SUMMARY REPORT

UNITED NATIONS-WORLD BANK
KNOWLEDGE EXCHANGE WORKSHOP
ON RULE OF LAW SUPPORT

ORGANIZED BY
THE RULE OF LAW UNIT (RoLU) IN THE EXECUTIVE OFFICE OF THE UN SECRETARY-GENERAL
EUROPE AND CENTRAL ASIA REGION JUSTICE PRACTICE GROUP (ECA-JPG) OF THE WORLD BANK

NEW YORK
30 SEPTEMBER – 1 OCTOBER 2009
1. On 30 September and 1 October 2009, the Rule of Law Unit (RoLU) in the Executive Office of the Secretary-General in the United Nations (UN) and the Europe and Central Asia Region’s Justice Practice Group (ECA-JPG) of the World Bank (WB) organized a UN-WB Knowledge Exchange Workshop on Rule of Law Support in New York.

2. UN participants came from seven UN departments and agencies (Department for Political Affairs, Department for Peacekeeping Operations, Office for the High Commissioner on Human Rights, UN Development Programme, UN High Commissioner for Refugees, UN Fund for Women and the UN Office for Drugs and Crime), which are all part of the Rule of Law Coordination and Resource Group, a UN inter-agency coordination mechanism on rule of law, chaired by the Deputy Secretary-General. The WB was represented by staff and managers from the Europe and Central Asia Region, the Africa Region, Latin America Region and Legal Vice Presidency.

3. Areas for intensive collaboration and coordination were identified and a follow-up workshop will be held in the WB in mid-2010.

OVERVIEW OF APPROACHES TO RULE OF LAW

4. The workshop began with welcoming remarks and a brief overview of the approaches taken to rule of law support by the UN and WB respectively.

- **Speakers:**
  o Jamal Benomar, Director, Rule of Law Unit, Executive Office of the Secretary-General, UN
  o Ron Myers, Sector Manager, Public Sector and Institutional Reform Cluster, Europe & Central Asia Region, WB

- **Jamal Benomar** welcomed the participants and their wealth of expertise. He highlighted the ways in which the theme of rule of law is driving much of the UN’s work, as illustrated by efforts in about 120 countries and by 40 UN entities involved in some kind of rule of law activity. He explained that in recent years the different UN departments and agencies working on rule of law have moved towards a more coordinated UN approach with overarching principles and a common policy framework for rule of law assistance. A joint strategic plan for the years 2009-2012 includes joint programming in pilot countries. Sharing knowledge with other organizations, like the WB, and exploring ways to work together according to a coordinated and focused agenda are crucial to improve the quality of activities. **Ron Myers** thanked the UN for hosting the joint workshop. He described the WB’s involvement in governance and public sector reform over the past 20 years, during which legal and judicial reform activities have gained prominence. Despite both organizations’ different scopes and environments, they confront complex political economy challenges on judicial reform issues, work with limited resources, partner with numerous stakeholders, and face an increasing demand for supporting justice sector reform. In this context, it is essential to learn from and share knowledge with partner organizations such as the UN, and to work towards joint strategic solutions relevant for our clients, and to better monitor and improve results.

PANEL 1: PROMOTING RULE OF LAW REFORM

5. A panel presented selected knowledge products, research and emerging findings, as well as projects/operations promoting efficiency and good governance in institution-building, and reducing corruption in rule of law institutions. A facilitated discussion followed.

- **Moderator:** Marcia Kran, Director, Research and Right to Development Division, UN Office of the High Commissioner for Human Rights
• **Speakers:**
  o David Bernstein, Co-Chair, ECA-JPG and Senior Public Sector Specialist, Public Sector and Institutional Reform Cluster, Europe and Central Asia Region, WB
  o Lisa Bhansali, Senior Public Sector Specialist, Africa Region, WB
  o Stuart Gilman, Deputy Director Stolen Asset Recovery Initiative (StAR), and Senior Advisor, UN Office on Drugs and Crime (UNODC)
  o Phil Matsheza, Policy Advisor Anti-Corruption, Democratic Governance Group, Bureau for Development Policy, UN Development Programme (UNDP)
  o Anne-Marie Goetz, Chief Advisor, Governance, Peace and Security, UN Fund for Women (UNIFEM)

