UNODC HQ who then took care of the financial aspects of the training in Southern Sudan.

UNODC had, for most of the project, no say over the choice of experts – this responsibility was with the implementing organisation, PASI. A difficulty reported from UNODC related to the fact that with this specific implementing arrangement, they were unsure as to how they would be able to leverage input and follow-up from consultants – a situation that has been described as being at times somewhat frustrating.

PASI has been in charge of delivering the project outputs, as well as of executing the budget. As described above, this did not always work, for reasons that were beyond the organisation's control, but which might offer a lesson learned for future projects. For the trainings, PASI relied on its existing network of contacts with other paralegal service providers in the three countries. The survey on legal aid in Africa was implemented, by a subcontracting agreement, by the Governance and Justice Group, and the effort was introduced to the stakeholders in the country through a letter by UNODC.

The in-depth needs assessments in the three beneficiary countries were to a great extent facilitated by the UN in-country offices, upon request by UNODC HQs. UNODC issued introductory letters to the experts (the directors of PASI and GJG,

respectively) conducting the in-country missions, introducing them as consultants on behalf of UNODC.

D. Evaluation methodology

The evaluation was conducted throughout March and early April 2011. It encompassed 1) a desk review of the project documentation, 2) telephone and skype interviews of 30 – 60 minutes duration each of a total of 27 stakeholders from the executing and implementing agencies, the consultants working on the project outputs, peer organisations that were involved with the project, and training participants (a full list of interviewees is in Annex B), and 3) publications that discuss the issue of legal aid provision more generally.

The interviews had a semi-structured character, and each discussed the specific involvement of the interviewee in the project, as well as his/her wider perspective on the issues that the project tried to address. Stakeholders were chosen from lists of contacts provided by both UNODC HQs and PASI, and the evaluator sought to cover each of the activities by talking to multiple stakeholders that had been involved in these, respectively.

Wherever problems were identified, the evaluator tried to flag them during the interviews, or in follow-up interviews/debriefings, so as to avoid that stakeholders would be caught by unpleasant surprises in the final report.

E. Limitations to the evaluation

Initially, the assignment foresaw an in-country mission of the evaluator to Malawi, with the aim of having direct meetings with the implementing agency, PASI, and with Malawian participants in the project. The evaluator ascertained that due to the main focus of the programme being on Liberia, Sierra Leone, and Southern Sudan, the number of Malawians having participated in the project was very limited. Against this background – and given that the overall financial envelope of the project has been comparatively modest – the evaluator felt that it was not justified to commit substantial financial resources to what would have been a very short, but very expensive field visit. This decision was approved by UNODC HQs. No field visits to the countries that the project directly targeted had been foreseen in the planning of the evaluation, and direct contact with recipients of training had to be made through telephone and skype. The evaluator feels that this, too, has been a reasonable way of proceeding. It does, however, mean that the evaluator has not seen, through direct contact, any of the settings which the project has tried to address, and which could have strengthened some of the arguments made in the report.

II. Major findings and analysis

A. Relevance of the project

The thematic direction of the project has been very relevant. The project aimed at complementing UNODC's work on standards and norms, and in particular, on providing practical solutions to member states on implementing the 2004 Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System,¹ the principles of

¹ See a full text of the declaration at <http://www.penalreform.org/files/rep-2004-lilongwe-declaration-en.pdf>.

which were later enshrined in ECOSOC Resolution 2007/24 on International Cooperation for the Improvement of Access to Legal Aid in Criminal Justice Systems, Particularly in Africa.²

Alternative legal aid systems, including paralegalism, have, in recent years, been increasingly discussed as possible mechanisms to provide more immediate solutions for the poor and vulnerable to access legal aid, while and until formal legal aid systems are being developed. UNODC is in the lead on establishing norms for legal aid, and a Draft Communication on Crime Prevention and Criminal Justice is expected, by spring 2012, to set out a comprehensive definition of legal aid.

The project specifically focused on alternatives to formal legal aid in post-conflict environments, as the needs in systems that have suffered a complete breakdown of structures across all sectors, are even more substantial, and the human suffering more severe.

B. Attainment of the project objectives

The Project Document stipulates various objectives, scattered across a number of different sections. Although these objectives are not numbered in the Project Document, the following text will, for reasons of clarity, assign numbers to each.

The first objective was that ‘to provide practical tools and training for Member States in Africa that would allow them to create effective and adapted legal aid mechanisms and frameworks. By achieving this objective, the project would contribute to the management of the criminal justice system, including the situation in prisons, and would enable the governments involved to comply with internationally recognised standards and norms.’³

A **second objective** in the Project Document set out to ‘provide a normative and operative framework for proposed activities [that] would allow long-term planning of policies and future activities in post-conflict societies in general and within the participating countries in particular.’ Further, it aimed to produce ‘practical guidance on the implementation of the Lilongwe Declaration’, and attempted to ‘catalyse the setting up of a sustainable paralegal or other alternative legal aid system as a tool adaptable to post-conflict countries.’⁴

These two objectives have, to a considerable extent, been achieved. The **in-depth assessments** of the status of legal aid in the three countries studied in detail have generated original, and consolidated and up-dated available, data into a useful reference document that has already informed strategy planning in **Southern Sudan**. In **Sierra Leone**, the assessment has provided a baseline of the situation and problems encountered at the time of drafting, which can still be useful. However, the developments in the country – at the time of writing of the evaluation, a bill is pending parliamentary approval that does, inter alia, recognise the status of paralegals as part of the legal aid system – have already overtaken the findings of the report in some respect. UNODC has confirmed that it uses the findings of the self-assessments in **Sierra Leone** and **Liberia** (in Liberia in cooperation with UNDP) to inform their strategy and programming exercises. UNODC should, however, consider promoting

² The resolution can be accessed at <http://www.un.org/en/ecosoc/docs/2007/resolution%202007-24.pdf>.

³ See Project Document, p. 5.

⁴ Ibid., p. 6

the surveys among UN agencies and other international organisations working on related issues in the three countries. It should also use the surveys to guide the organisation's dialogue with governments on the need to establish alternative systems of legal aid.

The **survey of the status of legal aid in 53 African countries** produced in the framework of this project can be useful in facilitating needs assessments; donor-government dialogue; and institutional memory, as it can serve as an inventory of governmental institutions and non-governmental stakeholders in the area of legal aid in the respective countries. A **Handbook on Emerging Best Practices in Legal Aid** has, as the evaluation comes to a close, been finalised. If written to the same high standard as other publications – and first, cursory impressions are that it is - in the Criminal Justice Handbook series, and provided it is being sufficiently widely promoted (including translation) internationally, this Handbook can become a guiding reference tool for the provision of legal aid *globally*. It would contribute to filling the current substantial gap in practical-level guidance for the provision of legal aid that has been confirmed by many practitioners interviewed for this exercise.

