



THE UN GLOBAL FOCAL POINT FOR POLICE, JUSTICE AND CORRECTIONS IS AT THE CROSSROADS

BY: LISA EJELÖV AND RICHARD ZAJAC SANNERHOLM

SUMMARY

- › *The GFP partnership is increasingly seen as having a clearer added value to delivery in the field, with joint structures and programming underway in several missions and non-mission settings.*
- › *For the GFP to become an effective and sustainable arrangement three main demands must be met; how to include other agencies, funds and programmes in more resource-effective ways; how to further institutionalise the arrangement and; how to harmonize the differences in 'doing business'.*
- › *Overriding these challenges is the missing link between assistance in the criminal justice area and the UN's broader rule of law agenda.*
- › *Member states must engage in frank and constructive dialogue with both DPKO and UNDP leadership as well as other UN agencies to address these issues and further strengthen the emerging community of practice.*
- › *The Security Council could help in further anchoring the GFP arrangement by referring to the GFP, in particular in relation to the establishment of new missions or when mandates are being renewed.*
- › *In relation to the Independent High Level Panel's review of peace operations, the GFP shows how the UN can (without making any large organisational changes) establish a more uniform delivery of police, justice and corrections in peace operations and holds in this regard the potential for informing on the improvement of other important civilian capacity areas.*

AN OPPORTUNE BUT CRITICAL MOMENT

The rule of law is a fundamental part of development assistance, peace-keeping and peace-building.¹ A rule of law deficit is linked to poverty, economic and political instability, and with the occurrence and reoccurrence of conflict and crisis.² Thus the rule of law is valued for being both a means and an end – that is, it is important for attaining other political goods, but also as an intrinsic

good and an end in itself.³ The UN has struggled with apparent shortfalls in supporting or establishing the rule of law in post-conflict and other crisis settings, specifically in the realm of criminal justice. In response, the Secretary-General designated the DPKO and UNDP to lead the Global Focal Point for Police, Justice and Corrections (GFP) in 2012, with the specific objective of strengthening UN provision in crisis and post-conflict settings.

1. For a near universal definition of rule of law, see UN Secretary-General Report (2004) *Rule of law in conflict and post-conflict societies*. For an overview of UN rule of law assistance and peace operations, see Richard Zajac Sannerholm, Frida Möller, Kristina Simion, and Hanna Hallonsten, *UN Peace Operations and Rule of Law Assistance in Africa 1989-2010: Data, Patterns and Questions for the Future*, FBA (2012). A global review of UN rule of law assistance and peace operations will be published by the FBA in 2016.

2. World Bank, *World Development Report 2011: Justice, Security, Jobs*.

3. The interdependence and strong links between the rule of law, democracy, human rights and development was also reaffirmed by world leaders at the 2012 UN High Level Meeting on the Rule of Law. *Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels*, A/RES/67/1 (30 November 2012).

This FBA brief examines the GFP and its ability to enhance the UN's rule of law capacity in the field. More than a year and a half since its inception, the GFP is at the crossroads where its added value to influence change in the field will determine its *raison d'être* and future direction. The time is both opportune and critical. With three strategic reviews underway of UN peace operations, the peace-building architecture, and 1325, civilian capacities are placed at the front and centre, specifically the role and effectiveness of civilian capacities in peace operations and the necessary mechanisms for coordinating, deploying and financing such capacities. In light of this, the GFP arrangement is interesting for the promise it holds as a potential model for other spheres of civilian capacity beyond police, justice and corrections.

This brief focuses on GFP successes to date and the challenges yet to be faced. While the GFP partnership is increasingly seen as having a clearer added value to delivery in the field, with joint structures and programming underway in several missions and non-mission settings (such as Somalia, Mali, Yemen, Haiti and the Democratic Republic of Congo), three main demands must be addressed for the GFP to become a sustainable arrangement.

“GFP mechanisms have the potential for linking technical police, justice and corrections assistance with a political dialogue.”

First (though the GFP now includes agencies outside the two leading entities) careful consideration must be given to how UNODC, UN Women, UNICEF and other agencies, funds, and programmes can participate in more resource-effective and significant ways, together with methods for institutionalising and making such participation a matter of routine.

Second, GFP progress in the field has been mostly a result of personalities rather than structures and procedures. For the GFP to be sustainable, the importance of leadership must be recognised while simultaneously building up an institutional support structure. Moreover, significant administrative hurdles still remain, such as differences in procedure and the lack of documented best practice, all of which risk impeding the implementation of joint police, justice and corrections reform.