  Lisa Bhansali and David Bernstein introduced the participants to the history of WB involvement in judicial reform and offered examples of projects and components of this area. They echoed the need and current demand for partnerships with the UN, including through cooperation using Sector Wide Approaches (SWAps) or regional strategies, to continue to improve assistance to client countries in the future. Stuart Gilman presented *The Technical Guide to the UN Convention against Corruption*, stressing the Convention’s critical role as a global platform for over 140 countries to address corruption, a key issue for strengthening the rule of law. He gave a brief overview of the Stolen Asset Recovery (StAR) initiative, the first Headquarters-based joint UN/WB programme on a rule of law issue. Phil Matsheza spoke on UNDP’s lessons learned and programming approaches to reduce corruption in rule of law institutions, in particular the judiciary. He highlighted the difficulty of fighting corruption without putting at risk judicial independence. Anne-Marie Goetz highlighted that women experience corruption, poor governance, and rule of law differently from men in many respects and suggested ways to close the gender gap in service delivery, illustrated by an ongoing lack of public spending.

  Questions raised in the discussion included: the use of consultants; challenges of designing rule of law support so as to promote checks and balances between branches of the state; the benefit of SWAps; and how gender issues could be better addressed by the UN and WB.

**LUNCH: EMERGING RULE OF LAW RELATED FINDINGS FROM THE 2008 EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT / WORLD BANK ‘BUSINESS ENVIRONMENT & ENTERPRISE PERFORMANCE SURVEY’ (BEEPS)**

6. A short presentation was made by Amit Mukherjee, Co-Chair, ECA-JPG and Lead Public Sector Specialist, Public Sector and Institutional Reform Cluster, Europe and Central Asia Region, WB, followed by Q&A, chaired by Jamal Benomar, Director, Rule of Law Unit, Executive Office of the Secretary-General, UN.

  Amit Mukherjee presented the use of surveys for justice sector reform and particularly the ways in which survey data could be used to track reform outcomes. He explored instruments such as: (i) the EBRD-World Bank Business Environment and Enterprise Performance Surveys (BEEPS); (ii) Investment Climate Assessments (ICA); (iii) Life in Transition Surveys (LiTS); and (iv) Doing Business Reports. Amit Mukherjee and Jamal Benomar moderated the discussion that followed, which focused on: (i) surveys based on actual experiences and those based on perceptions; (ii) survey methodology and challenges; (iii) how ranking of countries can create both positive and negative effects on reform efforts; and (iv) the ways in which hard data from robustly-designed surveys can depoliticize issues such as corruption, promote fact-based policy dialogue and facilitate the search for relevant reforms whose impact could be tracked. An important point raised was that surveys are only one instrument among many in measuring reform impact.
**Panel 2: Support for Rule of Law in Fragile and Post-Conflict Situations**

7. Panelists reviewed knowledge products, lessons learned and good practices on rule of law work in fragile and post-conflict settings (including police reform and transitional justice) and the UN and WB roles and perspectives respectively. Judge Evan Wallach, US Court of International Trade, facilitated the discussion.

- **Moderator:** Judge Evan Wallach, United States Court of International Trade, New York
- **Speakers:**
  - Ann-Marie Orler, Deputy Police Advisor, Police Division, Office for Rule of Law and Security Institutions, UN Department for Peacekeeping Operations (DPKO)
  - Marcia Kran, Director, Research and Right to Development Division, UN Office of the High Commissioner for Human Rights (OHCHR)
  - Djordje Djordjevic, Rule of Law, Justice and Security Adviser, Rule of Law, Justice & Security Unit, Bureau for Crisis Prevention and Recovery, UNDP
  - Lisa Bhansali, Senior Public Sector Specialist, Africa Region, WB
  - Heike Gramckow, Senior Counsel, Legal & Judicial Reform Practice Group, Legal Vice-Presidency, WB