A **third objective** was to '**catalyse** the setting up of a **sustainable** paralegal or other alternative legal aid system as a tool adaptable to **post-conflict countries**'.⁵

Against the background of such **modest resources** this cluster of objectives was **too ambitious** in the first place.

With an objective phrased in these terms, there is obviously an issue of attribution of achievements, Given that the project was not the only effort taking place prior and during its lifetime. For example, UNDP has, over the past 8 years, implemented substantial⁶ programmes promoting access to legal aid in Southern Sudan, covering a significant geographic area; the Open Society Justice Initiative (OSJI)⁷ has been working with a number of stakeholders in developing access to legal aid (including with PASI in Sierra Leone and Malawi, which OSI is co-funding); in Liberia, the Carter Center's Community Legal Aid Advisory Programme has been active for a number of years, while, as mentioned above, the government of Sierra Leone has, independently from the project, advanced the issue of paralegal aid provision considerably.

Also, the three targeted countries have worked on paralegal or alternative legal aid solutions to a various extent. In **Sierra Leone**, paralegalism (including in the criminal justice sector) has a history pre-dating this project,⁸ so, it would seem that 'catalysing' its development was not strictly necessary in this context. In **Liberia**, there has been a network of paralegal assistance providers for some time. This is not to say that the needs in the area aren't enormous. It is, however, trying to put the objective of 'catalysing' paralegalism and alternative legal aid systems in the framework of such a project into context.

In terms of the objective of catalysing the setting up of **sustainable** paralegal or alternative legal aid systems, this aspect of the objective-setting, too, would have been difficult to achieve within the framework of this project, taking into account the limited resources, tightly ring-fenced timeframe, and its specific implementing

⁵ Ibid. p. 6.

⁶ These programmes were funded with significant amounts of money, ca. 15-20 Million USD.

⁷ <http://www.soros.org/initiatives/justice/regions/africa>.

⁸ Timap for Justice has been operating in the country since the second half of the 2000s.

arrangements. Sustainability of paralegal and other legal aid services does require governments to first undertake policy and legislative reforms, as well as a commitment to implement these reforms, including through the allocation of resources to fund such services. The project took place as a contribution to the Lilongwe Declaration and ECOSOC Resolution 2007/24, which acknowledge the need for action in this area. However, work led by UNODC on defining what various forms 'legal aid' can encompass will still need some time to be completed. Examples from Malawi, Uganda, and Sierra Leone show that governments *can* make progress on introducing paralegalism as *one form* of alternative legal aid without a global normative framework being in place.

But at the time of writing of this evaluation, there is a substantial need for high-level policy dialogue and advocacy with governments on this topic, without the buy-in of which, sustainability of such services will not be achieved. The UN's mandate makes it extremely well placed to lead such advocacy and dialogue efforts with the governments – a potential that, according to various stakeholders interviewed for this exercise – has, unfortunately, not been fully exploited in this project. It is questionable whether high-level policy dialogue with government should be driven, and seen to be driven, by an NGO, and whether the UN should not retain the lead in this.

The choice of countries reflects a focus on **post-conflict** settings: it was justified by an analysis that in a context where there has been a complete breakdown of structures and institutions, paralegalism and other forms of legal aid can play an important role in achieving access to justice and alleviate human suffering, while formal systems and structures are being developed. Eventually, the post-conflict aspect has been less of an emphasis than originally anticipated. The Handbook on Promising Best Practices in Legal Aid does not specifically focus on post-conflict settings.

The project document also sets a **fourth objective**: 'Addressing the needs of marginalized or vulnerable groups is a key objective of the project. [...]'⁹ With regards to this objective, again, it might have been too ambitious in the first place. Three of the four outputs of the project did not work directly with affected populations, while the training component did so to a very limited extent. Through the training aspect, the project might have contributed to achieving this objective in the medium or long-term (through paralegals that are now more skilled in providing training to vulnerable and marginalised groups), but there is no data available that would confirm the *immediate* contribution of the project. A specific emphasis under this output was to be put on outreach to rural areas. The training in Wau/Southern Sudan has contributed, by proxy, to this.

C. Achievement of the project outputs

The project set out to achieve four main outputs. First, a survey of the status of the legal aid system in Africa was to be carried out – the survey was designed to be initially more modest, but a broader focus (to be delivered mainly through a desk review/study) was approved early on between the main donor (UNDEF) and the executing and implementing agencies. Second, assessments of the existing legal aid mechanisms and training and additional needs in the area of access to legal aid in

⁹ Ibid. p. 7.

the three selected countries were to be undertaken. Third, a UNODC handbook on promising practices to enhance and strengthen access to legal aid in post-conflict societies in Africa was to be developed. Fourth, training was to be provided to paralegals in three post-conflict societies (Sierra Leone, Liberia, and Southern Sudan).¹⁰ The achievement of these outputs is discussed in detail below.

Output 1: Survey of existing legal aid systems and mechanisms in Africa carried out

This output was to be achieved through two key activities, namely 1) the appointment of a consultant to undertake the research of existing legal aid systems, in a combination of field missions and desk review, and through networking with academic institutions; and 2) through the consolidation of this information into a single document.

The output was achieved, but merits a number of comments. Various stakeholders expressed the view that the drafting exercise could have been more inclusive, and that it could have made more use of already existing data.

In terms of the data collection process, those involved in drafting pointed out that government institutions were often hesitant to provide the data, or that they were not responding to the request at all. There might be a variety of reasons for this. Possible explanations offered by stakeholders include that government officials are being approached by a multitude of donors and organisations for data, and can simply not respond to all of these requests, in particular when often, they never actually get to see the results of their submission of information. In this respect, the project could have set aside money for translation (the survey included a number of countries in francophone and lusophone Africa, while the report is written in English), as well as for a wider distribution of the findings.

Finally, institutional culture does also play a role, and some administrations are simply not used to respond, or lack the technical infrastructure to do so. The evaluator was unable to clarify whether this lack of responsiveness means that the report as such is potentially less useful, as it is incomplete as a result of the difficulties encountered. There was a view, also, that the information contained in the report was slanted towards some aspects of the wider possible spectrum of legal aid, and that the report was lacking information on customary law and the potential for aid provision therein. Several stakeholders would have wished to have received a copy of the document after it was finalised, and UNODC HQ might want to consider promoting the document among UN agencies and other international partners. The report is being finalised as the evaluation draws to a close, and dissemination among relevant stakeholders will follow in due course. However, future projects that produce similar outputs should consider the possibility of disseminating findings much earlier, as surveys of this kind are by their very nature snapshots of the situation at a certain point in time, and can rapidly become outdated.

The survey, which contains an inventory of non-governmental stakeholders and actors, as well as the relevant government institutions responsible for legal aid, can be useful in being a directory of contacts in a given country. For this, there would need to be a commitment to continuously update the document, and to promote its use inside UNODC and in the other UN agencies working in the region.

¹⁰ See Annex II, 'Results Framework' to the UNDEF Project Document.

