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Terms of Reference for Mid Term Review

UNDP, Afghanistan Access to Justice (AA2J)

Post title:	Team of 3 independent consultants for the Mid Term Review of AA2J
Mandate issued by:	The Ministry of Justice (MoJ), the Swiss cooperation Office (SDC), and UNDP
Duty station:	Kabul, Afghanistan
Duration:	Two months (since March 2018, up to 40 working days)
Application deadline:	31.01.2018

BACKGROUND

Context

The justice system in Afghanistan is weak in terms of institutional, material and human capacity and riddled by corruption and mismanagement. According to Transparency International Global Corruption Barometer, the formal justice sector is indeed the most severely affected by corruption. As a direct consequence, overall access to justice remains very much restricted for Afghan citizens, in particular for vulnerable and marginalized groups, such as women.

The long-lasting Afghan conflict has resulted in the extensive destruction of the state justice sector institutions. While international support to the Afghan justice sector has yielded some success in rebuilding some of the state justice sector institutions such as the Ministry of Justice (MOJ), the Attorney General's Office (AGO) and the Supreme Court (SC), the system as whole remains weak and is not able to deliver quality justice services.

The lack of accessible, affordable and impartial judicial institutions contributes to public mistrust of the formal justice system and reliance on informal justice systems. While these informal institutions are usually more accessible in terms of geographical and operational reach, the un-clarity about their mandates as well as their legal status creates complications and legal uncertainty. In addition, the Sharia and customary practices they are based on often violate human rights standards, in particular those of women. Nevertheless, the informal institutions are preferred by the large majority of the Afghan population; a reality that is not reflected in most development programming in the justice sector, as most development projects predominantly focus on the formal justice institutions.

Last but not least, legal awareness of rights whether under state justice institutions or customary is low among the Afghan population and as such it is difficult to claim rights and hold justice providers into account. Justice sector reform in general and access to justice in particular are priorities of the Afghan Government, as reflected in the Afghan Constitution and key national development strategies.

UNDP's Afghanistan Access to Justice (AA2J)

AA2J project was launched in April 2016 as successor project to the Justice and Human Rights in Afghanistan (JHRA) project. AA2J is a project with three-year duration, from 1 April 2016 to 31 March 2019,

and a budget of USD 18 million (USD 4 million from the Swiss Agency for Development and Cooperation (SDC), USD 4 million from UNDP core funds, and USD 10 million funding gap).

AA2J main objective is to increase and make access to justice more sustainable for the Afghan people, in particular for vulnerable and marginalized groups. To achieve this, AA2J targets these needs and institutions that are vital for the continuation and strengthening of basic access to justice, through the following three project outputs:

Output 1- Legal aid and legal awareness: Afghans, in particular women, children and pre-trial detainees, are increasingly aware of their rights and receive legal aid. More concretely, output 1 supports the Government to increasingly fulfill and sustain its legal aid and awareness obligations. For that, it supports the Legal Aid Grant Facility (LAGF) implemented by the Afghanistan Independent Bar Association (AIBA) in coordination with the MOJ Legal Aid Department (LAD). Furthermore, in coordination with the MOJ Public Legal Awareness Unit (PLAU), the project aims to increase legal awareness.

Output 2 - Justice sector capacity and strategic coordination with focus on Elimination of Violence against Women (EVAW): Targeted justice institutions increase capacity and coordination among themselves and with other sectors to promote increased Access to Justice, in particular in relation to EVAW Law violations. For that, output 2 supports justice sector capacity development and coordination focusing on capacities for VAW service delivery and tools to enable self-led improvement of the justice sector capacities as a whole.

Output 3 - Legal Protection: The MOJ strengthens its legislative drafting and human rights capacities. Output three strengthens the Government's ability to increase the quality and human rights compliance of policies and legislation, thus increasing legal protection. It is doing so by supporting the MOJ Taqin and the MOJ Human Rights Support Unit (HRSU). These units are targeted because of their mandate to promote and ensure quality and human rights compliant policies and legislation across the Government, thus serving as a catalyst for Government-wide strengthening of legal protection. Furthermore, this output supports overall Justice Sector Reform, by providing technical assistance to the implementation of the Justice and Judicial Reform Plan.

Review

In July 2017, SDC undertook a desk review that aimed at strategically assessing the relevance, efficiency and sustainability of SDC's justice sector work in Afghanistan, which primarily focused on SDC's support to the UNDP AA2J project. The findings from this desk review concluded that AA2J has been facing several core operational and programmatic challenges. First, AA2J's theory of change is highly ambitious. Barely two years into implementation, there are questions about whether selected interventions are the most effective, appropriate means to achieving the desired change, or whether the project is still too broadly defined and its objective realist. Second, UNDP has struggled to get buy-in from some of its government partners, which resulted in the delayed implementation of project activities, as well as a substantial underspending of the funds by the end of the first year. While most activities are back on track, the budget has been substantially reduced. Third, UNDP has yet not been able to raise the funds it had hoped to. This certainly represents a risk in terms of longer-term suitability of the project implementation and results. Finally, UNDP also faces systemic problems related to the lack of donor coordination and long-term planning for the justice sector, which significantly undermines UNDP's ability to plan effectively and maximize their impact, but also caused duplication of activities in different provinces. Those concerns have been shared with UNDP.