- **Ann-Marie Orler** outlined that the UN’s programmatic approach to support national police development focuses on building institutional and individual integrity, and institutional capacity. In support of these efforts, UN police in DPKO assists with: (i) development of policies and strategies for the police; and (ii) provisional management including personnel deployment by Member States to UN police in peace operations. She highlighted progress in the move towards understanding police as a service rather than a force. **Marcia Kran** presented UN policy with regard to transitional justice mechanisms, illustrated in the Rule of Law Tools publication series (e.g. on truth commissions, hybrid tribunals, amnesties). These provide guidance for ensuring that transitional justice issues are adequately addressed in peace agreements, constitutions and other legal instruments and processes. She pointed to a recent study which indicates that countries increasingly incorporate transitional justice mechanisms in peace agreements and implement such mechanisms in practice. **Djordje Djordjevic** explained how protection and the rule of law are closely linked in early recovery contexts. Beyond institutional and capacity strengthening, UNDP’s Global Programme on Justice and Security thus focuses on improving security and access to justice, especially for vulnerable and marginalized groups. Partnerships within the UN and outside are particularly essential for effective assistance to reform efforts in such fragile contexts. **Lisa Bhansali** and **Heike Gramckow** presented case study analyses of the WB’s work in post-conflict Liberia and the Balkans respectively, outlining challenges and successful solutions. Both stressed the importance of a government-owned reform strategy and appropriate approaches for successful reforms, including having a long term horizon.

- The interactive discussion between the panel and the other participants raised various issues, including: (i) the challenges and means to initiate a rule of law reform in conflict-affected or post-conflict settings; and (ii) how to strengthen cooperation as the WB enhances its engagement in such settings.

**Panel 3: Justice Sector Service Delivery: Access to Justice, Financing, Monitoring**

8. Participants explored stakeholder engagement strategies, programming approaches, and exchanged lessons learned on strengthening access to justice and service delivery in both formal and informal justice systems. A facilitated discussion followed.

- **Moderator:** Anthony Toft, Chief Counsel, East Asia and the Pacific and South Asia Regions, Legal Vice-Presidency, WB
- **Speakers:**
  - Dominique Bichara, Senior Counsel, Europe, Central Asia, Middle East and North Africa Region, Legal Vice-Presidency, WB
  - David Varela, Senior Public Sector Specialist, Latin America and the Caribbean Region, WB
  - Nina Berg, Justice Advisor, Democratic Governance Group, Bureau for Development Policy, UNDP
This panel analyzed the diversity of issues relating to justice sector service delivery and how to engage stakeholders beyond the judiciary. Challenges include the numerous stakeholders in the field (e.g. donor entities, bilateral and multilateral organizations) and an increasing demand from client countries for comprehensive programmes. The panel also focused on the need to engage in iterative stakeholder consultations, so as to ensure strong ownership and help manage expectations for client countries when providing justice services. Dominique Bichara spoke on access to justice and service delivery in the Middle East and North Africa, highlighting positive experiences with a policy-based lending approach in Morocco, which has allowed for flexibility and solid partnerships with other actors. David Varela outlined lessons learned on legal and justice reform in the Latin America and Caribbean region, where numerous stakeholders are engaged in this field. He pointed to an emerging trend towards more performance-based instruments and commitments as well as WB activities on criminal justice issues at the specific request of country governments. Nina Berg highlighted the rapidly growing demand for projects on human rights and justice, and outlined UNDP’s approach to access to justice, which revolves around inclusive, bottom-up needs assessments and seeks to improve the effectiveness of aid in the justice sector. An ongoing joint UNDP/UNICEF/UNIFEM Study on Informal Justice Systems aims to determine challenges and opportunities for rule of law programming associated with such systems. Wei-Meng Lim-Kabaa explained how UNHCR works with entities and organizations on strategies and approaches to ending statelessness and improving access to justice.

**Panel 4: Actionable Performance Indicators for the Justice Sector – Approaches and Challenges**

Panelists reviewed the state of the field of measuring rule of law development and the impact of assistance in this field of work, ongoing initiatives by the UN, the WB and other actors, as well as approaches to incentivize governments to adopt such indicators.

