

## Search for Common Ground - Morocco Key Findings from SFCG's Support to the Formative Stages of Mediation in Morocco (ADR 1)

Morocco is undergoing a reform process within the Judicial Branch, aiming at creating a stronger system of transparency, good governance and rule of law. The Moroccan Ministry of Justice (MoJ) is currently working on a Mediation Project of Law to formalise mediation in Morocco and to bring it within the legal statutes. In July 2001 Search for Common Ground (SFCG) opened a field office in Morocco and launched a variety of projects to build local capacity in sound conflict management and collaborative planning. Among them is the Alternative Dispute Resolution (ADR) programme supporting the formative stages of mediation in Morocco.

*"I am very interested, when the mediation starts the judges will adapt. Mediation is thought of as a new structure." Judge*

The overall goal of the ADR programme is to improve justice administration in Morocco and the first (ADR1) and third phase (ADR3) of the programme aim to build the capacity and sharpen the knowledge of Moroccan judges in ADR and mediation. The second phase (ADR2) is oriented towards civil society and lawyers and will provide training in mediation and ADR techniques and mechanisms to these groups. Another general objective of the ADR programme is to promote dialogue and communication among the different stakeholders: Civil Society Organizations (CSOs), lawyers, judges and the ministry of Justice (MoJ).

### ADR1

The first phase of the programme (ADR1) took place in 2004-2005, and was aimed at generating changes in the knowledge, attitude, and behaviour of key stakeholders, particularly judges and officials at the MoJ. It also aims to build capacity and sharpen the knowledge of Moroccan judges in ADR and mediation.

*"It was a useful topic and I think mediation will alleviate the pressures on the judicial system." Lawyer*

Some of the judges and MoJ representatives formed a Working Group with members ranging from judges, counsellors, presidents and vice presidents of courts. The introduction of the Mediation Law and the need for trained mediators were major motivations for the Working Group to participate in the ADR activities.

The first four activities of ADR1 consisted of trainings and workshops that addressed the theoretical and practical needs of judges and MoJ experts in mediation procedures. The final activity brought the four stakeholder groups together to discuss mediation for the first time at the Outreach Conference in Rabat.

### EVALUATION SCOPE AND METHODOLOGY

The evaluation's objectives were the following:

1. To assess the implementation of the first phase of the programme (ADR1)
  - To learn about the effectiveness of implementation and to inform future programming
2. To identify and analyse any outcomes achieved to date =
  - To learn about what the results were and how they were achieved
3. To reassess the context of mediation in Morocco
  - To enable recommendations for future phases of the ADR programme and to support their potential to bring about the desired outcomes

The purpose of this evaluation is therefore both ex-ante as well as ex-post. As such, the evaluation questions created in the terms of reference concerned identifying the results of ADR1, as well as identifying and focusing on future needs for the second and third phase of the ADR programme.

The approach of the evaluation was to work with SFCG-M and stakeholders to identify the types of changes that have resulted from the first phase of the programme, and to explain how and why these changes have occurred. It also sought to gather feedback from participants in the programme, since this type of information has not been systematically gathered. The approach to data collection and analysis was essentially to gather quantitative and qualitative data from diverse sources and to triangulate the analyses.

### **Constraints to the Evaluation**

The evaluation was scheduled for the festive period of Ramadan and this impacted upon the accessibility of stakeholders to the evaluation, largely because of the reduced working day. In addition, the stakeholders are located across the whole of Morocco and this geographical diversity could not be fully addressed in the limited time available for fieldwork (7 days total).

## **KEY FINDINGS**

### **The Implementation of ADR1**

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The evaluation has shown a variation in the reception of the different ADR1 activities from stakeholders. During the data analysis stage several internal and external factors that have influenced the reception of these activities. These factors are here were identified.

#### **Timing and order:**

- Overall, the order and timing of activities can be considered to be effective, from the participants' perspective. The spacing between activities meant that the Working Group remained engaged throughout the process and the progression from theory to practical application and public discussion was well planned.
- The round-table approach, as a format for many of the sessions, was widely appreciated.
- One area for improvement was that the duration of most activities was not enough to achieve the programme's objectives.