UNDP is currently in the process of revising its engagement in the rule of law and justice sectors. Within this process, the Terms of Reference of the Law and Order Trust Fund for Afghanistan (LOTFA) are being

revised, with the aim to broaden the scope of the current LOTFA program and establish a sector-wide approach which includes the access to justice and anti-corruption sectors. In parallel to this process, UNDP is planning to conduct a nationwide rule of law baseline perception survey, to enable evidence-based programming, in line with the expectations and needs of Afghan communities.

This process comes at a critical time for the whole justice sector in Afghanistan. Several major justice sector interventions have come/are coming to an end, and several donors are weighing options for future programming. While the MOJ is highly dependent on external funding, legal aid in particular is entirely funded by the international community. The decisions of many donors during this pivotal time will determine not only the prospects and future direction for AA2J but also the form of the justice sector in Afghanistan.

In this context, the MoJ, SDC and UNDP have decided to mandate jointly an independent Mid-Term Review (MTR) of the AA2J project. The objectives are twofold: 1) to provide a comprehensive independent assessment of AA2J project performance, strategic priorities, implementation strategies and; 2) to provide recommendations on AA2J project design for the next phases in order to improve the project's impact on Afghan communities.

The MTR will be conducted by a team of three independent consultants, and be placed under the direct supervision of a joint review committee composed by the MoJ (leading chair), SDC (co-chair), and UNDP.

SCOPE OF WORK AND DELIVERABLES

Purpose of the Mid Term Review

The MTR will:

- Assess AA2J performance and results (intended and unintended) from 04/2016 until 02/2018, provide a rigorous and credible assessment of measurable progress toward achievement of the stated outputs/objectives, and identify the constraints and challenges of project implementation so far.
- Draw key lessons learnt from AA2J project implementation in the mentioned period that could realistically inform AA2J project design for the next phases (including project staffing) and nourish UNDP strategic reflections in this regard. Here specific attention must be given to the needs and priorities of the Afghan Government in the justice sector; other donors' related programming and interventions; and last but not least the Afghan people's needs and challenges, especially at district level, with regard to access to justice and legal aid.

Review criteria and key review questions

Project performance

- The relevance of AA2J project's design, with a specific focus on its theory of change and how the project outputs can realistically and effectively contribute to its overall objective.
- The overall effectiveness of the implemented project activities towards the expected results, and their cost-efficiency.
- The direct and indirect results (at both outcomes and impact level) of the project implementation so far, and their sustainability.
- The contribution of AA2J project activities to capacity-building of relevant state actors and increased ownership of the Afghan state on legal aid provision in the country.

- The identification of the major external and internal factors influencing the achievement of the project and UNDP response to them. Specific focus in this regard must be given to the level of acceptance for and support to UNDP project by relevant stakeholders.
- How well are relevant contextual elements (i.e. corruption, political interests within institutions, proliferation of informal justice systems, cultural constraints, etc.) integrated into project design and addressed?

Project alignment and complementarity

- The degree to which AA2J project design and activities reflect the priorities and needs of the Afghan Government in the justice sector.
- The degree to which AA2J project activities are possibly overlapping with and/or complementing other interventions in the domain.
- The level of expertise and acceptance of UNDP work in the justice sector: which added value does UNDP have and what are its comparative advantages in the sector? Is the division of labor with other implementing partners based on each agency's comparative advantages?

Specific review questions

- How well are gender aspects taken into account into project design and concretely and effectively implemented?
- How could AA2J possibly extend its intervention into strengthening the cooperation between formal and informal justice structures towards enhanced legal aid for the Afghan population?
- How could AA2J best support national justice institutions to strengthen and increase justice service delivery, especially at district level?
- How can the LAGF governance structure be possibly adapted in order to increase its performance and the quality of its services?
- How AA2J staffing structure and management arrangements must possibly be revised and adapted in order to ensure cost-efficiency, value-for-money, and effectiveness of implementation strategies and overall delivery of results.

Approach and Methodology

The review team will consist of three consultants: an international independent expert in rule of law programming (team leader), an international expert on access to justice in fragile states, as well as a national expert on the Afghan justice sector.

The MTR should be conducted through a participatory and consultative process, which includes all relevant national stakeholders, the international community and AA2J project beneficiaries.