Output 2: Assessment of existing legal aid mechanisms and training and additional needs in the area of access to legal aid in the three selected countries

This output, too, has mainly been achieved. UNODC Country Offices were involved, although not always to the extent that they thought they should have, in organising and conducting in-country assessment missions, which had the aim to come up with in-depth reports on the status of legal aid and training in the three countries. UNODC representatives accompanied the missions. Several stakeholders from the UN-family have objected to what they saw as the implementing agency and the main consultant leading sensitive policy discussions with the governments of the countries concerned, while representing but one possible, Malawian, model of paralegal aid provision. At the same time, a valid counterargument raised by other stakeholders in this regard was that the PASI model is, in fact, one of the scarce, if not the only model that has had success, and that has been adapted by a number of countries to their specific contexts. That PASI was tasked to conduct the in-country assessments was something that had been agreed at the onset, so, PASI was simply doing what they were supposed to do as part of their contractual obligations. The issue might come down to it not being entirely clear to counterparts involved as to the precise division of roles for the task at hand in the project. In the future, the UN might want to have a clearer lead and role on this type of government discussions, so as to avoid creating confusion or the impression of bias vis-a-vis one specific model of legal aid provision.

Criticism was also voiced over the perceived lack of diplomacy and lack of tact vis-a-vis governments that might want to choose different forms of legal aid, or that reject the notion of paralegalism for various reasons in name. Criticism also concerned the fact that it was felt that the NGO and the lead consultant used the access to government officials provided through this project as an opportunity to advance their own agenda, as well as to fundraise with donors, a reproach that has been challenged by PASI. Future projects of this kind will have to spend more efforts on clarifying the expectations that the implementing agency and subcontractors are to meet.

A number of stakeholders questioned the validity of the data the project produced, as well as voicing concerns over the short time span that the consultants spent in-country, which was perceived as being too short to produce a report with reliable data. The in-country visits worked according to a standard UNODC methodology – the Criminal Justice Assessment Toolkit, which is used by a very broad spectrum of international agencies and justice providers worldwide; it will also inform the UN Rule of Law Training currently being developed - and the criticism indicates that this had not been communicated to the stakeholders involved, including from the UN agencies. Future efforts of this kind should take more time to explain this, as perceptions of unsoundness of methods undermine the credibility, and eventually the future use of documents of this kind.

The reports were shared with governments, and have, at least in part, informed the design of technical assistance interventions, such as in the UNODC 2011 – 2014 Strategy for Southern Sudan; in Liberia, too, UNODC and UNDP, as part of the Memorandum of Understanding between the two agencies, are using the country assessment to inform project formulation. The evaluator has no information as to whether the report is being used inside the governments concerned, for example in their interactions with donors. Non-governmental stakeholders felt that the reports were very useful in providing an accurate snapshot of the situation at the time, but

that by now, events had somewhat overtaken the information provided in the document. It was, however, acknowledged that the reports did paint a picture that allowed getting a better understanding of the vastness of the challenges ahead, and along all the vectors that contribute to them. Again, UNODC HQ might want to consider sharing the reports wider, in particular with the organisations that are doing similar work in the countries concerned.

The reports do provide a picture of the status quo at a certain time. While the evaluator is not naive about the difficulties involved in estimating or calculating the numbers of paralegals, public defenders, social workers in prisons, legal and paralegal aid providers in rural locations, various ethnic groups and regions etc., it is also clear that attempts will need to be made to do exactly that. UNODC, as well as most other UN agencies, depend, for their technical interventions, on extra-budgetary resources. Donors have been fickle about the topics they support, and providing funds to an issue for a number of years has often lead them to lose interest and patience with what was perceived to be a lack of progress in an area. The issue of access to legal aid is too important to be left to this fate, but it means that UNODC needs to be more strategic about how it goes about technical interventions in this area, in particular BECAUSE funds are so limited, and the needs so vast. In the medium term, there should be an effort to try to quantify needs, and to base programming on these figures.

Output 3: Development of a UNODC Handbook on Promising Practices to Enhance and Strengthen Access to Legal Aid in Post-Conflict Societies in Africa

At the time of writing of this evaluation, the Handbook had gone into print.

The PASI consultant did provide a first draft text, which was, in spring 2010, reviewed by a group of experts during a meeting that took place in Lisbon/Portugal (where the consultant's NGO is registered). Stakeholders did describe the meeting as broadly useful, although there has been a degree of confusion as to what it was to achieve. While UNODC HQ representatives had set a specific technical task to contribute to the improvement and finalisation of the Handbook, some of the participants were not clear about that specific purpose. However, the experts made a wide range of substantive comments to improve the initial draft. The draft Handbook was also presented, by one of the UNODC HQ project managers, to a regional UNDP Access to Legal Community of Practice Meeting in Senegal in June 2010, and received another round of substantive comments then. At the meeting, various participants voiced concerns over the fact that the drafting of the Handbook had not been done through a participatory process, which was felt would have been more appropriate in ensuring that the publication would eventually be used by the intended target group. While this is a legitimate point, it is also true that such a process would have had to be planned over a much more substantial period of time, and a project of a projected 24 months duration would with all likelihood not have achieved a product, along with the other outputs.

One concern with the first draft of the Handbook was that it did not contain sufficient original text, and that too much of it had been used in previous publications by the author. On the substance side the draft did not cover the whole spectrum of legal aid provision, and was felt to be too general overall to be of operational-level use. The experts also suggested that the presented issues had an application beyond post-

conflict societies or, vice versa, that the material did not have any specific focus on post-conflict contexts that would merit this to be put into the title of the publication.

UNODC HQ had hoped that the lead consultant would incorporate the comments and suggestions, which would have lifted the quality of the publication to conform with other practical guidelines issued by UNODC in its Criminal Justice Handbooks series.

The consultant provided a second draft in April before sharing it with the experts who attended the meeting. UNODC provided further comments, drawing the consultant's attention to the fact that previous comments had not been taken into account and asking him address these. However, in light of the extent of comments from UNDP, which UNODC felt were already made repeatedly before, UNODC, on advice from UNDP, suggested PASI the hiring of a second, Ugandan, consultant with substantial experience in working on legal aid, to try to turn the publication around, by incorporating the comments provided by UNODC, UNDP and independent experts. This required a reallocation of funds inside the budget,¹¹ as the consultancy fees for the initial consultant had, by that stage, been fully used up.

The final draft represents a significant improvement on earlier versions, and the eventual publication will contribute to closing an important gap, as stakeholders have confirmed the dire need for operational-level, practical tools for access to legal aid programming.