Third, the differences of ‘doing business’ between the two main partners, UNDP and DPKO, must also be addressed in order to attain a higher degree of uniform practice. Typically, the DPKO has relied on personnel while the UNDP has raised funds for programming. For the GFP to succeed beyond its initial successes it is essential that the ‘method of doing business’ becomes more harmonised across the board.

Overriding all of these challenges is the missing link between assistance in the criminal justice area and the UN's broader rule of law agenda. While a functioning criminal justice system constitutes a fundamental part of any rule of law structure, the sector is not synonymous with the rule of law writ large. The UN should do more to link GFP activities to its broader rule of law agenda.

› THE GLOBAL FOCAL POINT AT A GLANCE

In 2012 the Global Focal Point for Police, Justice and Corrections Areas in the Rule of Law and Other Crisis Situations (GFP) was established by the UN Secretary-General. The main rationale behind the GFP's creation was to improve the UN's delivery of police, justice and corrections services in more consistent ways where policy, expertise and funding could be better utilised. The GFP operates with a three-tier responsibility: Headquarters in New York, UN leadership in the field, and the Rule of Law Coordination and Resource Group (RoLCRG), for ensuring a strategic approach by the organisation.

LOOKING BACK: THE UN'S PAST PRACTICE IN CRIMINAL JUSTICE REFORM

While police, justice, and corrections together constitute an important part of rule of law assistance, the UN's definition goes well beyond these areas at issue. This is clearly reflected in the work of UN agencies including, for instance, activities on access to justice, legal empowerment, transitional justice, constitutional reform, legal identity, civil administration, property rights, and rule of law and public administration.⁴ In post-conflict countries, however, a focus on police, justice and corrections has always formed the main part of UN rule of law assistance. This practice predates the UN definition of the rule of law, and in some ways the practice has come to influence and inform subsequent UN policy developments on the rule of law.⁵

It is important to observe that the GFP was not established in a vacuum.⁶ Over the years the UN has developed a number of policies and frameworks for enhancing integration between agencies, funds, and programmes – for example, Integrated Mission Planning Process (IMPP) or UN Development Assistance Framework (UNDAF).

The GFP was never a demand-driven process. For UN staff in the field, awareness of the GFP often came after establishment – sometimes after considerable time. When the FBA, Stimson Center and Clingendael's Independent Progress Review of the GFP was undertaken in 2013–2014, several interlocutors were aware of the arrangement, but many of them lacked any deep understanding of its meaning and potential for their work.

This is perhaps not surprising when one considers that when it was first established, the rationale and expected deliverables of the GFP was expressed in rather vague terms. The Policy Committee decision from 2012, constituting the ‘legal basis’ for the arrangement, stated that the

4. See, for example, Report of the Secretary-General, *Delivering justice: programme of action to strengthen the rule of law at the national and international levels*, A/66/749 (16 March 2012).

5. See Zajac Sannerholm et al., *UN Peace Operations and Rule of Law Assistance in Africa 1989-2010*, (2012).

6. The GFP also replaced a previous ‘lead system’ on rule of law assistance that only served to cause friction between UNDP and DPKO in mission settings. Camino Kavanagh and Bruce Jones, *Shaky Foundations: An Assessment of the UN's Rule of Law Support Agenda*, Center on International Cooperation (2011) p. 61.

GFP should respond to country-level requests “channelled through UN entities on the ground, with timely and quality police, justice and corrections assistance in terms of global knowledge, people and advice on assessments, planning and funding and partnerships”.⁷

In this, as in most processes of turning ideas into reality, the devil was in the detail. Some of the main tests that still confront the GFP originate from an inability at the outset to adopt clear roles and responsibilities as well as the necessary administrative support for the GFP to progress. Despite these challenges, progress at field level has been noteworthy and holds promise for the reinforcement of the GFP as a partnership arrangement.

THE ADDED VALUE OF THE GFP IS BECOMING CLEARER

An emerging community of practice

Since the establishment of the GFP, initial scepticism, and the HQ ‘roll out’ campaign involving country visits to create a value proposition of the partnership, an important transformation has occurred. The GFP has evolved from a loosely coordinated network based on a shaky relationship between the UNDP and DPKO to that of a partnership with an emerging ‘community of practice’ for criminal justice reform. This is a significant development and no mean feat when one considers the short time and the environments in which the GFP has been put to the test, the number of agencies involved, and the complexity of UN bureaucracy.

The community of practice now includes more UN agencies than the UNDP and DPKO. UN Women was the first agency to collocate with the GFP Core Team at HQ, bringing with it an important gender perspective on rule of law work. Besides UN Women, UNODC are in the process of and OHCHR have already also seconded staff to the GFP at HQ, adding additional substantive expertise to the partnership and further incitements to work closer in the field.

