

ABA-UNDP  
International Legal Resource Center

# 2005 ANNUAL REPORT



## **ABA/UNDP International Legal Resource Center (ILRC)**

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### Annual Activity Report: January 1 – December 31, 2005

#### Executive Summary

During 2005, the sixth year of its operation, ILRC witnessed again a steady number of UNDP requests for services. ILRC received and responded to 39 requests for legal expertise and assistance from 23 UNDP program countries, including 23 requests for identification of legal experts, 11 requests for provision of legal information and legal research, and four requests for legislative assessments of draft laws. These requests came from UNDP Headquarters as well as UNDP Country Offices in Asia, Africa, Latin America, and Central and Eastern Europe and the Newly Independent States.

The substantive legal areas involved in these requests ranged from environmental law to commercial law, labor law, juvenile justice, anti-corruption, judicial administration, and post-conflict reconstruction.

Of particular note is that ILRC received and responded to an increasing portion of UNDP requests for on-line and desktop legal research and provided UNDP Country Offices as well as the Headquarters with timely advisory inputs on model laws and other legal information. Research and advisory comments are maintained in the ILRC archives and can be released upon request.

ILRC has integrated effectively into the UNDP network system, responding to queries launched through networks for Democratic Governance; Conflict Prevention and Recovery; Human Rights Policy; Information and Communications Technology for Development; Poverty; and Decentralization/Local Government/Urban and Rural Development. This close collaboration led to the ILRC being one of the top 10 contributors to the Democratic Governance network in 2005. ILRC additionally maintains close working relationships with UNDP Country and Regional Offices.

ILRC also continued to coordinate and compile legislative assessments of national draft laws at the request of UNDP Country Offices and their host governments. This type of service, developed since 2001 with the potential to bring great benefits to UNDP and its member countries, can be best exemplified by the continuous collaboration of ILRC with UNDP/Viet Nam in providing the national government with international assessment and advice as it strives to enact and revise various laws and pieces of legislation. Considering the very positive feedback from the national government of Viet Nam, we hope more UNDP Country Offices will utilize

ILRC expertise in this type of service in realizing UNDP's goal to provide more advisory services to its host governments in programme countries in the coming years.

To date, nearly 1200 legal experts from around the world are registered with ILRC, of whom 45 percent are non-US attorneys from 89 countries and with more than 75 primary working languages. ILRC-registered experts, 34 percent of them female, are attorneys, judges, court administrators, government and corporate counsels, and law professors, who have an average of 17 years of legal experience. A majority of ILRC-recommended experts provide their services to UNDP and its member countries on a pro bono basis.

ILRC maintains a webpage at [www.abanet.org/intlaw/ilrc](http://www.abanet.org/intlaw/ilrc), where an on-line expert registration form is available. The ILRC webpage includes examples of past projects and a "Volunteer Corner" where attorneys who have assisted in UNDP projects could share their experiences with peers. The ILRC webpage has been regularly rated The Most Frequently Visited Site of the ABA Section of International Law (SIL) since 2001.

The sustained programmatic growth of ILRC stemmed largely from its earlier successful activities and the greater knowledge about ILRC within UNDP. Led by the UNDP members of the ILRC Steering Committee, UNDP's internal efforts to raise the level of awareness about ILRC and to elevate the visibility of ILRC in each Country Office contributed significantly to the increase in ILRC activities. The UNDP 2003 Annual Report in fact highlighted ILRC as one the most mutually beneficial partnerships in the UNDP family.

Other ILRC programmatic activities in 2005 included: 1) publishing a Five-year report of which over 1500 copies have already been distributed to attendees of ABA and IBA meetings interested lawyers, UNDP workshop participants, and international visitors; 2) participation in the "ABA Day at the UN" on March 29th; and 3) celebration of the Five-Year Anniversary of the ILRC during the ABA Annual Meeting in Chicago.