#### **Logistical organisation:**

- Participants appreciated the Outreach Conference bringing together representatives and lawyers to the debate.
- Despite logistical problems concerning the Outreach Conference, the overall organisation of the 5 activities can be considered to have been good. The respondents' overall impression was positive, but further efforts should be put into ensuring an appropriate communication of the future events for the different stakeholders.

#### **Relevance:**

- The stakeholders involved from the beginning (the Working Group and the Judges) found a high degree of relevance in SFCG-M's first phase.

#### **Quality of Facilitation:**

- The facilitators were highly praised by the majority of the stakeholders for their professionalism and communication skills.
- Generally, the facilitation provided by SFCG-M was appreciated
- During the roll out of ADR1 activities, the need for expert facilitation became more apparent.

#### **Engagement:**

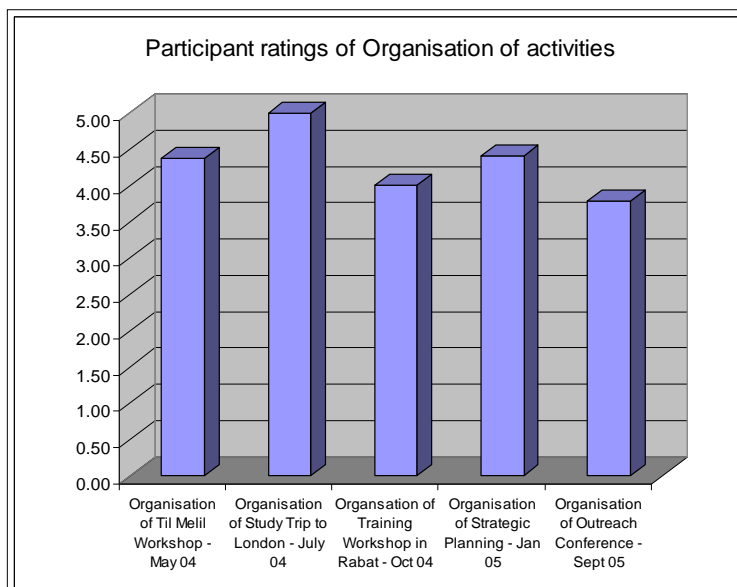
- The varying interest and involvement of the different groups in the overall programme facilitated the acceptance by some (Working Group) and caused a resistance by others (Lawyers and CSOs) to the ADR1 activities. SFCG-M has to address the apprehensions behind this resistance in the coming ADR phases.
- The collaborative aspects of the implementation of Phase 1 of the ADR programme were positive. Each party honoured their responsibilities.

*“The organisation was good but we would have liked to be part of the panel for the discussions”* CSO

*“The London Study Trip was tremendous, we learnt about how the British Government deal with difficulties surrounding mediation.”* Working Group

- ADR1 has ensured the buy-in of the MoJ's high officials (including the Minister) and has strengthened their initial planning of institutionalising mediation in Morocco.

*Over 75% of respondents agreed that they need more training on the practical side of the mediation practice, adding that it would be very helpful if they could analyse real life mediation cases and the procedures the case goes through.*



## **The Outcomes of ADR1**

*“I think the spirit and the importance of mediation was clear from the trainings.”*  
Judge

The findings related to the outcomes identify the knowledge-change of the targeted stakeholders. Generally, ADR1 made progress towards achieving the creation of a general atmosphere of discussion and exchange between the different national stakeholders.

Judges:

- The fact that 5 of the 6 judges who were interviewed demonstrated strong levels of awareness that serving as mediators requires a different mindset, highlights the strong results achieved in terms of awareness and attitudes among the group of judges who were the focus of ADR1.
- This result is supported by the judges' own self-assessed change in knowledge about mediation and ADR – a mean score of 4.5 out of 5 among this group.
- The members of the Working Group and other judges who were heavily involved in ADR1 demonstrate good understanding that more training and practical experience is certainly needed on the application of mediation, for the judges and the Working Group.