Output 4: Provision of training to paralegals in three post conflict societies: Sierra Leone, Liberia and Southern Sudan

The activities were eventually slightly adjusted, as a Training-of-Trainers took place in Malawi in addition to the 3 trainings foreseen in the results framework. The training material that was to be produced for the trainings had, in part, been developed for a previous training activity, in the framework of an earlier (2006) project. The training was unanimously appreciated by participants, as it gave them the precious opportunity to discuss and work closer through their respective work experience in the countries of origins, as well as to go through scenarios that might present themselves in the setting up of a paralegal aid programme. The Training-of-Trainers has, according to various participants, resulted, at the margins, in the creation of a formal network of paralegal assistance providers in Africa.

The in-country trainings trained approximately 30 participants per country. According to the results framework, these were to be selected 'on the basis of skills, gender and continuity', which effectively meant that the trainings worked with already existing paralegals from the countries, and helped them to build additional capacity for their work. In Wau/Southern Sudan, participants flagged the fact that the training was held in English, a language that not all participants were fully proficient in, and which therefore meant that these participants could not make maximum use of the opportunity.

There has also been a consensus that while the training was extremely valuable to the individuals involved, it was too short, and there was a need for trainings to be a process over the medium term, rather than being one-off events. In fact, the potential pitfalls of training risking to result in a false sense of competence have been

¹¹ UNDP did suggest to contribute own funds towards this effort. This could not be taken forward as it breached the UNDEF funding rules.

highlighted elsewhere.¹² Some stakeholders in the framework of the evaluation have pointed out that government's hesitance to fully embrace paralegalism is, in part, informed by their legitimate concern over unqualified and poorly trained paralegals to provide poor quality services and that therefore, the training component of the project should have been approached differently from the start. As mentioned earlier, PASI, in their comments on an earlier version of the project, did point out that they would have concerns over the implementation of training in isolation – a concern that was not taken on board in the final design of the project .

In sum, while training is very necessary, future projects will have to consider whether they can provide a more medium-term approach to it, and whether one can legitimately expect a one-off training of a very limited number of people to make a substantial contribution to change.

D. Institutional and management arrangements and constraints

Due to problems in the funding to become available, the project started with a delay of 6 months, which had an impact on the timing of the implementation of activities. The project was extended twice, for 3 months on each occasion, at no additional cost, as because of the late start, the activities needed to be postponed.

The shortfalls in achieving the objectives and outputs originate in the specific design and implementing arrangements of the project. There is scope to rethink the design of future projects of this kind, both on the side of UNODC and that of PASI.

First, there is a need for both sides involved to assume a greater responsibility in understanding the resource implications of a project of this kind. Now that the project is coming to a close, it is evident that there has been a considerable strain on both sides to meet the commitments in the project within the budgeted funds.

Of the overall budget of 400.000 USD, 375.000 USD have gone to the implementing agency, PASI. However, PASI has not received any funds from this budget to cover its own operations. The project director and the staff have worked on the implementation of the project by and large pro bono,¹³ which effectively constitutes an in-kind contribution of an estimated 18.000 USD, or 5% on top of the allocated budget. If an organisation takes on activities beyond its day-to-day, core activities, then this triggers the need for the deployment of additional resources, human and financial. These, then, need to be reflected in the project budget – but prior to agreeing a project, the implications on finances and staff need to be costed carefully.

Of the overall budget of 400.000 USD, 25.000 USD were allocated to UNODC. This sum was to cover the evaluation (with 5.000 USD, an amount that was eventually set far too low, and additional resources had to be identified from elsewhere in UNODC's budget), and the administrative overhead that UNODC incurred in supporting PASI in the implementation. The actual staff time put into the project from the UNODC HQ

¹² See Maru, V. *Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide*. Yale Journal of International Law, Vol. 31: 427, 2006. At <http://www.timapforjustice.org/news/>, p. 470. Maru points to the need for training to include components of supervision and coaching, in order to ensure that paralegals provide quality services.

¹³ PASI receives funding for its core activities in Malawi through the Open Society Justice Initiative and by DfID, through the Ministry of Justice.

and the field offices have far outweighed the 20.000 USD set aside. A conservative estimate would put the financial equivalent of the actual UNODC in-kind contribution at between 70.000 USD to 100.000 USD. This, then, means that **the project has actually been co-funded by UNODC**, who covered approximately 20% of the overall cost from its own resources.

Consultancy services in the framework of the project were budgeted with approximately 30% of the overall budget (i.e. in excess of 111.000 USD). Eventually, this part of the budget in this South-South cooperation project has gone to a Northern/Western NGO through a subcontracting agreement. It has been difficult to ascertain whether this has been clear from the onset, or whether this was part of the way in which the project evolved. PASI has always enjoyed a very close working relationship with the Governance and Justice Group (GJG), and cooperating with GJG has therefore been a natural choice. GJG provided consultancy and, to a smaller extent, administrative services for an overall amount of 101.000 USD.¹⁴

This does, necessarily, lead to a discussion of the capacity of PASI to deliver the project outputs, and to the choice of PASI as the implementing NGO. With regards to the outputs of the project, PASI might not have been the right partner to be able to implement **all** of these. PASI is a highly respected organisation, whose approach to providing paralegal aid in the criminal justice system in Malawi has been pioneering, and one that many organisations globally have tried to learn from.

PASI represents one possible model of paralegalism. Having PASI participate in assessments with governments on behalf of UNODC might have projected a preference, by the UN, for the PASI model – a signal that UNODC might not have wanted to send.

In terms of delivery of the tools such as the Handbook of Promising Best Practices in Legal Aid, PASI does not have the human resources to undertake such an effort - which resulted in the sub-contracting arrangements mentioned above.

With regards to training, the situation seems to be slightly different, and PASI is probably able to deliver training to a great extent themselves; however, for the delivery of the trainings in the context of the project, Western/Northern consultants did provide a large chunk of the conceptual work and the training manual, as well as a substantial part of the Training-of-Trainers and the three in-country trainings. Only two PASI staff (out of 8 who were part of the Training-of-Trainers) delivered training in Liberia, Sierra Leone, and Southern Sudan. The South-South approach to training was highly appreciated by participants from paralegal services in the three countries, as the credibility of PASI is very high among its peers.

The question as to whether an NGO should be engaging in dialogue with governments on behalf of the UN, or UNODC (done as part of the country assessments and inventory/survey of legal aid in Africa), has already been discussed above. A variety of UN-family and external stakeholders has expressed issues, in principle, with this, as well as in the specific case of the three in-country assessments, which were – rightly or wrongly - seen to be favouring the promotion of a very specific model of paralegalism. As already mentioned above, these outputs

¹⁴ This amount is broken down as follows: USD 88.000 in fees to GJG for consultancy services on the four outputs; USD 6.000 in administrative overhead for GJG for organising the Expert Group Meeting which discussed a draft of the Handbook; USD 3.000 to incorporate comments received at the Expert Group Meeting into the Handbook; and USD 4.000 for one of the trainers in the training-of-trainers event, who is, according to its website, on the Board of Directors of GJG.

were part of the project design, and PASI has fulfilled its obligations according to its contract with UNDEF. The discussion as to whether this type of output and division of roles was the best possible one is conducted in hindsight – but should inform future, similar efforts of this kind.

