STRENGTHENING ACCOUNTABILITY AND RULE OF LAW (SARL) PROJECT

MANAGEMENT RESPONSE TO THE MIDTERM EVALUATION (MTE)

Project Title:	Strengthening Accountability and Rule of Law
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Conclusions and recommendations for SARL Project MTE were made in a completely different operating context therefore some of these are less relevant currently. Yet some broader issues that emphasize on development effectiveness (beyond project level) are still applicable. It talks about making adjustments in the design process, defining and clarifying roles and responsibilities, integrating and/or mainstreaming key elements such as Human Rights Based approach etc. that need to be considered within the scope of medium-term program framework which is being finalized.

The current context in Myanmar is rapidly evolving and the rationale underpinning UNDP's Country Programme Document (2018-2022) unfortunately is no longer relevant or even implementable. UNDP now needs to reposition to safeguard development gains and leverage our comparative advantages in responding to crisis contexts. Therefore, UNDP is currently designing and adopting dynamic and adaptive programming to respond to the evolving context and realities. It is in the process of creating a portfolio that is viable under any of the scenarios and can adapt from one to another with relative ease.

Following the military takeover of all government functions on 1 February, to direct programmatic work, UNDP Myanmar developed interim engagement principles that have been aligned to the broader framework of the UN Country Team's (UNCT) engagement principles. The engagement principles direct UNDP to ensure that the benefits of programming accrue primarily and directly to the people or local communities without discrimination; that programming supports the strengthening of the rule of law and the protection and promotion of human rights; and that it contributes to preserving, to the extent possible, the democratic space. At the same time, UNDP will ensure that programming does not pose a risk of legitimizing the de facto authorities; having a potential negative impact on human rights, creating a negative conflict dynamic; or presenting potential reputational damage for the United Nations given current circumstances.

UNDP management immediately paused all ongoing work involving capacity development of and policy advice to the de facto administration being implemented through SARL Project because these were focused on institutional strengthening and are not aligned with UNCT's engagement principles. It is also not viable to prepare management response with specific action plans unless there are changes in the overall context that opens space to continue project activities as planned earlier.

Thus, this document is prepared to provide an overview of the MTE process (objective, timeline, methodology) with action points on some of the recommendations that are still relevant and applicable.

SARL Project aims to strengthen accountability and the rule of law for increased trust in state institutions at a critical time in Myanmar's transition. Building on the clear initiative of all three branches of the state to promote transparency and accountability, while recognizing the challenges involved in countering corruption, strengthening parliamentary oversight, and promoting adherence to principles of administrative justice and rule of law, the project helps to strengthen institutional frameworks and capacities for good governance. The project also empowers rights holders and engages them in accountability mechanisms. The project is organized into three intervention areas: (1) Anti-Corruption, (2) Parliamentary oversight and Member of Parliament representation and (3) Rule of law and human rights.

Overall, SARL adopts a multi-level approach, from Union and State/Region level to community level. At the Union and State/ Region level, the project seeks to strengthen their capacity and internal accountability mechanisms so that they serve as a check and balance on each other. At community level, the project creates awareness and promotes the protection of citizen's rights, among others through civil society partnerships.

The primary data was collected from 7-24 December 2020 by a team of five international consultants, a national expert and a translator. As stipulated in the project document, the evaluation was conducted in an independent manner and prepared in accordance with UNDP's evaluation guidelines.

Overall, the MTE Terms of Reference gave solid guidance for the conduct of the review. The ToR referred to a review "to determine the relevance and fulfillment of objectives, developmental efficiency, effectiveness, and sustainability" of SARL activities (Aid Effectiveness); as well as to assess the progress of the project against the project document to assess against the context to provide recommendations for any adjustments to the project design, management and implementation.

