



PRIMERS IN GENDER AND DEMOCRATIC GOVERNANCE #2

# Gender Equality and Justice Programming: Equitable Access to Justice for Women

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**2. GENDER EQUALITY AND  
JUSTICE PROGRAMMING: EQUITABLE  
ACCESS TO JUSTICE FOR WOMEN**

This primer outlines the major obstacles and barriers women face in accessing justice and suggests strategies and interventions to overcome these challenges. Gender mainstreaming is not a goal in itself, but rather a strategy towards achieving equality between men and women. The majority of this primer focuses on women's access to justice and the social relationships between men and women that disadvantage women and hamper this access.

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The other four primers in the Primers in Gender and Democratic Governance Series are:

- Quick Entry Points to Women's Empowerment and Gender Equality in Democratic Governance Clusters
- Gender Equality and Electoral Funding Mechanisms



- Corruption and Gender Relations: Five Dimensions for Democratic Governance
- Gender Responsive E-Governance: Exploring the Transformative Potential

These resources are framed by the human rights-based approach to development, which now informs the work of the UN development system (see the Quick Entry Points primer for a discussion of the approach and what it means for gender equality work).

UNDP intends for these primers to contribute to the empowerment of women and the advancement of gender equality through democratic governance. We encourage colleagues to continue to share their experiences and ideas through [dgp-net@groups.undp.org](mailto:dgp-net@groups.undp.org), the electronic discussion network serving UNDP democratic governance practitioners.

# Acronyms and Definitions

## Gender

The social attributes associated with being male and female and the relationships between women, men, girls and boys, as well as the relations between women and those between men. These attributes and relationships are socially constructed and are learned through socialization. They are context- and time-specific and changeable. Gender is part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age (UN/OSAGI, n.d.). The concept of gender also includes the expectations about the characteristics, aptitudes and likely behaviours of both women and men (femininity and masculinity). The concept of gender, applied to social analysis, reveals how women's subordination (or men's domination) is socially constructed. As such, the subordination can be changed or ended. It is not biologically predetermined nor is it fixed forever (UNESCO, 2003).

## Gender relations

The social relationships between men, women, girls and boys, which shape how power is distributed between women, men, girls and boys and how that power translates into different positions in society. Gender relations vary depending on other social relations, such as class, race, ethnicity, etc. They will greatly impact how an individual man or woman experiences processes and institutions such as trials and courts and how they interact with other individuals within those institutions.

## Gender mainstreaming

“The process of assessing the implications for women and men of any planned action,

including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetrated. The ultimate goal of this strategy is to achieve gender equality” (UN/ECOSOC, 1997).

## Gender equality

The equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities

### ACRONYMS

<b>BCPR</b>	Bureau for Crisis Prevention and Recovery
<b>BDP</b>	Bureau for Development Policy
<b>CEDAW</b>	The Convention on the Elimination of All Forms of Discrimination Against Women
<b>DEVAW</b>	Declaration on the Elimination of Violence Against Women
<b>DGG</b>	Democratic Governance Group
<b>FSU</b>	Family Support Unit
<b>GBV</b>	Gender-Based Violence
<b>ICC</b>	The International Criminal Court
<b>ICTR</b>	International Criminal Tribunal for Rwanda
<b>ICTY</b>	International Criminal Tribunal for the Former Yugoslavia
<b>MDGs</b>	The Millennium Development Goals
<b>NGO</b>	Non-Governmental Organization
<b>SADC</b>	South African Development Community
<b>UNDP</b>	United Nations Development Programme
<b>UNIFEM</b>	United Nations Development Fund for Women
<b>UNODC</b>	United Nations Office on Drugs and Crime

of both women and men are taken into consideration, recognizing the diversity of different groups of women and men (UN/OSAGI n.d.).

### **Gender equity**

The process of being fair to men and women. To ensure fairness, measures must often be put in place to compensate for the historical and social disadvantages that prevent women and men from operating on a level playing field. Equity is a means—equality is the result (UNESCO, 2003).

### **Gender analysis**

The collection and analysis of sex-disaggregated information. Men and women perform different roles in societies and within institutions, such as police forces and courts. These differing roles lead to women and men having different experiences, knowledge, talents and needs. Gender analysis explores these differences so that policies, programmes and projects can identify and meet the different needs of men and women. Gender analysis also facilitates the strategic use of the distinct knowledge and skills possessed by women and men, which can greatly improve the long-term sustainability of interventions (UNESCO, 2003).