The evaluator considers it to be important to stress that the subcontracting agreements between PASI and GJG were entirely permissible under the terms of the UNDEF funding and that, without having gone into the details of the budget execution, the services delivered by GJG seem to have been, by and large, fairly priced.

Against the background of the actual resources that UNODC HQ has put into this project, the effective lack of involvement on the substance, largely determined by the implementing modalities, should lead UNODC to reconsider what is in it for the agency before taking on projects of this kind in the future. Two highly qualified staff - fully trained and experienced lawyers - have, on a part-time basis, supported the project during its implementation at UNODC HQs, for the most part to provide administrative and logistical support. This cannot be the best use of intellectual resources for UNODC and the tasks the organisation faces in advancing key policies and standards. While UNODC's technical assistance interventions do, to a great extent, depend on extra-budgetary contributions, this should not lead to accepting funds with such restrictive conditions that limit the organisation's role to that of performing auxiliary tasks.

The UNODC project management has sought, where possible, to coordinate project outputs within the agency, and with other UN agencies, most of which were probably not very familiar with the specific implementing arrangements,¹⁵ in particular the fact that UNODC HQ has had only very limited possibilities to influence the substantial direction of the project. There has therefore – in addition to mostly very positive feedback from stakeholders vis-a-vis the project management at HQ - been some dissatisfaction with the perceived level of coordination from UNODC's side: various interviewees felt that the project should have been communicated in a more consistent and inclusive manner, in particular to those agencies with a long-standing field presence in the three countries concerned.

There is scope to better define the respective role of the executing and implementing agency prior to the project. Communications were strained severely at one point during the implementation, something that can be traced back to expectations not having been set out clearly at the onset of the project.

III. Outcomes, impact and sustainability

A. Outcomes

The Results Framework sets four intended outcomes of the project, which are linked to the four outputs, and for which Outcome Indicators were set. This is traditionally the most difficult part of any project design, and here, as elsewhere, to reconstruct the link between outcomes and indicators is somewhat of a challenge.

¹⁵ One stakeholder reported that the consultants had been hired by UNODC HQs, when in actual fact, this was PASI's authority in this project.

Intended Outcome 1: The results of the survey allow the identification of both the weaknesses and the strengths of the existing systems and allow cost-efficient and sustainable allocation of resources for development of legal aid mechanisms

The indicator linked to this intended outcome is 'high-quality survey produced, providing information on alternatives in enhancing access to legal aid for African policymakers'. In a sense, indicator and outcome are somewhat conflated, but judging from the assessment provided in previous parts of this report, this outcome has been achieved in principle. Since the report had not been published at the time of the evaluation, and as there had not been any systematic dissemination of the report to government counterparts, it is fair to conclude that the report was not, yet, being used by the intended target group (African policymakers).

Intended Outcome 2: Designing of long-term programmes to develop access to legal aid in the participating countries

The indicator linked to this outcome is: 'quality of assessment reports, counterparts endorsing the proposed programming'. In Southern Sudan, the country assessment report has led to informing the development of the UNODC Strategy for the country for 2011 to 2014; the Strategy has, in turn, been approved by the leadership of the country. In this respect, the outcome has been achieved in Southern Sudan. In Liberia and Sierra Leone respectively, the government has started steps that would result in paralegals being recognised as part of the legal aid system – but, as discussed above, it is difficult to attribute to which extent this can be traced back to the project (although the PASI model in Malawi has been key in this, as it has been studied by Liberian officials back in 2008 during a study visit facilitated by UNMIL).

Intended Outcome 3: The development of a handbook would provide a tool for developing more specific activities in the selected countries. The handbook will also serve as a useful reference tool for trainers, and would enable paralegals to learn from the experience of other communities and to select the most appropriate approaches for their situations.

The indicator associated with this outcome is the finalisation of a 'high-quality' handbook. At the time of writing, work on the handbook has been finalised. The publication does meet the high standards that UNODC sets for its own publications. The Handbook was presented on 13 April 2011, in a side event during the Commission on Crime Prevention and Criminal Justice (whose resolutions are later adopted by ECOSOC and some by the GA), which is an important forum to promote the publication and to ensure that it is being used, in the future, by relevant programmes and projects. With this in mind, this outcome can be considered to be achieved.

Intended Outcome 4: Paralegals who participate in the training form a core team for providing legal aid and for training others.

As mentioned previously, it is a challenge to reconstruct the indicator in relation to the outcome in some cases, such as this one, which is the 'high level of satisfaction

with materials and training among the participants'. The outcome is unspecific as to whether the intention had been to have, after the project, a core team of paralegals able to train trainers in the three target countries, or within PASI. If the latter is the case, then the Training-of-Trainers has strengthened the capacity of PASI to deliver training, and they can be considered to be a core team as stipulated in the intended outcome. With regards to the paralegals in the three countries concerned, the picture looks probably less clear-cut, and this, too, is partly due to the difficulty of attribution discussed above. The project did train paralegals that had already work experience in the field. These do now have individually a greater competence to work on legal aid issues in the criminal justice field, but it is questionable a) whether the one-off training has been enough to fully equip them with the necessary skills, and b) that they could work as trainers themselves.

B. Impact

In terms of the **survey of existing legal aid systems and mechanisms** in Africa, the impact of this output is somewhat uncertain. If resources are committed to continuously update the inventory of contacts, as well as to update the baseline findings in the survey with new data, this can be a very useful tool, both in terms of programming, as well as to keep systematic track of changes and developments in the field. This would also require UNODC to promote the report within the UN family and peer organisations so as to ensure that information from the field is fed back into such an overview document. It might also require to have another look at the presented data and possibly, to complete the dataset with information missing from it so far.

With regards to the three **in-depth country assessments**, some impact has been created by at least two reports being used to inform strategy and project design (Liberia/in a joint effort under the UNDP – UNODC Memorandum of Understanding; and Southern Sudan). The reports can also serve as a useful tool for non-UN stakeholders to have a baseline assessment of the situation in their countries. Again, it would be important to revisit the assessment on a regular basis to track progress or changes – something that will require some resources. The assessments should also be used to inform UNODC dialogue with governments on access to legal aid issues, and to advocate for alternative legal aid solutions.

With regards to the **Handbook on Promising Best Practices**, this can have an impact if sufficiently promoted among the relevant UN organisations and peer organisations. There is, as yet, a huge, little addressed need for operational-level material, and the Handbook has the potential to break uncovered ground with this publication. This would, however, also require the translation of the material into Portuguese and French, and possibly other languages.