The MTR will be carried out in three stages as follows:

- Desk review: the review team proceeds to a comprehensive review of the available documents, reports and evidence. In this stage, UNDP Rule of Law and Human Security Programme Unit will act as focal point for the review and provide the review team with the available written documentation which may include but are not limited to:
 - a. AA2J Project document, including results and resources framework, annual work plans, implementation plans, monitoring & evaluation plan
 - b. AA2J Project progress (annual reports) and financial reports
 - c. SDC/UNDP field mission reports
 - d. Minutes of AA2J donors meetings, project board meetings

- e. ODI, Report Review of SDC's Engagement in the Justice Sector in Afghanistan
- f. Asia Foundation, Legal Aid Assessment and Roadmap
- g. Relevant Government policies and strategies
- h. Any other available documentation as deemed appropriate

- Data collection and consultation in the field: primary data are collected while secondary data obtained through the desk review stage are verified. In this stage the review team will meet with relevant stakeholders in Kabul, and may also travel to one of the provinces where AA2J project activities are being implemented. The joint review committee will assist the review team with arranging all required meetings and consultation sessions. Provinces to be visited will be selected in collaboration with the joint review committee based on certain criteria including accessibility, security, as well as the level of AA2J project activities implementation, etc.
- Review and analyze: the review team reviews and analyses the collected data and materials to produce the deliverables of the exercise.

Deliverables

The consultant is expected to produce the following specific outputs:

- Work plan: prior to the desk review, the review team elaborates a detailed work plan, which defines the MTR methodology, including an evaluation matrix that gives an overview of data collection tools, data sources, stakeholders to be interviewed as well as division of labor between the review team members. The work plan is submitted to the joint review committee for review and approval.
- Presentation/de briefing: With the support of the joint review committee, the review team organizes a de-briefing at the end of the assignment in Afghanistan to brief the joint review committee on the initial findings and recommendations.
- Draft report: no later than 10 days after debriefing, the review team submits to the joint review committee a draft report (maximum 30 pages) that includes as a minimum and Executive Summary (maximum 3 pages), an overview of the mandate, the review's main findings and recommendations.
- Final Report: Upon the receipt of the joint review committee's comments and suggestions on the draft report, the review team will revise it and incorporate all received comments and suggestions, unless they are contrary to the review findings. The final report will be submitted to the joint review committee no later than one week after the receipt of the comments on the first draft.

All documents shall be delivered in electronic format (Ms. Word), in English.

Timeframe

The review exercise shall be performed within 25 up to a maximum of 40 working days over a period of two months. This includes 2 days for the travel of the international consultant, 5 working days for preparation (desk review of the available documents) and drafting action plan for the review, 10 days are allocated to field work (meeting in Kabul + possible visit in one province, including travel time) and 8 days for draft and final report writing.

Preparatory work including briefing in Kabul	5 days
Field Work, including travel days in case of province visit	10 days
Reporting and Debriefing	8 days

International Travel	2 days
Total	25 days

The MTR is expected to start in March 2017.

WORKING ARRANGEMENTS

Institutional Arrangements

The MTR is an independent review of the AA2J project jointly mandated by the MoJ, SDC and UNDP. The international expert in rule of law programming (team leader) will be contracted by SDC, while the international expert on access to justice in fragile states, and the national expert on the Afghan justice sector will be contracted by UNDP.

Logistics and security arrangements

The review team must be able to arrange accommodation (preferably at the Green Village compound, which can be facilitated by UNDP) and visa on its own account. SDC/UNDP will however facilitate access to relevant information, organizations and stakeholders upon request.

Whilst in Kabul, duty station for the review team will be at UNDP Country Office, where office space and internet access will be available. The review team members however are expected to bring their own laptop and mobile phone (UNDP will provide a local pre-paid SIM card).

Transport and security arrangements applicable to UNDP international personnel will apply, and movement for meetings and consultations shall be coordinated by the UNDP office. Consultants contracted by UNDP are at all times required to observe UNDP security rules and regulations.

EXPERIENCE REQUIREMENTS AND QUALIFICATIONS

The review team members should have the following expertise and skills:

Academic qualifications

- Master's Degree or equivalent in Law, Human Rights, or any other related field.

Practical experience

- Minimum 10 years of progressively responsible experience, including project design and/or project evaluation, especially in the rule of law or justice sectors.
- Experience in undertaking Mid-Term Reviews and impact assessments for the UN.
- Experience in working in Afghanistan or other conflict/post-conflict environment is an asset.
- Experience in analyzing and formulating development strategies and policies in rule of law and justice sectors is an asset.

Competencies

- Strong analytical capacities (quantitative and qualitative) and strong ability to communicate and summarize this analysis in writing.
- Ability to work in team.
- Excellent communication (oral and written) skills; fluency in English.
- Good interpersonal skills and time management.

SUBMISSION GUIDELINE AND EVALUATION CRITERIA

Interested review teams can apply by submitting the following documents/information:

- A detailed budget including all costs related to the assignment using the template in annex.
- CVs of the individual team members, indicating all past experience from similar projects, as well as the contact details (email and telephone number) of the individual team members, and at least three (3) professional references.
- Brief description of why the review team sees himself as the most suitable for the assignment.

to SDC (kabul@eda.admin.ch). Only complete submissions will be taken into consideration and phone calls will not be entertained.

Submissions must be received by 31th of January 2018.

Selection of the review team will be done by the joint review committee. The award of the contract shall be made to the review team whose offer has been evaluated and determined as responsive/compliant/acceptable, and having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation (Technical Criteria weight 70%; Financial Criteria weight 30%). Only applications obtaining a minimum of 49 points (70% of the total technical points) would be considered for the Financial Evaluation.

Annex: template for detailed budget proposal



Budget.xlsx