At field level in Yemen (while at the moment hampered by the unstable political and declining security situation) the UNDP and OHCHR have developed a joint multi-donor funded programme on transitional justice. This involves technical assistance to the government and various commissions mandated to provide access to justice and redressing human rights violations as well as support for civil society organisations. Employing GFP incentives to exploit the comparative advantages of respective organisation has been instrumental for this to happen, combining results-based management with a human rights-based approach. This is but one example of the emerging community of practice that not only means working together where it makes sense country-to-country, but which has led to the virtue of a shared responsibility for improving practices in the larger area of concern – that of criminal justice reform through sharing information, expertise and experience.

Increased UN credibility in criminal justice reform

Another added value of the GFP arrangement is that joint structures or joint programming allows for staff to work from a single programme with a good overview and access to funding. For national governments in mission and non-mission settings this also means having one counterpart rather than multiple UN departments, agencies, funds and programmes.

In Yemen, Somalia and Mali this particular added value of the GFP is highlighted as a key point, with a direct bearing on the UN’s credibility in relation to other donors, national governments and their constituencies. With regard to national governments, GFP mechanisms have the potential for linking technical police, justice and corrections assistance with a political dialogue through mission or UN Country Team leadership. Experience from Yemen shows that a combination of development and human rights mandated UN entities, for example, have a better political leverage when engaging with local government instead of through separate approaches.

Increased UN credibility through joint structures and programmes is also important for the quality of assistance provided. A joint UN approach to police, justice and corrections means that past pitfalls of strengthening one part of the justice chain while neglecting others can be avoided, or that complex transnational threats can be dealt with in a more comprehensive manner than previously.

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It is not always easy to identify cause and effect and to properly assess the part played by GFP arrangement on progress in the field. In Somalia, for instance, different UN agencies initially collocated for security reasons, and the New Deal for Engagement in Fragile States and the Somali Compact (based on the New Deal principles) acted as a uniting force in discussions with national government on criminal justice reform. However, what the GFP arrangement can be credited for is its building on momentum and providing the incentives for joint work on criminal justice. The role of the HQ is important to stress in this regard. Visits and frequent contacts with the field are often recounted as important HQ support functions.

Not one GFP, but many

When examining the impact of the GFP on the UN’s provision of assistance in criminal justice, a clear dividing line exists between new missions and missions in transition. The reason appears to be practical and mundane. New missions offer the opportunity to set structures in place and to identify common factors between different UN entities, without crossing into established ‘turfs’ or disrupting path dependencies of “we’ve always done it this way”. In Somalia and Mali, for instance, mission leadership and staff concentrated on the start-up phase

7. Policy Committee Decision 2012/13.

of confidence-building measures and the mapping of comparative advantages between UN agencies, and were in agreement on practical details such as weekly meetings and the sharing of information.

Thus the GFP arrangement has had most impact on the working culture and methods of doing business in new missions, while meeting more resistance in established settings such as Haiti and the DRC. This should not come as a surprise when one considers the evolving complexity of some UN missions and the ways of working that have emerged incrementally and over the course of time.

More significantly, this shows that the GFP arrangement is not a template for any and all kinds of UN intervention but requires context adjustment and a certain degree of flexibility. This should be recognised as one of the strengths of the arrangement rather than as a missed opportunity in established missions, and to recognise that more can be done to further explore how the arrangement can best meet different needs depending on local circumstances. The GFP arrangement could further function (together with other relevant instruments) as a platform for planning and executing exit strategies or transition plans. By harbouring the full range of entities present in conflict contexts (from peace-keeping to development actors to cross-cutting issues such as human rights and gender) the GFP has the potential to provide long-term planning, thereby ensuring that transitions become flexible reactions to changing country circumstances rather than merely the transfer of tasks. This could include employing the GFP for issues such as when to transfer personnel from the DPKO to the UN country team, and how to resolve lack of capacity between missions (peace-keeping and special political missions) and on how better to pool financial resources in transitions.

MAIN CHALLENGES FOR THE GFP PARTNERSHIP

While progress at the field and HQ is encouraging, there are significant demands that must be met. These include making the GFP a proper partnership for all UN entities providing rule of law assistance, moving from personalities to institutions, and creating a more coherent working method than previously in the provision of criminal justice reform.