- **Moderator:** Andy Vorkink, former Country Director, WB
- **Speakers:**
  - Robert Pulver, Chief of Criminal Law and Judicial Advisory Section, Office for Rule of Law and Security Institutions, DPKO, UN
  - Steven Malby, Research Officer, Statistics and Surveys Section, Policy Analysis and Research Branch, UNODC
  - Amit Mukherjee, Lead Public Sector Specialist, Public Sector and Institutional Reform Cluster, Europe and Central Asia Region, WB
  - Klaus Decker, Counsel, Legal and Judicial Reform Practice Group, Legal Vice-Presidency, WB

- **Andy Vorkink** introduced measuring results as one of the most difficult and important aspects of rule of law work. He stressed that rule of law practitioners must consider a wider range of issues, including government budgets, the use of donor funds, and the pressure on governments to undertake high-priority activities. After many years of experience, the rule of law community must improve the measuring of progress towards objectives, to alleviate skepticism of the international donor community and to show that investments for strengthening the rule of law warrant continued support over other policy areas competing for funding. Robert Pulver highlighted the existing challenges associated with the use of indicators and pointed to the lack of comprehensive and reliable data in post-conflict states. The UN Rule of Law Indicators Project seeks to address this through the development of a set of indicators that are meant to be flexible, easy to use and cost-effective in their implementation. Steven Malby discussed the difficulties of generating reliable statistics to measure crime and the response of the criminal justice system at national and international levels. He identified two main aspects of criminal justice statistics: (i) the assessment of the underlying criminal system; and (ii) the assessment of the system response and
performance. UNODC’s strategic priorities include a focus on strengthening the capacity of countries to respond to requests for internationally comparable statistics on law enforcement and criminal justice through increased country-level technical support especially in low-capacity countries.

- Amit Mukherjee examined the role of actionable indicators within the global setting and explored horizontal challenges, including managing for results, capacity development, fostering “south-south” learning and integrating sectoral approaches, in addition to conceptual challenges. He outlined the extensive collaboration of ECA-JPG with other organizations, including the European Commission, the Council of Europe, Regional Development Banks, UN agencies and OECD judiciaries. Klaus Decker discussed the challenges of measuring progress in justice sector reform. He emphasized that indicators must be measurable, achievable, specific, relevant and time-bound, but that data may be both objective (e.g., administrative data and empirical research) and subjective (e.g., surveys, perception and expert opinions). He also shared a summary of a variety of analytical tools used by the WB and concluded that evaluating justice systems requires a multi-disciplinary skill set, a sound data mix and the ability to utilize existing data so as not to “reinvent the wheel”.

- A lively discussion followed on effectively utilizing indicators on the ground. Participants discussed how to best address the lack of capacity in client countries to collect and communicate the results of data, the tension between measuring “justice” versus measuring service delivery, and the necessity to constrain the costs of using actionable indicators. It was emphasized that indicators should not be excessively ambitious in the justice sector.

**WRAP UP: NEXT STEPS IN UN-WB COOPERATION ON RULE OF LAW**

10. Participants suggested concrete next steps to collaborate in the future, potential joint activities and the continuation of knowledge exchange, building on workshop discussions.

- **Co-chairs:**
  - Jamal Benomar, Director, Rule of Law Unit, Executive Office of the Secretary-General, UN
  - Ron Myers, Sector Manager, Eastern Europe & Central Asia Public Sector and Institutional Reform, WB
  - Ferid Belhaj, WB Special Representative to the UN

- Jamal Benomar highlighted the fruitful exchange and the complementary strengths of the two organizations. He emphasized that the UN and the WB should continue to strengthen their partnership on rule of law. Ron Myers summarized the rich discussion and lessons learned by both the WB and UN, including internal working dynamics of each organization and the challenges each faces. He emphasized that synergies can surely be created in a number of areas and lessons learned must be exchanged, and concluded that international organizations must work cooperatively, rather than independently to achieve successful outcomes. Ferid Belhaj underlined the importance of political support from Member States for UN-WB cooperation on rule of law and suggested it could be discussed at the level of the Chief Executives Board. He expressed confidence that the Executive Directors of the WB would be very interested in joint WB-UN initiatives in this field.

- In the subsequent discussion, participants highlighted that despite the differences in the mandates of the two organizations, many lessons learned can be applied to both institutions. Knowledge and information sharing is a particular area in which collaboration can be strengthened.

- The following concrete measures were considered for follow-up:
  - Membership of the WB in the UN Rule of Law Coordination and Resource Group;
  - Participation in upcoming WB and UN learning and knowledge sharing events;
  - Joint action on rule of law in the field, for example through a country-specific pilot WB-UN initiative;
  - Joint scoping/assessment missions;
  - Follow-up workshop at the WB in mid-2010.