This programmatic report consists of three portions: an Overview; Highlights from Select Projects; and Views from the Field. The Overview provides a list of all projects in which the ILRC has assisted UNDP during 2005, including expert recommendation, provision of legal information, and legislative assessments. Highlights presents summaries of individual projects, including information on outputs delivered directly to the UNDP country offices. Views contains select commentary from UNDP staff on services rendered by the ILRC and expert volunteers. An additional segment, entitled Voices of the Volunteers, will be made up of the experiences of individuals working on ILRC projects. A selection of these pieces, which are currently being reviewed, will be submitted as an addendum to the report.

**Overview: January – December 2005**

UNDP Country/Bureau*	Forms of Assistance Provided	Substantive Legal Field	Date	Status
Viet Nam	Legislative Assessment	Environmental Protection	January	Delivered
Serbia	Provision of Legal Information	Property Restitution	January	Delivered
Cambodia	Identification of Legal Experts	Anti-Corruption	January	Pending
Lao PDR	Identification of Legal Experts	International Treaty Accession	January	Not Selected
<i>Turkey</i>	Provision of Legal Information	Basic Income Support	February	Delivered
Timor Leste	Identification of Legal Experts	Parliamentary Procedure	February	Not Selected
<i>Armenia</i>	Identification of Legal Experts	Lobbying Regulation	February	Pending
Benin	Provision of Legal Information	Labor Law	February	Delivered
Viet Nam	Legislative Assessment	Unified Enterprise	March	Delivered
Viet Nam	Identification of Legal Experts	Police Administration	March	Pending
Viet Nam	Identification of Legal Experts	Criminal Code	March	Selected
<i>Morocco</i>	Provision of Legal Research	Civil Service	April	Delivered
<i>Afghanistan</i>	Identification of Legal Experts	Human Rights; Civil Society	May	Pending
<i>Bosnia</i>	Identification of Legal Expert	Truth and Reconciliation Strategies	May	Pending
<i>Bosnia</i>	Provision of Legal Research	Truth and Reconciliation Strategies	May	Delivered
Kyrgyzstan	Identification of Legal Expert	Constitutional Law	May	Pending

Serbia	Identification of Legal Experts	Assessment and Formulation – Justice Reform	June	Not Selected
Serbia	Identification of Legal Experts	Judicial Training	June	Not Selected
Viet Nam	Identification of Legal Experts	Lawyers Association Assessment	June	Selected
Viet Nam	Legislative Assessment	Common Investment Law	June	Delivered
Nepal	Identification of Legal Experts	Judicial Human Resources	June	Pending
<i>Lao PDR</i>	Provision of Legal Research	Civil Service Pay Grades	June	Delivered
<i>Sao Tome &amp; Principe</i>	Identification of Legal Experts	Governance	June	Project Canceled
Serbia	Identification of Legal Experts	Magistrates project support	June	Selected
Congo, D.R.	Identification of Legal Experts	Justice Sector Reform	July	Pending
<i>Mozambique</i>	Identification of Legal Experts	Labor Law	July	Not Selected
Viet Nam	Legislative Assessment	Anti-Corruption Law	July	Delivered
Angola	Identification of Legal Experts	Justice Sector	August	Pending
Latin America & Caribbean SURF	Identification of Legal Experts	Class Action Lawsuits	August	Selected
Nepal	Provision of Legal Research	Dispute Mediation	September	Delivered
<i>India</i>	Provision of Legal Research	Labor Law	September	Delivered
Belarus	Identification of Legal Experts	Legislative Drafting/ Impact Assessments	September	Not Selected
<i>China</i>	Identification of Legal Experts	Property Tax	September	Pending

Moldova	Identification of Legal Experts	International Treaty Reporting	September	
<i>Liberia</i>	Provision of Legal Research	Judicial Discipline	October	Delivered
Latin America & Caribbean SURF	Identification of Legal Experts	Public Defense	October	Pending
UNDP Headquarters	Research Project	Political Party Law	October	Ongoing
<i>India</i>	Provision of Legal Research	Access to Justice	November	Delivered
<i>Lithuania</i>	Provision of Legal Research	Juvenile Justice	December	Delivered

\*Country names in italics denote a request that was received through SURF network. The un-italicized country names denote a direct request to the ILRC from a UNDP office.