In addition, an overarching matter is how the GFP relates to the UN's broader rule of law agenda. While criminal justice is without doubt a cornerstone of a rule of law system, it should not be made synonymous with the rule of law writ large. The UN definition of the concept is that of a principle of governance that extends well beyond police, justice, and corrections. The risk here is that the GFP will be scrutinised not for what it does in relation to police, justice and corrections, but for what it fails to do more generally for the rule of law development of a particular country. For that reason it seems important that more attention is afforded to better situating the GFP within a broader narrative of UN rule of law assistance.

The cost of joining the GFP

For the GFP to develop further it must be able to better engage other agencies at both HQ and field level. Smaller

agencies describe a cost of 'jointness' that makes it difficult to engage in a meaningful way. With smaller staff numbers compared with those of the DPKO and UNDP, some agencies cannot always participate fully in regular GFP meetings, field visits, or respond quickly to new courses of actions, nor engage in comprehensive planning and assessment processes.

Multi-agency buy-in is important because if the GFP centres too much on the UNDP and DPKO, the 'One UN' will be lost, and with it the credibility and leverage with donors and national governments. Equally or perhaps more important, the quality of provision in police, justice and corrections will be affected if the GFP is kept too narrow. Considering the complexities in recent mission and non-mission settings (for example, the Central African Republic, Mali, Libya and Yemen) in addressing transnational organised crime, widespread impunity of security forces, or sexual and gender-based violence, what is required is a multi-agency approach where respective competencies and expertise can be effectively employed.

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Finding ways of allowing smaller agencies, funds and programmes to participate effectively should therefore take into account human and financial resources when planning meetings, field visits and collocation, as well as the need for smaller agencies of visibility versus donors. It should also be a matter of priority for the GFP, with support from member states, to engage more broadly with the SSR Unit and Task Force at the UN Secretariat. The reason is simple and pragmatic – there are more similarities than differences between the SSR and criminal justice reform in the field. Including the SSR in the GFP seems to meet more organisational difficulties within the DPKO than with other agencies, funds and programmes. The UNDP, for example, already has an overarching thematic focus on the rule of law, justice and security.

Making it easier for more agencies to participate in the GFP is also constrained by the lack of coherence on policies and so-called knowledge documents (handbooks, manuals, assessment tools, and so on) for effective criminal justice reform. The GFP has a mandate to provide 'global knowledge' but in reality knowledge is regional and agency-related. The UNODC in Vienna and the OHCHR in Geneva have developed their own policies and tools on both the rule of law and criminal justice reform. So, too, have the UNDP and DPKO.

In many cases there are overlapping or competing tools; one example is in the area of mapping and assessments where UNODC has an extensive criminal justice assessment tool kit. Moreover, DPKO and OHCHR have a set of rule of law indicators, while UNDP recently published a guidance note on measuring the rule of law. There is no apparent hierarchy in the UN system for systematising and categorising the different policies and tools, nor is there any clear indication as to what extent they are actually used (by whom, when or where) and whether

experience from using such tools is properly accounted for. The Rule of Law Coordination and Resource Group (RoLCRG), comprising 19 UN entities and mandated by the Policy Committee decision to be strategically responsible for GFP policy development, should ideally deal with these matters from a system-wide perspective.

Administrative differences, dependency on personalities and lack of best practice

While the GFP arrangement has progressed, significant hurdles remain, such as the inoperability of administrative systems between participating agencies and the dependence on personalities instead of procedures. Further hampering the situation is the weak system of knowledge management for GFP activities.

When the GFP was established much attention was devoted to substantive areas in criminal justice reform in order to identify complementarity between primarily the UNDP and DPKO. While common ground was eventually found at thematic level, 'the how to' and system requirements never really surfaced in the discussions. The inoperability concerns practical matters such as having different security systems requiring staff evacuation at different times, inability to gain access to one another's computer systems, lack of knowledge of and access to different roster systems, and different funding mechanisms.

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At field level such differences are clearly present. As joint planning is turning into joint programming in countries such as Yemen, Mali and Somalia, administrative differences constitute a major impediment to the quality of provision and for the whole arrangement. These challenges cannot be resolved by the GFP partners alone but will require the commitment of the Department of Field Support, Office of Operations, and the Bureau of Management and Staff Administrative Services at UNDP, to mention some key stakeholders. If this is not resolved in the near future the GFP will most probably be thwarted in its further expansion and consolidation.

The progress accounted for so far in the field (despite administrative difficulties) is largely attributable to personalities. This is a story frequently told by UN staff in Mali, Somalia and the Central African Republic. Getting things moving on the ground has been a mixture of HQ support, extraordinary circumstances, opportune moments and good leadership that have all acted on GFP incentives and found ways of putting the arrangement into practice. The present challenge for the GFP is to recognise the importance of leadership while replacing what is an inherently vulnerable personalised network with a sound institutional support structure.