- The evaluation was multi-faceted, and the methodological approach used mixed (qualitative and quantitative) methods.
- The evaluation was conducted through a participatory and consultative process, which includes all relevant national stakeholders, the international community and the project beneficiaries.
- An evaluation matrix was developed that provided the analytical framework for the evaluation and set out the relevant evaluation criteria, key questions and sub-questions, data sources, data collection methods/tools, indicators and methods for data analysis. The evaluation matrix is provided at Annex II.
- The data gathering phase was incredibly extensive, reaching over 235 stakeholders.
- Data gathered, both qualitatively and quantitatively was triangulated, through cross verification from more two or more sources and through comparative analysis.
- Three de-briefs were conducted with the project, program, senior management in UNDP and to all relevant stakeholders for their review and consideration. This provided opportunity to further validate the findings and recommendations.

The non-linear, sequential methodology for conducting the evaluation of the SARL project consisted of three main phases:

Phase 1 – Desk research, document review and Inception Report
Phase 2 – Virtual Data Collection, Analysis and Validation
Phase 3 – Drafting, Revision and Finalisation

Before the start of primary data collection, an inception report was commissioned, and the scope of work and methodology was clearly mentioned in the report. After collecting primary data, the team presented initial findings of the MTE in late January and the first draft report in early February 2021 which was finalized after incorporating comments and suggestions.

Recommendations and Management Response:

Recommendation 1

The project needs an evidence-based theory of change and results framework, whereby the focus of the project is shifted from increasing the government's capacities *per se* towards increasing capacities for greater protection and enjoyment of the basic rights of vulnerable and marginalized groups.

- The MTE recommends that project develops a clear results framework based on a coherent narrative and profile that is also linked to the CPD, that would be attractive for national partners, donors and other development partners
- The MTE Team advises some programmatic revision and strategic re-focusing in terms of reformulating outputs and the rationale behind the project, in order to ensure that the outputs are delivered and contribute to higher-level outcomes in a coherent manner, and that the project is successfully implemented. The project should also use this opportunity to reposition itself vis-à-vis the new government, in terms of its strategic positioning. Indicators should be revised to better capture the achievements of the project and their contribution to higher-level outcomes. There should be greater emphasis on qualitative indicators, which capture the voice of people, and in particular the most vulnerable, which would provide a clear pathway between activity – output – outcome – impact, as well as show progress towards change. In view of the fact that the project is constantly evolving to needs and context, it is recommended that the project set fixed outcome level indicators, that would provide the goalposts for the project, while the output level indicators could be more flexible and adapted to circumstances as they change. It is recommended to revise the project efficiently so that the Project Board could approve the revisions, without the necessity for an LPAC, and in the most cost-effective manner.
- The MTE Team recommends that the project review its strategic direction allowing for some prioritisation of activities, while retaining its ability to be flexible and opportunistic. In order to provide some strategic direction, the MTE Team recommends that the revised project should have two outputs. The first would be focused on business integrity and anti-corruption and the second on rule of law, access to justice and human rights. The current output 2, would be formally absorbed into SERIP. In terms of the rule of law, access to justice and human rights work, there should be a narrower focus around the project's HLP work but moving beyond displaced persons and looking at the system as a whole. The revised project should mainstream a strong HRBA and thorough HRDD and its outputs and their success indicators should be linked to improvements in the protection and enjoyment of the basic rights of vulnerable and marginalized groups and not focused on increasing the Government's capacities.

• More broadly, UNDP should position itself vis-à-vis the reshaping of the National Land Law. A separate land project could be born out of SARL and SARL could be used for seeding and incubating other areas. Integrating corruption into the National Land Law has a potentially huge impact, because the Land Law impacts on 335 other laws and regulations which will need to be harmonised with it. The UAGO and other institutions should be linked around the issue of land and here UNDP can add value by being a convenor and integrator.	

Management response

The CO agrees to this recommendation, but the context has been changed after the coup that took place in February 1, 2021 and the issues mentioned above are not relevant currently. The CO is in the process of designing medium term program framework to respond to the current needs and priorities.