#### BREAKDOWN OF REQUESTS

**Total Requests: 39**

**Identification and Recommendation of Experts: 23**

**Legal Research/Provision of Legal Information: 11**

**Legislative Assessments: 4**

**Other: 1**

**Status Known: 23**

**Status Unknown: 11**

**Origin: Countries:** *Afghanistan*, Angola, *Armenia*, Belarus, Benin, *Bosnia*, Cambodia, *China*, Congo D. R., *India*, Kyrgyzstan, *Lao PDR*, *Liberia*, *Lithuania*, Moldova, **Morocco**, *Mozambique*, Nepal, **Sao Tome & Principe**, Serbia, *Timor Leste*, **Turkey**, Viet Nam

Offices: UNDP Headquarters, Latin America and Caribbean SURF

**Number of Countries: 23**

## Highlights from Selected Projects

### **Benin**

#### Labor Law

In January, UNDP contacted the ILRC to request assistance in answering a query from Benin on the harmonization of legislation for civil servants and contractual state workers. The country office was particularly interested in the status of contract employees who were granted separate rights from tenured servants. Within six business days of receiving the request, the ILRC responded with a report including information from International Labour Organization and the World Bank on international practice and examples of legislative regimes from countries around the world, especially those in Francophone Africa. The examples highlighted systems where both types of workers were treated in a single piece of legislation and those where separate laws were in place.

### **India**

#### Employment Guarantees

In September, the ILRC received a query from UNDP/India on employment guarantee mechanisms. After the government passed nationwide law providing for limited employment for a member of every household, additional information was sought on what programs and institutions could best carry out this mission. The ILRC prepared and sent a memo on mechanisms for encouraging employment among the poor and recommendations based on successful employment guarantee systems. Additionally, examples of the challenges faced by developing countries which had undertaken similar policies were provided.

### **Lao PDR**

#### Civil Service Pay

The ILRC received a query from UNDP/Lao PDR requesting comparative experiences on civil servant pay scales from Less Developed Countries (LDC) around the world. Within twelve business days of receiving the request, the ILRC responded with a table of listing the pay scales for civil servants and ministers from over 25 countries. A report prepared earlier for UNDP/Serbia on civil service structures in Central and Eastern Europe, which in some cases contained salary scales, was also forwarded.

### **Latin America and Caribbean SURF**

#### Mass Litigation/Class Action

UNDP/Latin America and Caribbean SURF contacted the ILRC to request assistance in locating a speaker for the First Iberoamerican Conference on Access to Justice held in Santiago, Chile. The Conference, organized by UNDP and the Ministries of Justice from several Latin American states, sought to exchange knowledge and ideas on how to best to meet the legal needs of their citizens. UNDP, as one of the organizers of the program, saw the importance of including the American experience with public interest law, especially class actions, which are not generally utilized in the region. Additionally, because of the audience it was essential that the expert have a high degree of Spanish fluency, the working language for the Conference. After an extensive search, the ILRC recommended five candidates with excellent knowledge of class action law. The expert selected by UNDP had over 20 years of experience in law and spoke fluent Spanish. She traveled to Santiago in late October to participate in the conference.

### **Liberia**

## Judicial Discipline

In October, the ILRC received a query from UNDP/Liberia on comparative practices in mechanisms for judicial discipline. The information would support the Country Office's efforts to undertake an assessment of disciplinary procedures in Liberia, which has struggled with issues of accountability and corruption. Within eight work days the ILRC prepared and sent a memo on codes of conduct, judicial commissions, and proscriptive legislation from countries such as Canada, Nigeria, and South Africa.

## **Lithuania**

### Juvenile Justice

In December, UNDP/Lithuania requested information on international training programs on Juvenile Justice. UNDP planned to incorporate these practices into a project which would provide a comprehensive course on Juvenile Justice for professionals in the legal and social spheres. The ILRC prepared a comprehensive report on Juvenile Justice resources in the United States, including youth advocacy programs, educational programs, and training materials available online. Additionally, contact information for trainers and program managers was provided to be of further assistance to the project. In January 2006, the Country Office followed up with a request for consultants to help evaluate the current situation and design the new Juvenile Justice program. Within two work weeks, the ILRC identified and recommended six experts with extensive experience, many of whom had already worked in the region.