In order to successfully overcome these administrative differences and further institutionalise the GFP there is also a need for better documentation and sharing of best practices. Though each mission context contains

its unique tests there are many lessons to be learned from missions such as Somalia, where ways of working around administrative challenges have been identified and acted upon.

Methods of doing business

In addition to increased cooperation, resource mobilisation and a 'One UN' approach, an inherent added value of the GFP arrangement is the way it forces a critical review of *how* justice, police and corrections delivery is undertaken in UN missions.

Typically the DPKO provides rule of law assistance through its staff and their expertise, working with advice and mentoring as the main instruments for effecting change. In the GFP arrangement, the cost of DPKO staff is the main contribution to the field. The UNDP, however, often has small numbers of staff but are able to raise funds for programmes. The UNDP thus has thematic experts combined with programming skills and experience.

The difference in methods between the UNDP and DPKO reflects deeper seated organisational cultures. It is a long held view that UN missions cannot execute programming with assessed funds. But this seems to be based more on path dependency than any formal requirement prohibiting missions to detail their budgets with fewer staff and more resources for programmes.

Besides being a point of friction between the UNDP and DPKO, there is a bigger issue at stake. In post-conflict and crisis societies undergoing complex political transitions, a continued focus on high staff numbers but with no funds to turn theory into practice might not represent a sound strategy for rule of law assistance. The ability to combine mentoring and advice with the implementation of programmes in the area of police, justice and corrections allows for greater leverage, and for the possibility of forming closer working relationships with national actors and institutions.

Flexibility in shifting between mentoring and advising as the stock-in-trade to that of funding and programming is easily said but difficult to accomplish because it contradicts established practice. It also requires a review of the types of expert recruited as police, judicial affairs or corrections officers, the type of pre-deployment training they receive, the support in the field from HQ, and how their activities are monitored, evaluated and reported on. However, to adequately address specific country needs and make best use of available resources this kind of flexibility in methods of doing business is necessary to achieve.

LOOKING FORWARD: BENCHMARKING THE GFP

Initial sceptical reactions to the GFP described it as a member state idea intended to force UNDP and DPKO managers and leaders to work together. This is no small achievement in itself; however, developments at HQ and in the field have demonstrated an encouraging transformation in the emergence of a community of practice in criminal justice reform. The community of practice draws upon experiences of joint structures and programming in the field and adds value to the GFP that is not manufactured but actually comes from the field itself.

In order to maintain such momentum, member states should continue with a frank and constructive dialogue with DPKO and UNDP leadership on reaching a solution to the administrative hurdles and incentives to further improve knowledge management. Member states could also reach out to other agencies, funds and programmes to commit further to the GFP, and encourage a broadening of the arrangement to also include the SSR, at least on the matter of an arrangement that allows for joint programming.

The Security Council, in turn, could help in further anchoring the GFP arrangement by referring to the GFP, in particular in relation to the establishment of new missions or when mandates are being renewed. This should be done in close consultation with GFP partners so as to ensure that the GFP constitutes a timely and constructive contribution to mission settings.

“In this regard the GFP holds the potential for informing on the improvement of other important civilian capacity areas.”

In relation to the Independent High Level Panel’s review of peacekeeping and special political missions, the GFP shows how the UN can (without making any large organisational changes) establish a more uniform delivery of justice, police and corrections in missions and non-missions settings. The challenges in post-conflict and crisis settings, from transnational threats and repeated cycles of conflict, demonstrate the importance of reinforcing UN civilian capacity in peace operations and special political missions as an important component alongside military measures. In this regard the GFP holds the potential for informing on the improvement of other important civilian capacity areas.

CONTACT

For more information about the brief, please contact:

- › **Lisa Ejelöv**
Desk Officer, Rule of Law Programme
- › +46 72 226 89 90
- › lisa.ejelov@fba.se
- › @lejelov

- › **Richard Zajac Sannerholm**
Head of Rule of Law Programme
- › +46 70 171 84 66
- › richard.zajac-sannerholm@fba.se
- › @zajacsannerholm

- › Stockholm Office:
Drottning Kristinas väg 37
SE-114 28 Stockholm

Lisa Ejelöv and Richard Zajac Sannerholm both participated in the review team conducting the Independent Progress Review on the UN Global Focal Point for Police, Justice and Corrections, June 2014. The brief draws on information shared at the GFP Partnership Meeting 26-28 January 2015 but does not necessarily reflect on the views of other meeting participants or the Folke Bernadotte Academy.

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