Key action(s)	Timeframe	Responsibility	Tracking	
			Comment	Status
NA				

Recommendation 2

The project requires standardised mechanisms for learning, in particular from its M&E efforts that can be reflected both in the project implementation, as well as fed into the CPD programmatic cycle.

- MTE recommends that more systemic and gender sensitive mechanisms at both the project level and within the CO are introduced to capture and share MEL. These should be regularly informed and updated based on political economy and context analysis on key development issues. This should be done at the CO or UN-wide level. This should be reflected in the project's risk log, lessons learned and implementation challenges as a regular part of the project cycle and should become a standardized practice with the project and the CO, with dedicated capacities to undertake this. This will increase capacity for adaptation in a fast-changing context and should feed into and be reflected in the next CPD cycle. Better mechanisms for MEL, if applied to the project implementation, would also allow for more adaptive programming. The project has shown that it has been able to achieve the greatest results where it has been able to be responsive, flexible and adaptive towards the ever-changing context in Myanmar. More adaptive programming, based on robust MEL, combined with strong and measurable indicators would allow for a shifting of priorities and resources where results are not been achieved. Stronger MEL will provide opportunity for review, reflection and adaptation as required.

Management response

The CO agrees with this recommendation. It is relevant to all UNDP projects and is a part of quality assurance in programing.

1. UNDP has a number of comprehensive guidelines (PM&E guideline, Evaluation guideline which is updated in June 2021, reflections and lessons learned from evaluations) to help its projects & programs as well as partners to be clearer about contributing and/or achieving higher-level results; to develop and act on strategies to achieve those results; to systematically use lessons drawn from monitoring and evaluations to make decisions.
2. UNDP CO develops HACT quality assurance plan every year to identify issues and address them more systematically. This gets endorsed by the senior management.

Travel restrictions caused by COVID-19 pandemic limits opportunities for field visits and direct interaction with partners and beneficiaries, but these have been compensated through virtual meetings as far as possible. It has also been agreed that program monitoring visits could be conducted by third parties who are present in the respective locations.

Going forward, UNDP CO would have dedicated teams in its new structure to

- timely look at risks and vulnerability, think about structural prevention and early response and agree on ways of working together to make sure that we take viable action on what we observe.

- to undertake a comprehensive approach to risk management and due diligence that will be organized around three pillars: risk assessment, active risk reduction and risk accountability. The CO will use various corporate (e.g SES, conflict sensitivity assessment) and customized (e.g human rights due diligence checklist) risk assessment tools to develop a risk assessment profile for key components of the new programme. Based on that, under the Active Risk Reduction Pillar, a risk management and mitigation plan linked to a monitoring plan will be developed for the programme component. Finally, the Risk Accountability pillar will ensure that in case local stakeholders are impacted by UNDP programming, either due to a rapidly changing environment or due to blind spots that were missed in the risk assessment process, there is a mechanism to rapidly mitigate these risks. This will be done through setting up a Grievance Redressal Mechanism.

- perform quality assurance role and ensure all the usual QA for the country programme.

Key action(s)	Timeframe	Responsibility	Tracking	
			Comment	Status
Operationalize the medium-term program framework and structure	**9/2021**	**Senior management**	Medium-term program framework has been developed and interim structure has been operationalized	**Completed**

Recommendation 3

The roles and responsibilities of project – programme – senior management – including on decision-making and resource mobilization should be clearly defined.

- The MTE team recommends regular dialogue and information exchange between the project and programme office, seeking solutions in a proactive manner, relating to the strategic direction of the project, and not only on compliance issues. The relationship between the project and programme should be revisited to improve work processes and achieve complementarity that would ensure the quality assurance of the project results and GSP should develop a stronger technical oversight and assistance role. UNDP Senior Management (Deputy Resident Representative level and above) should engage in

- political dialogue in order to provide deep government buy-in of the project results and further development ensuring full government ownership. Senior management should proactively engage in advocacy efforts on the issue of rule of law, justice and human rights, to ensure the positioning and visibility of SARL. The project donors, many of who commented that UNDP should have a stronger advocacy role, actively seek this.