## **Morocco**

### Civil Service

The ILRC received a query from UNDP/Morocco for experiences of governments on downsizing the civil service. UNDP was particularly interested in reform schemes that would reduce employees without affecting key sectors such as healthcare and education. Within three work weeks, the ILRC delivered a report which discussed the methods pursued by Jordan, Brazil, and the Philippines. Voluntary severance, employment freezes, and attrition policies were recommended.

## **Nepal**

### Justice System Reform

In November, UNDP/Nepal contacted the ILRC for assistance in locating a pro-bono consultant for its legal and judicial component. The consultant would undertake a review of the current programming and consult with government and other national stakeholders and afterwards prepare a draft program document for the country offices work in this sector during the next three years. In response, the ILRC identified 8 candidates with an average of over 25 years of experience in law. The selected expert had taught, published, and consulted widely in human rights, gender, and comparative law and previously lived in South Asia.

## **Serbia**

### Magistrates Courts

In June, UNDP/Serbia contacted the ILRC to request assistance in locating a consultant for an evaluation of a project aimed at strengthening the system of misdemeanors and magistrates courts. The focus on the project was to encourage the professionalization of the magistrates through improved training and regulation. The consultant would review the project and develop indicators and benchmarks for tracking the effectiveness of the program. Within 3 weeks, the

ILRC identified 5 candidates with legal and judicial reform in the region. The selected expert had 19 years of experience in law with a focus on judicial education and reform.

### Restitution of Property

The ILRC was contacted by UNDP to request information regarding the restitution of property in Central and Eastern Europe where many socialist governments had pursued nationalization of private property. Within 5 work weeks the ILRC compiled information on the varied experiences of fifteen countries in the region that implemented or were considering a policy on property restitution. Among the many issues addressed were eligibility for claiming restitution, proof requirements, communal claims, and alternative compensation. Where available, copies of legislation in English or a national language were provided for comparative purposes.

## **Turkey**

### Basic Income Support

In February, the ILRC received a query from UNDP/Turkey requesting examples of basic income support legislation. The government of Turkey was at the time considering legislation providing basic income support as a possible poverty reduction strategy. Within eight work days the ILRC prepared and sent a memo with summaries of the diverse experiences of four countries, as requested in the query: Brazil, Portugal, South Africa, and Spain. The information was translated and shared with the government, civil society, and the media.

## **Viet Nam**

### Law on Environmental Protection

UNDP/Viet Nam contacted the ILRC to perform a legislative assessment of the draft Law on Environmental Protection which was being prepared for the consideration of the National Assembly. Within six work weeks, UNDP/Viet Nam was provided a compiled report containing extensive comments from six experts providing substantive comments and recommendations on standards, planning, liability, protection activities, and sustainable development. The final draft law was approved in November.

### Enterprise Law

In March, UNDP/Viet Nam requested the assistance of the ILRC in reviewing the draft Enterprise Law. The new law would replace previous laws which dealt separately with businesses by nationality and by ownership type. Within five work weeks, the ILRC delivered a report with comments from ten pro-bono commentators. Beyond overall assessments of whether the draft law meets its purpose, the volunteers commented on specific articles or concepts that should be added or removed, the layout of the law, specific language, and international norms. The law was approved by the National Assembly in November 2005 and will go into effect in July 2006.

### Criminal Code Implementation

In March, UNDP/Viet Nam requested the assistance of the ILRC in selecting a pro bono volunteer to conduct workshops on the revised criminal procedure code for select judges who would be taking on extended jurisdiction in this area. Additionally, the inclusion of experts from adversarial systems was specifically sought in order to best teach those aspects which have been newly instituted in the Vietnamese legal system. Within eight working days, the ILRC delivered a list of ten candidates including those from civil and common law systems. The selected expert was a judge with over 25 years of experience in law. In addition, to serving as the chair of the

DC Superior Court committee for the implementation of new federal rules of criminal procedure, he had traveled to Bhutan in 2002 to advise the government on legal reform.