### **Gender neutrality**

An assumption that development interventions will benefit men and women equally, leading to a failure to analyse and plan for the social relationships between men and

women and how those relationships will impact programming.

### **Gender justice**

“The protection and promotion of civil, political, economic and social rights on the basis of gender equality. It necessitates taking a gender perspective on the rights themselves, as well as the assessment of access and obstacles to the enjoyment of these rights for women, men, girls and boys and adopting gender-sensitive strategies for protecting and promoting them” (Spees, 2004). Much of the broader gender justice agenda falls outside the scope of UNDP Access to Justice programming. However, increasing women’s access to justice, be it formal or informal, hinges on removing economic, political and social barriers to participation, as articulated by the gender justice agenda (UNIFEM & ILAC, 2004).

### **Gender-based violence (GBV)**

A generic term used to describe any harmful act perpetrated against an individual against his or her will based on his or her socially defined identity as male or female (UN, 2005). The UN General Assembly defined violence against women in the 1993 Declaration on the Elimination of Violence Against Women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private” (UN, 1993).

“ Gender is defined as the social attributes associated with being male and female and the relationships between women, men, girls and boys, as well as the relations between women and those between men.”

# Introduction

The engagement of UNDP in Strengthening Responsive Governing Institutions (DGG—Cluster II), as defined in the *Access to Justice Practice Note* (UNDP, 2004) aims at supporting justice and related systems to ensure that they work for the poor and disadvantaged. Depending on whether individuals are men or women, poor or disadvantaged, everyone requires different services from the justice system and encounters different barriers when accessing such services. There is a long history of activism and academic inquiry into the different ways in which men and women experience legal and judicial institutions, however, much of this knowledge has not yet impacted programming initiatives.

By and large, women have less access to and ownership of judicial processes because of their marginalized status *vis á vis* men in most societies. In addition to state-sponsored or condoned discrimination against women, women are marginalized from the justice system because injustices against women are much more likely to occur in private than injustices against men. Also, men are likely to mediate women's access to state institutions due to unequal power relations in the home, at work or in the State (Charlesworth & Chinkin, 1994). In order to ameliorate the gender disparities in access to justice, attention and resources need to be allocated to resolving this marginalization and improving women's ability to access justice mechanisms.

Equitable justice requires both the removal of harmful laws and practices, and ensuring that women are empowered to claim their rights (Nussbaum, 2001). Despite the fact that more member states have signed the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) than any other UN Convention (UN/DAW, n.d.), gender inequalities and discrimination against women persist in every part of the



world. It is necessary for UNDP programming in the area of gender and justice to focus on creating an enabling legal and policy environment and to devise appropriate means of support for women and men so they can equitably access the judicial system.

“ UNDP must ‘mainstream’ gender analysis into all programmes and carry out gender-related activities as a part of every initiative it undertakes. At the same time, specific programmes and initiatives need to target women in order to build women’s capacity, reduce obstacles to access, and compensate for centuries of discrimination against women in the political and justice spheres.”

This primer outlines the major obstacles and barriers that women face in accessing justice and suggests strategies and interventions to correct this disparity. Gender mainstreaming is not a goal in itself, but rather a strategy towards achieving equality between men and women. The majority of this primer focuses on women and the social relationships between men and women that disadvantage women. While men have their own positive and negative gender-specific experiences of the justice system, in general, women are more likely to be marginalized from justice mechanisms. Given women’s extremely unequal access to power, resources, information and discourse, one cannot assume that gender-neutral policies and programmes will equi-

women’s rights, justice and human rights, noting overarching gaps and highlighting best practices. Section 4 analyses the types of gender-aware support offered by UNDP and makes recommendations for closing the existing gender gap in specific interventions and for ensuring that everyone enjoys the benefits of access to justice initiatives.

This primer advocates a two-fold approach to programming. On the one hand, UNDP must ‘mainstream’ gender analysis into all programmes and carry out gender-related activities as a part of every initiative it undertakes. At the same time, specific programmes and initiatives need to target women in order to build women’s capacity,

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