- The roles and responsibilities in addressing donors and resource mobilisation should also be clarified. In order to ensure the financial viability and to effectively mobilise resources to support implementation of SARL, a Resource Mobilisation Strategy should be elaborated at both the project and CO level. The Strategy should provide for the alignment of the project (and wider CPD) with existing and new donor priorities, the diversification of donors based on donor mapping, and the use of new funding modalities and innovative partnerships. Each component of the RM Strategy should be underpinned by research and advocacy, which will be drawn on to further shape and steer the project's resource mobilisation efforts. At the CO level, UNDP should continue to engage in dialogue with existing development partners while, at the same time, initiating dialogue with new development partners to discuss the funding possibilities for the project.

- A thorough mapping of existing and emerging donors should be undertaken as well as efforts to diversity the range of donors by identifying and targeting new sources of funding. This could include public and private enterprises, trusts and foundations and international and national NGOs and CSOs that pursue relevant issues.

- Finally, decision-making processes and business processes within the CO should be reviewed to ensure maximum efficiency in both time and resources, as well as to empower the project. There needs to be a greater balance between driving efficient implementation and controlling risk. Systems should be developed for managing workflow efficiently in the units providing services to the project, such as procurement and operations. In addition, mechanisms should be put in place to actively manage project staff/managers burn out.

Management response

UNDP CO partially agrees to this recommendation. It is in the process of finalizing its medium-term program framework and structure in order to respond to the current needs and priorities more adequately. The proposed new structure would address some of the issues mentioned above. While the demarcation between project and program is no more relevant in the new structure, there will be segregation of roles and responsibilities between and among the program team, Risk management and quality assurance unit and senior management. The CO will make sure there is no overlaps of roles and responsibilities between program units and senior management using.

The CO will review the current business process and make adjustments in line with the new structure and clearly define roles and responsibilities. This will be a priority as soon as the medium-term framework and structure is finalized.

Key action(s)	Timeframe	Responsibility	Tracking	
			Comment	Status
Review and finalize CO business process to	4/ 2022	Senior management and team leaders/component	- Project will need to be readjusted modified base	

clearly define roles and responsibilities		leads with support from team members	on UNDP New Country Programme post 2021 and aligned as per new structure	

Recommendation 4

The human rights-based approach should be mainstreamed into the project's theory of change and results framework to ensure that no one is left behind, while human rights due diligence should be consistently applied and harmonized with conflict sensitivity principles to do no harm and synergize for strongest peacebuilding impact.

- It is recommended by the MTE team that the HRBA is mainstreamed into all project development, revisions and implementation, as a way to bridge the divide between the supply and demand side of UNDP's programming and to lead to better and more sustainable human development outcomes. There is a need to connect UNDP to the people, in particular where vulnerabilities exist, which would contribute to leaving no one behind. This will also give UNDP greater credibility and relevance.
- While this would require a greater focus on the demand side of programming and engaging more with CSOs, which the project is successfully doing in particular under output 3, the project should also be mindful of not neglecting the state institutions. UNDP's mandate is to end poverty, build democratic governance, rule of law and inclusive institutions and in Myanmar, as in other countries, this is challenged by a shrinking democratic space, as well as on-going human rights abuses. However, ultimately there can be no reform or sustainable development outcomes without the buy-in and commitment of government and the project should continue to try and work with state institutions, particularly the UAGO and the OSCU, and independent institutions such as the ACC and the MNHRC. The project should advocate for greater rights protection with more emphasis on legal and policy measures to improve social cohesion horizontally – i.e. building trust among communities, rather that vertically – i.e. building trust in government institutions. Results such as the Fair Trial Manual and the Legislative Drafting Guidelines are good examples of where UNDP can contribute in a meaningful way. The project should also explore opportunities to work more at the local level on areas of administrative justice with local authorities, cognisant of the hierarchical structure in Myanmar.