In terms of the organisations and individuals targeted by the **trainings**, the project had an impact:

- Through strengthening the capacity of PASI as an organisation to *deliver* training, and to provide assistance to other paralegal aid providers to set up paralegal services adapted to their specific country contexts;
- By bringing together, in all three countries, and often for the first time for the individuals concerned, paralegals with representatives of the justice sector,

and so facilitating dialogue between both sides, as well as increasing acceptance, in the three countries, of the work that paralegals can provide;

- By increasing the capacity of the participating paralegals to provide paralegal aid in the criminal justice system;
- By establishing a network/association of paralegal aid providers in Africa.

C. Sustainability

In terms of sustainability, PASI has, through the project, been able to progress on their ability to deliver training to peers in other African countries and beyond. The training has strengthened the ability of PASI staff to coach and mentor other paralegals.

When it comes to the training that was provided to colleagues in the three countries, then the sustainability of the effort is probably more questionable. This is a result of the project design, which never foresaw any medium to long-term approach to training in the first place; this has now an impact on the sustainability of the effort.

Sustainability of the Handbook on Promising Best Practices seems likely, if it is sufficiently promoted inside the UN and to outside organisations. With regards to the other two outputs, i.e. the overall Survey on the Status of Legal Aid in Africa, and the in-depth country assessments, much of the sustainability of the efforts will depend on follow-up work by UNODC as discussed above.

IV. Lessons learned and best practices

A. Lessons learned

The lessons learned from this project mainly relate to the project design stage, and concern both UNODC and PASI.

UNODC might want to reconsider its core mandate and discuss in future technical assistance efforts whether this type of project, with its specific implementing arrangements, is advancing the organisation's mandate. This would have to imply a careful consideration on the type of activities inside a project that can legitimately be entrusted to another agency, as well as having implementing arrangements that give UNODC a greater say over the substantial directions of the work. It would also mean to carefully think through the implications this type of project has on the organisation's resources, and to what extent the in-kind contributions provided benefit the organisation's agenda.

PASI, too, would need to be clearer on the resources such a project requires on their end, as well as on their actual capacity to deliver the outputs agreed in the project, and whether they can be delivered without heavily relying on one specific consultant. PASI might also want to consider whether the activities in the proposed project advances its vision of where PASI is heading as an organisation – it would seem that the training part of the project under evaluation, in principle, helps to carve out PASI's profile as advising other countries at a practical level, but that this part of the project was maybe too modest overall to substantially take the organisation forward.

B. Best practices

Consulting and coordinating with other stakeholders has certainly improved the quality of the Handbook. In particular with regards to UNDP – an organisation with a much stronger field presence, but also with a mandate that occasionally could be seen to overlap – future projects might want to consider sharing information, and coordinating efforts, at a much earlier stage.

Participants from all three countries have appreciated the fact that the trainings brought together not only paralegals, but also representatives from the justice system itself, such as prison officers, policemen, etc. Several stakeholders said that this was a first, and that it contributed to breaking new ground in forging partnerships in the criminal justice system.

V. Recommendations

A. Actions recommended

UNODC should discuss how to ensure the maximum impact and sustainability from the outputs produced under this project, specifically from the Handbook, the overall survey on legal aid in Africa, and the in-depth assessments in the three countries. This includes dissemination of the outputs to stakeholders, including those government counterparts from whom information was solicited.

With specific regards to the Handbook and the surveys, it would also be important to gather feedback from others providing assistance in this technical area to see to what extent the Handbook and the in-depth assessments meet the needs on the ground, and whether other tools are necessary. Follow-up would require the translation of the material into Portuguese and French, and possibly other languages.

If resources are committed to continuously update the survey and the inventory of contacts, as well as to update the baseline findings in the survey with new data, this can be a very useful tool, both in terms of programming, as well as to keep systematic track of changes and developments in the field.

The assessments should also be used to inform UNODC dialogue with governments on access to legal aid issues, and to advocate for alternative legal aid solutions.

There is scope to review the implications of lessons learned in this project with view to future projects. At the level of UNODC, the resource commitments have been considerable. At the same time, influence over the substantial part of the project has been very limited. Highly qualified staff has worked on largely administrative and logistical tasks, and UNODC might discuss whether its intellectual resources are not better deployed elsewhere. While UNODC's technical assistance interventions do, to a great extent, depend on extra-budgetary contributions, this should not lead to accepting funds with such restrictive conditions that limit the organisation's role to that of performing auxiliary tasks.

In terms of the specific set-up of having a project implemented by an NGO, in future projects, the outputs should be chosen in such a way as to fully exploit that organisation's strengths – in the case of the project under review, the South-South activities were genuinely appreciated by stakeholders. UNODC should also discuss to which extent NGOs can substitute the organisation taking the lead in government dialogue and advocacy.

Future technical assistance efforts should be part of a wider strategic vision for the sector in question, not least because there is likely to be a continued mismatch between the resources available and the actual assistance needs.

Future projects should also set more modest, realistic, objectives for small-scale interventions; while projects with ambitious objectives are likely to attract funding, in the medium-term, such an approach is counterproductive as projects might not be able to deliver.

VI. Conclusions

Despite being fraught with a number of problems that can be traced back to the design of the project, the thematic direction of this project has been relevant in principle, as well as being in line with UNODC's mandate on assisting countries with the implementation of ECOSOC resolution 2007/24. The implementation has provided useful lessons learned for UNODC in delivering country-level technical assistance efforts, which they should apply to future efforts of this kind.

VII. Annexes

A. Terms of reference of the evaluation

TERMS OF REFERENCE

Title:	Independent Evaluator (Consultant)
Organizational Section / Unit:	UNODC / Division for Operations/Justice Section
Duty Station:	Home-based
Proposed Period:	1 March 2011 – 15 April 2011
Actual Work Time:	22 working days

1. Background of the assignment:

Project XAFT40 (Access to Legal Aid in Africa) aims at assisting Member States in enhancing their capacity to provide access to legal aid in the criminal justice system in accordance with ECOSOC Resolution 2007/24 and the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa, as well as other international legal instruments such as the International Covenant on Civil and Political Rights (article 14) and relevant United Nations Standards and Norms in Crime Prevention and Criminal Justice.

This was to be achieved through: i) the undertaking of a survey of existing legal aid systems and mechanisms in Africa; ii) a thorough assessment of the additional needs of 3 African countries emerging out of conflict: **Liberia, Sierra Leone, Southern Sudan**, in providing effective legal aid iii) the development of a handbook on best practices in providing legal aid; and iv) the provision of pilot training to paralegals and other legal aid providers. The project focus was post-conflict societies with the aim of providing a normative framework on access to legal aid, as well as providing specific pilot training to paralegals and other providers of legal aid to suspects, accused and victims, particularly in rural areas.

As per UNDEF requirement, UNODC had to partner with an NGO to implement this project. The Paralegal Advisory Service Institute (PASI) based in Malawi, was the implementing agency of this project, while UNODC was the executing agency.