#### VLA Assessment

UNDP/Viet Nam contacted the ILRC for assistance in locating a pro-bono consultant to support a capacity building project aimed at incorporation of the Vietnamese Lawyers Association into Rule of Law work in the country. Within eleven work days, the ILRC recommended nine candidates familiar with bar associations and international legal reform work. The expert selected by UNDP had extensive experience working with bar associations around the world, including China and Cambodia. She traveled to Viet Nam in August to perform the mission.

#### Law on Investment

In conjunction with the Enterprise Law, the ILRC was asked to conduct a legislation assessment of the Law on Investment for UNDP/Viet Nam. The intention of this new law is to provide new regulations for both foreign and domestic investment under one piece of legislation instead of the previous two. In consultation with UNDP, the ILRC selected ten pro-bono legal professionals (including attorneys, law professors, and international consultants) to draft comments on the scope of the law, relevance of provisions, and compliance with international norms. Within six work weeks, the ILRC provided a report containing substantive comments from the volunteers. The translated report was delivered to the drafting committee for consideration. The law was approved by the National Assembly in November 2005 and will take effect in July 2006.

#### Law Against Corruption

UNDP/Viet Nam contacted the ILRC in May to perform a desktop legislative assessment of the draft Law Against Corruption. The fight against corruption was identified as one of its highest priorities by the Government which hoped to spearhead its efforts with this new law. Upon receiving the draft law and supporting documents, the ILRC identified a team of three reviewers to provide comments and suggestions on the new law before submission to the legislature for approval. The final report was compiled and delivered to UNDP/Viet Nam less than four work weeks later with substantive comments from the experts on ethics, whistleblowing, disclosure, sanctions, and other important legal components used in the fight against corruption.

## Views from the Field

UNDP/Serbia and Montenegro has prioritized the Rule of Law and Access to Justice as one of the three main priority issues for 2005-2009 as reflected in the first United Nations Development Assistance Framework and UNDP's Country Programme Development document.

The Judicial Reform/Rule of Law Cluster portfolio includes a number of different projects entailing cooperation with the Ministry of Justice, the Constitutional Court and the Supreme Court, as well as all other judicial institutions in the country. In close cooperation with the Ministry of Justice of the Republic of Serbia and the Association of Magistrates, the Cluster established a project titled *Strengthening the System of Misdemeanours and Magistrates' Courts* aimed at reforming the magistrate system, ensuring independence and impartiality and contributing to a democratic state, based on the separation of powers.

Based on our previous positive experiences with the timely and comprehensive assistance, we have contacted ILRC to provide us with a list of experts to support the Development of Results, Indicators and Benchmarking Mission for the particular project.

We have received fully professional assistance that displayed an assessment orientation by identifying the strategic needs for expanding the UNDP interventions in the field as well as addressing the needs of beneficiaries to the full extent. The consultants provided by the ILRC adapted themselves to the team and to the task, matching UNDP requirements while being able to provide the expert opinions needed.

The support provided by the ILRC has been of exceptional value especially having in mind often short deadlines and the pool of qualified and experienced experts. We are looking forward to our future cooperation.

Olivera Puric  
Team Leader  
Judicial Reform/Rule of Law Cluster  
UNDP/Serbia and Montenegro

UNDP/Turkey extended a query to poverty network of UNDP in February 2005 to look into different legislative implementations on basic income support. This was a response to the Government of Turkey's attempt to design a basic income support scheme supported by relevant legislation. The Government was interested in studying good examples from other countries, which have experience in basic income support.

ILRC responded and offered assistance asking some clarifications on our query. In 10 days time, ILRC responded with brief summaries of the legal structure in South Africa, Brazil, Portugal and Spain. The report also included links to reference documents and other relevant resources. This report has been one of the main parts of the reply consolidated by the poverty network.

The consolidated reply recommended that a government should first carry out a number of background studies and look into various issues such as cost-benefit analysis (which has already been done for Turkey) and compatibility analysis. In addition, a national level ownership needs to be pursued among relevant social policy makers and implementers.