Other stakeholder groups (CSO, non-CSO, and layers):

- CSOs consider their knowledge of mediation to be relatively high, while self-assessment of knowledge of mediation is the lowest among lawyers, although this could indicate a different understanding of what 'mediation' is.
- These stakeholder groups generally are very positive about mediation and its potential for Morocco.

## **Future Needs, Challenges and Opportunities for the ADR Programme - Recommendations**

The evaluation identified two distinctive group attitudes towards mediation and its institutionalisation: There are those who are in support of the introduction of the Mediation Law, and those who have some apprehension and who want their questions to be answered before the institutionalisation of mediation.

Several challenges were identified and are hereby summarized. They present opportunities and areas of work and consideration for future actions:

- Lawyers and CSOs/non-CSO participants' concerns that judges would not be the most effective mediators.
- CSO respondents' fear of the prevalence of corruption and lack of transparency because of the private nature of the mediation procedure.
- Lawyers' resistance to ADR – negative articles written about ADR by lawyers and published in newspapers were cited several times during the interviews.
- CSO respondents' who are already performing types of mediation, particularly in family matters, fear that the new law would influence their activities by regulating the practice of mediation.

Based on the findings and challenges summarized above, recommendations have been made to further enhance the ADR Programme of SFCG-M. Here to follow are some of the recommendations (for the complete list, please see the Evaluation report):

- SFCG-M should to address the apprehensions behind this resistance in the coming ADR phases.
- Communication between partners should be improved in order to ensure a smoother collaboration in the future, that includes all stakeholders in the dialogue, especially when resistance is encountered
- The visibility of SFCR-M should be improved; mass media could be used to raise awareness.
- SFCG-M should systematically collect and analyse feedback from participants at the end of individual activities, as well as conduct outcome monitoring.

### **CONCLUSION**

In summary, Phase 1 of the ADR programme succeeded in addressing the needs of the MoJ and judges, in terms of providing training as planned. Outcomes identified during the evaluation include substantial changes in the knowledge and attitudes of key stakeholders.

A key outcome that ADR1 made progress towards achieving was the creation of a general atmosphere of discussion and exchange between the different national stakeholders. In doing this, SFCG-M had to secure good working relationships with the MoJ and the judges, whilst at the same time seeking mechanisms to bring other actors in the process. These efforts were made tangible at the Outreach Conference that brought government representatives, judges, lawyers and CSO representatives together to discuss the Mediation Law Project. Yet, some CSOs and lawyers felt that the MoJ representatives did not take their opinions into consideration and that the conference failed to address their apprehensions concerning the institutionalisation of mediation. Engaging different stakeholders into an open debate will be a critical step and at the same time a key challenge for SFCG-M's ADR programme in the future.

It is clear that Morocco is a fertile ground for mediation, but until the law is developed, many CSOs fear it, and fear how it will impact (upon) the already widespread use of informal mediation. SFCG-M should continue to seek opportunities for deepening the changes in knowledge and attitudes achieved through ADR1, something that is planned for in ADR3. At the same time it needs to also play a role, during ADR2, in continuing the facilitation of dialogue between CSOs/lawyers and the MoJ.

As a main actor of the ADR programme, SFCG-M needs to have more visibility during the different ADR events in order to increase awareness about its role, particularly on the consensus-building side. There is no clear understanding (particularly from civil society) about the alignment of SFCG. CSOs and lawyers will be the focus of the second phase of the programme in an attempt to create a favourable atmosphere for the future institutionalisation of mediation. SFCG-M, as a Non-Governmental Organisation (NGO), is at a great advantage when dealing with Moroccan CSOs; CSO stakeholders who were not previously aware of SFCG-M's NGO status perceive SFCG to be a natural collaborator. There are great opportunities for SFCG-M in ADR2 to extend the buy-in for institutionalised mediation, as well as the practical skills base, and to stimulate dialogue and consensus along the way.

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*Source: The majority of this document was taken verbatim from the Evaluation of Search for Common Ground's Support to the Formative Stages of Mediation in Morocco (ADR1), November 2005. For the full evaluation please refer to <http://www.sfcg.org/sfcg/evaluations/evaluations.html>*