The project was due to start in November 2008, for a period of 24 months. Owing to the delay in starting the actual implementation of the project, UNODC requested UNDEF to change the start of implementation from 1 April 2009 to 31 March 2011. however, in its letter of 1 April 2009, UNDEF director advised UNODC to request a project extension during the second year of implementation. UNODC has submitted two requests and the project was extended until end of April 2011, **however, the extension was conditioned on the submission of the evaluation report by end of April 2011.**

2. Purpose of the assignment:

The purpose of this assignment is to undertake a final independent project evaluation of project XAFT40, in line with UNDEF project evaluation guidelines (attached to this TOR and should be seen as integral part thereof).

The purpose of the evaluation is to undertake in-depth analysis of the project in order to validate results reported during its implementation and highlight project successes.

This evaluation will be managed by UNODC Justice Section and funded from the project budget. The consultant will however act independently in his/her individual capacity in order to adhere to the independence and impartiality of the evaluation process as highlighted in UNODC evaluation policy. The evaluator therefore must not have been involved in the development, implementation or monitoring of the project.

The evaluation results will be made available to and used by UNODC and UNDEF staff involved in similar projects.

The evaluation report would be signed by the Executing Agency, the Implementing Agency and the evaluator.

3. Evaluation Scope

Time period: 2009-2011 (= project duration)

Geographical coverage: Africa, and in particular Malawi, Liberia, Sierra Leone and South Sudan.

Thematic coverage: Implementation of the relevant parts of ECOSOC resolution 2007/24 on access to legal aid in Africa.

Key evaluation questions to be answered by the evaluation:

Such questions can be related to the project concept and design, the project implementation and deliverables (outputs and outcomes), and management issues.

Effectiveness

- To what extent have the project's objectives been reached?
- To what extent was the project implemented as envisaged by the project document? If not, why not?
- Were the project activities adequate to realize the objectives?
- What has the project achieved? Where it failed to meet the outputs identified in the project document, why was this?
- Have any significant developments taken place since the project started, if so, explain how they affected the project goal and activities and evaluate the impact on the project?

Relevance

- Were the objectives of the project in line with the defined needs and priorities?
- Should another project strategy have been preferred rather than the one implemented to better reflect those needs and priorities? Why?
- Were risks appropriately identified by the projects? How appropriate are/were the strategies developed to deal with identified risks?

Sustainability

- To what extent has the project established processes and systems that are likely to support the continued implementation of the project?
- Are the involved parties willing and able to continue the project activities on their own (where applicable)?
- Are the project outcomes likely to be sustainable? If not, why? Which remedial actions would have been good to take?

Project design and performance assessment / Efficiency

- Was the project design appropriate? If not, why not?
- Was the project, including its finances, human resources, monitoring, and oversight and support managed efficiently?
- What was the role played by the implementing agency(ies) and, where applicable, the executing agency in leveraging resources, internal or external, and expanding partnerships with other actors to support and expand this project?
- Assess the appropriateness of current formal and informal communication channels between national stakeholders, implementing and executing agencies and UNDEF staff, including recommendations for improvement.

Impact

- To what extent has/have the realization of the project objective(s) had an impact on the specific problem the project aimed to address and on the targeted beneficiaries?
- To what extent the project has caused and is likely to cause changes and effects, positive and negative, foreseen and unforeseen, on society?
- Is the project likely to have a catalytic effect? How? Why? Please provide examples.
- Have the needs of project beneficiaries been met by the project? If not, why not?

Lessons learned and best practices

- What lessons can be learned from the project or programme implementation in order to improve performance, results and effectiveness in the future?
- What best practices emerged from the project or programme implementation?
- Can they realistically be replicated?
- What lessons can be drawn from unintended results?

The evaluation report should also clearly:

- Analyze the challenges to the project's success and the lessons learned from managing them
- Highlight the lessons learnt from the project on the results achieved, the process followed and strategy applied and provide recommendations
- Analyze the overall impact of the project in targeting gender and marginalized groups

- Highlight good practices, success stories, anecdotes
- Analyze the added value of UNDEF funding.

4. Specific tasks to be performed by the consultant:

In coordination with the Chief of the Justice Section and the staff in charge of the management of XAFT40, the independent evaluator will undertake the following activities:

- Familiarisation with UNODC evaluation policy and UNDEF Project Evaluation Guidelines;
- Initial briefing with UNODC/JS relevant staff via telephone and email and on a one-day mission to Vienna at the beginning of the assignment;
- Desk review of relevant documents, including the project document, its logical framework and its revisions, progress and monitoring reports, workshop report, any document provided by UNDEF and by UNODC or other stakeholders, related literature, etc.;
- Phone interviews with relevant stakeholders (UNODC HQ staff, Staff in the Western Africa regional office, staff in the South Sudan country office);
- Meet the director of the implementing agency (PASI) through a field visit to Malawi, possibly via Lisbon (but not between 4-13 March), and interview staff as well as consultants that had worked on the project (Adam Stapleton, Valentine Namakula);
- Short survey and follow-up phone calls with workshop participants;
- Any additional evaluation method could be used, if deemed relevant by the consultant;
- Prepare a draft evaluation report¹⁶ for circulation and comments;
- Finalise the evaluation report (integrating comments when relevant);
- Final debriefing with UNODC/JS relevant staff.

5. Expected tangible and measurable output(s):

- Submission¹⁷ of an evaluation methodology and work plan, including any evaluation tools
- Upon completion of the fact-finding and analysis phase, a **draft evaluation report** will be prepared by the evaluator and circulated to UNODC/JS staff for comments.
- The report should be a short document of 12/18 pages, providing answers to the evaluation questions referred to above as well as a recording of the lessons learned during projects implementation. A template table of contents

¹⁶ The report should be aligned with international norms and standards and to the degree possible be reflective of the UNODC Independent Evaluation Unit (IEU) evaluation report guidelines.

¹⁷ The method should use the Core Learning Partnership (CLP) method to encourage a participatory evaluation process.

for the report will be shared with the consultant during the initial briefing with UNODC/JS staff.

- The evaluator will take into account these comments when writing the final evaluation report where feasible but without at the same time giving up the independence and impartiality of the evaluation and its findings.
- The evaluator will be solely responsible for the finalisation of the **Final Evaluation Report**.

6. Dates and details as to how the work must be delivered:

The evaluator will be briefed and debriefed on the project by UNODC/Justice Section. The latter will also provide necessary substantive and administrative support.

Although the evaluator should be free to discuss all matters relevant to his/her assignment with all stakeholders concerned, the incumbent is not authorized to make any commitment on behalf of UNODC or UNDEF.

The draft evaluation report should be submitted to UNODC/JS by email no later than 25 March 2011.

UNODC/JS and IEU should provide their comments to the consultant by email no later than 30 March 2011.

The final report should be submitted to UNODC/JS by email no later than 15 April 2011.

7. Indicators to evaluate the consultant's performance:

- Timely submission and quality of the draft Evaluation Report as assessed by UNODC/JS staff.
- Timely submission and quality of final Evaluation Report as assessed by UNODC/JS and reviewed and cleared by UNODC/IEU.