Management response

This recommendation is partly relevant. There is not much scope to continue our work with state institutions currently and in the near future. Going forward, UNDP will have a profound engagement with civil society and a stronger focus on HRBA.

- It will apply a 'humanitarian-development-peace-human rights nexus' approach to ensure that humanitarian needs are met, and medium and longer-term challenges are addressed by tackling systemic causes of vulnerability and conflict.
- A team is envisaged to maintain and build new relationships with key civil society organizations and leaders so their respective capacities can be strengthened and leveraged in some form in the most adverse of circumstances. The Team will aim to sustain civic space in Myanmar through providing funding and capacity building, and

			supporting coordination, networking and advocacy efforts among civil society actors (both organisations and individuals).	
Key action(s)	Timeframe	Responsibility	Tracking	
			Comment	Status
- A new structure is in place including dedicated team to ensure substantive engagement with CSOs and integration of HRBA.	9/2021	**Senior management** **Team Leaders, Civil Society Unit, Human Rights Advisor**	Interim Structure has developed which includes Civil Society Unit (CSU) to ensure substantive engagement with CSOs and integration of HRBA. The CSU unit has been being operationalized.	**Completed**

Recommendation 5

The MTE Team recommends that UNDP leverage on its comparative advantage as an integrator between the supply and demand sides of programming. This requires moving to the next level of capacity development, both for state institutions and CSOs, while ensuring a participatory approach to contribute to a higher level of national ownership.

- Despite the challenges of a shrinking democratic space and on-going human rights violations, the project should continue to engage in dialogue with relevant governmental representatives and to seek to achieve full government ownership for the project results. Discussions should be opened or continued about absorbing project activities into the national budget, keeping in mind that rule of law reform is a complex and long-term process.
- There is a need to move to the next level of capacity development, which to date has been based largely on the development of knowledge products and trainings, to the actual implementation of those products, tools and skills. For example, implementation and monitoring of the Fair Trial Manual and Legislative Drafting Guidelines – are these consistently being followed in practice – how are they monitored – what is their impact in terms of greater rights protection for vulnerable and marginalised groups.
- The new model of embedding senior advisors into the national institutions is promising and there are great hopes that the forthcoming embedding of advisors within the MNHRC will lead to greater results as well as helping to drive the strategic direction of the reform process from within. Based on the results, this model should be pursued and tailored to the needs and requirements of the individual institutions.
- The project should also continue with the good practice of using South-South cooperation as Myanmar looks closely to its ASEAN neighbours and is willing and able to learn from them. This could even be expanded to include more peer-to-peer exchanges as a means of knowledge sharing.
- It is of paramount importance that a participatory approach is taken during the development of the next phase of the project, including consultations with all relevant

partners, sharing the draft project document and actively seeking their validation of the planned lines of support. This will secure buy-in and ownership from the start. The commitment of partners, including securing their financial commitments, is necessary to achieve greater sustainability of the project results and full national ownership of the project. In the next project phase, it is strongly recommended that the issue of sustainability is looked at more thoroughly. This includes the absorption of any technical advisors provided through the project into the structures of the respective institution, which should be advocated for at the earliest stage. This will require discussion with both the respective institution and the Ministry of Planning, Finance and Industry to secure appropriate state funding.

- The project should also continue its approach it terms of building capacities of local CSOs to ensure their longer-term sustainability and this approach could be used at the national level with national CSOs or networks of CSOs, based on thorough risk assessments.

Management response

The issue of demand and supply sides is not relevant anymore. Nevertheless, UNDP would make significant efforts to enhance capacities of CSOs through a dedicated team with human and financial resources.

Key action(s)	Timeframe	Responsibility	Tracking	
			Comment	**Status**
1. **A dedicated team/Civil Society Unit is in place to manage and coordinate work with CSOs**	**9/ 2021**	**Senior management**	Interim Structure has developed which includes Civil Society Unit (CSU) to ensure substantive engagement with CSOs and integration of HRBA. The CSU unit has been being operationalized	**Completed**