UNDP/Turkey translated the consolidated reply and shared with relevant government counterparts and non-government institutions for its advocacy purposes. UNDP shared the informative note with government institutions, Labor Syndicates, academicians and relevant Parliamentary Commission. In addition, poverty networks and policy partners of UNDP also used the information in building their own policy advice. Basic income support as well as models in different countries has been covered by the media through interviews with UNDP and by various articles in the newspapers. UNDP still works on this issue and advised the government to follow the steps that was suggested in the consolidated reply. Legislative change did not yet take place, but UNDP still carries on with its policy work building on the response it received from ILRC and poverty network.

Berna Bazayit  
Program Associate  
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UNDP/Turkey

UNDP/Viet Nam has received a number of supports from the ILRC over the past few years. This support has been highly appreciated by both UNDP Viet Nam and our government counterparts.

During the year of 2005 at our request, the ILRC assisted in our search for high quality experts to help the Supreme People's Court of Viet Nam to conduct two training courses on criminal justice and procedure, and to formulate a cooperation project supporting the capacity development for the Viet Nam Lawyers Association (VLA). Judge Russell F. Canan from the United States was selected as a resource person and a trainer for the courses. He was highly appreciated by UNDP/Viet Nam and the Supreme People's Court and the course participants. He did a great job introducing key elements of the adversarial system and comparing the advantages and disadvantages of the adversarial and inquisitorial systems of criminal justice, which was of importance for our government counterparts in further exploring possibilities to adapt advantages of the adversarial system in criminal litigation.

Ms. Andrea Redway, a Canadian Lawyer, was selected to lead the formulation mission of a UNDP funded project to support capacity development for the Viet Nam lawyers Association. Within a short period of the mission, she was able to lay out strategic areas of cooperation and provide an excellent draft project document for UNDP and VLA.

The two mentioned above supports from ILRC again have proved that the ILRC cooperation with UNDP has been very responsive and meaningful. ILRC has been always promptly responded to our requests. The candidates suggested by the ILRC have been of high relevance and high quality. The excellent work provided by the selected experts has proven the value of this partnership.

UNDP/Viet Nam will continue to advocate for this wonderful cooperation between the ABA and UNDP and looks forward to having a wider and deeper cooperation during the year of 2006.

Luu Tien Dung  
Programme Analyst  
Governance Program  
UNDP/Viet Nam

UNDP/Hanoi has worked with the ILRC for a number of years, and values highly the working relationship that has developed. In 2005, UNDP was active in supporting the government of Vietnam in preparing both a new Enterprise Law and an Investment Law. The two laws were passed, simultaneously, by Vietnam's National Assembly in late November 2005, and are intended to serve as the two principal pillars of a new legislative framework governing business activity in the country. Amongst other things, the two laws entail the merger of previously separate laws pertaining to the establishment and operations of domestic and foreign-owned businesses in Vietnam.

The Government's decision, made in early 2005, to complete drafting of the laws in time for submission and discussion at the National Assembly's November session, six months earlier than previously scheduled, entailed a marked acceleration in the whole drafting process. And as a consequence, inputs provided by UNDP and other members of the donor community needed to be focused and delivered in a prompt manner.

As part of its assistance, UNDP/Hanoi drew on the expert advice provided by ILRC to comment on drafts of both laws. The highly detailed and comprehensive comments provided in a number of consolidated reports from ILRC, containing guidance from multiple international legal experts, was of significant value. Not only were they of direct value to the members of the drafting teams, but the comments provided also helped inform the vigorous stakeholder debate that surrounded the development of the two laws.

Mr Nguyen Dinh Cung, head of the Enterprise Law drafting team, says: "We found the comments provided by the ILRC useful in our preparation of the new Enterprise Law, and they served as a valuable contribution to the extensive stakeholder discussions that preceded the law being passed."

Looking ahead, we look forward to working with ILRC in the future. In particular, now that the two business laws have been passed, attention will turn to the preparation of more than half a dozen implementing decrees needed to make the two laws a reality. UNDP/Hanoi will be providing assistance to the Government of Vietnam during this implementation phase, and very much looks forward to drawing on the expertise of ILRC in this regard.

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