8. Qualifications/expertise sought (required educational background, years of relevant work experience, other special skills or knowledge required):

The evaluator should have the following qualifications:

- An advanced university degree in law, international relations, political science, criminology or in a related field;
- A minimum of 10 years of professional experience in developing evaluation methodologies and carrying out independent evaluations (if possible, within the UN system), including in areas related to corruption/rule of law/criminal Justice/crime prevention/Institutional capacity building;
- Knowledge of United Nations rules, regulations and procedures, particularly United Nations Evaluation Group standards and norms for evaluation (recommended for evaluations undertaken within the UN system)
- Excellent drafting skills in English required;
- Good understanding of written French also required;

- Knowledge of criminal justice reform is an asset.

9. Payment terms:

The fee will be paid after the final report has been submitted and assessed by UNODC/JS as satisfactory in terms of quality.

B. List of persons interviewed and field visit schedule

Ms Miri Sharon, UNODC HQ
Ms Mia Spolander, UNODC HQ
Ms Marguerite Garling, The Governance and Justice Group (GJG), France
Ms Ricarda Amberg UNODC HQ
Mr Mark Shaw, UNODC HQ
Mr Simeon Koroma, Timap for Justice, Sierra Leone
Mr Zaza Namoradze, Open Society Institute, Hungary
Mr Clifford Msiska, Paralegal Services Institute (PASI), Malawi
Prof Tom Geraghty, University of Chicago, USA
Mrs Claudia Baroni, UNODC HQ
Mrs Susan Tatten, UNDP Liberia
Mr Riffat Makkawi, People's Legal Aid Centre, Southern Sudan
Mrs Natasha Maganga, PASI Malawi
Mr Alfred Munika, PASI Malawi
Mr Chimwewe Ndalahoma, PASI Malawi
Mr Charles Gibson, UNMIL
Mrs Aisser Al-Hafedh, UNODC HQ
Mrs Loide Lungameni, UNODC RO Kenya
Mrs Kersty McCourt, Open Society Justice Initiative, Belgium
Dr Hameed Eman, Southern Sudan (training participant)
Mr Arakangko Amato, Southern Sudan (training participant)
Mr Aggrey Nyapola, UNODC Southern Sudan
Mr Adam Stapleton, Portugal (lead consultant of the project)
Mrs Valentine Mulindwa, Uganda (consultant for Handbook)
Mr Cheikh Toure, UNODC DRC
Mrs Anne Louise Piel Christensen, Danish Institute for Human Rights
Prof Stephen Golub

C. List of reference documents

Terms of Reference for the Evaluation of UNDEF Project on Access to Legal Aid in Africa (supplied by UNODC HQ)

Project Document UNDEF Project Number UDF-RAF-07-134 with Annex I and II (Results Framework) (supplied by UNODC HQ)

UNDEF Project Budget, no date (supplied by UNODC HQ)

Application for UNDEF Funding, no date (supplied by UNODC HQ)

Project Idea – Access to Legal Aid in Africa, December 2007 (supplied by UNODC HQ, reflects first outline of the project)

Project Document UNODC Access to Legal Aid in Africa, 18 February 2008 (supplied by UNODC HQ; reflects an earlier version of the final project document)

Report from Advanced Post-Conflict Training of Trainers Workshop, 20 – 23 September 2010, Mvuu, Malawi, no date (supplied by UNODC HQ)

PASI Paralegal Action-oriented Coaching Programme (In Association with UNODC), South Sudan, Liberia, Sierra Leone, no date (supplied by UNODC HQ)

UNDEF Project Expenditure Report, 19 November 2009 (supplied by UNODC HQ)

UNDEF Expenditure Revised, March 2010 (supplied by UNODC HQ)

Two UNDEF Project Extension Request Forms, no dates (supplied by UNODC HQ)

Letter to the Minister of Justice and Attorney-General of Sierra Leone, 13 July 2010 (supplied by UNODC HQ)

Letter to the Minister of Legal Affairs and Constitutional Development of South Sudan, 13 July 2010 (supplied by UNODC HQ)

Letter to the Minister of Justice of Liberia, 13 July 2010 (supplied by UNODC HQ)

Draft UNDEF Proposed virement to establish a trained cadre of paralegals to develop paralegal advisory services in South Sudan, Liberia and Sierra Leone, with budget, no date (supplied by UNODC HQ)

UNDEF Project Evaluation Guidelines First Round

http://www.un.org/democracyfund/Docs/1RE_Guidelines_E.pdf

Draft Substantive Report UNDEF Project UDF-RAF-07-134 'Access to Legal Aid in Africa', by Clifford Msiska, Director of National PAS Institute, Malawi (supplied by UNODC HQ)

Draft Budget for Sierra Leone Training, two different versions, no date (supplied by UNODC HQ)

Draft Budget for Southern Sudan Training, no date (supplied by UNODC HQ)

Draft Budget for Liberia Training, two different versions, no date (supplied by UNODC HQ)

Integrated Programme for Southern Sudan, January 2011 – December 2015, Draft 6th March 2011 (supplied by UNODC HQ)

Various e-mail exchanges between L. Lungameni/UNODC and C. Msiska, spring 2008, on project design (submitted in scanned form by UNODC HQ)

Open Society Justice Initiative: Sierra Leone Paralegal Program Evaluation Underway

http://www.soros.org/initiatives/justice/focus/legal_capacity/news/timap-evaluation-20100510; Evaluation Overview at

http://www.soros.org/initiatives/justice/focus/legal_capacity/news/timap-evaluation-20100510/timap-paralegal-evaluation-20100521.pdf, May 2010

Maru, V. Between Law and Society: Paralegals and the Provision of Justice Services in Sierra Leone and Worldwide. *Yale Journal of International Law*, Vol. 31: 427, 2006. At <http://www.timapforjustice.org/news/>.

Dale, P. Barriers to Justice in Sierra Leone. *World Bank Justice for the Poor*, Volume 1, Issue 4, September 2007, at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/05/15/000333037_20080515030353/Rendered/PDF/436840BRI0J4P01Box0327368B01PUBLIC1.pdf.

Stapleton, A. Empowering the Poor to Access Criminal Justice: a Grass Roots Perspective. *Legal Empowerment Working Papers*, Paper 2, International Development Law Organization IDLO, 2010, at http://www.idlo.int/publications/LEWP/LEWP_Stapleton.pdf.

Websites:

The Governance and Justice Group, <http://www.governancejustice.org/>

Timap for Justice, <http://www.timapforjustice.org/>

International Centre for Criminal Law Reform and Criminal Justice Policy, <http://www.icclr.law.ubc.ca/>

United States Institute of Peace, <http://www.usip.org/>

Penal Reform International, <http://www.penalreform.org/>

International Development Law Organisation, <http://www.idlo.int/english/Pages/Home.aspx>