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| **Title of Project Proposal**   | **Strengthening the Law Making Process** |
| **Country/region of implementation** | **Sierra Leone**  |
| **Requested Amount** | **$3,725,000** |
| **Duration of Project**  | **July 2016- July 2019 (3 years)** |
| **Requesting Agency**  | **UNDP Sierra Leone** |
| **Main Implementing Partner** | **The Ministry of Justice (MoJ)**  |
| **Contributing Implementing Partners** | **Cabinet Secretariat,** **Law Reform Commission,** **Parliament****Judiciary****Civil Society** |

1. **Project Background**

Statutory laws are at the core of the national normative framework within any given country. They set down rights and responsibilities and, to a greater or lesser extent, touch upon every aspect of human life. They often set boundaries and, consequently, make deep inroads into the lives of ordinary citizens. Therefore, they should be legally and democratically enacted, accepted and endorsed by large segments of the population. Moreover, they should be consistent with international human rights norms and standards. Finally, they should constantly evolve, adapting to the ever-changing social context.

Unfortunately, many laws and statutes in Sierra Leone are deficient and outdated, and fail to address the needs of ordinary people. In addition, they do not take into consideration the particular problems and barriers faced by disadvantaged groups.

Hence, it is important to sustainably improve institutional capacity in the law making process and systematise law-making approaches. Too often, laws and statutes are drafted in an ad hoc manner, without conducting proper impact and costing assessments and without ensuring the overall consistency and coherence of the legal framework. In addition, it will be important to ensure that law reforms uphold and protect fundamental rights and freedoms and produce results that are pro-poor. Therefore, law reform processes need to be consultative and inclusive: disadvantaged groups often lack voice and participation and it will be important to empower local civil society actors to ensure proper interest representation and feedback.

State authority and legitimacy depend to a large extent on a well-functioning and effective legal system. In addition to the fact that laws need to be publicly promulgated, equally enforced and independently adjudicated, it is important to ensure adherence to the principles of accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and ensure procedural and legal transparency.[[1]](#footnote-1)

A legal system which provides effective access to the up-to-date versions of all laws and regulations within a user-friendly, searchable and coherent system enables compliance by citizens as well as officials, ensures effective implementation, fair and effective application as well as just and equitable enforcement of the law and regulations. In addition, it ensures effective citizen engagement in improving laws (This calls for a system in which citizens participate prior to promulgation of any laws; and the monitoring of implementation of same laws after passage), democratic policymaking, regulatory decision making and transparency and accountability in the entire process.

Countries that fail to provide reliable access to written laws and regulations fundamentally undermine the rule of law system on which democratic societies are built. Equally so, countries that enforce laws and regulations in a selective manner accentuate instability and social tension especially among poorer societies. This contributes to fragility and conflict by perpetuating a disordered legal system that reinforces capricious interpretation, application & enforcement of laws and regulations. This perpetuates corruption, elite capture and prevents the public from effectively contributing to the democratic process or fulfilling their role to check/balance government authority.

The project will support joint government and development partners’ approaches to building and strengthening critical legal foundations in post conflict Sierra Leone and will build on previous work of both UNDP and the Government of Sierra Leone (GoSL) in the thematic area of strengthening the rule of law and institutional capacities to improve access to justice in Sierra Leone.

1. **Contextual Analysis/Rationale for Funding Support**

The law making process in Sierra Leone is faced with numerous institutional and human resources challenges which include weak coordination mechanisms and conflicting roles and responsibilities among institutions involved in law making and limited knowledge and understanding of the law making processes and limited legislative drafting skills. In addition, the law making process itself is not sufficiently understood by government ministries, departments and agencies (MDAs) which generally initiate legislation. The lack of effective rules, compliance with international standards, oversight and enforcement systems, the risks of inappropriate interference in the law making process are all factors that need to be addressed to ensure the law making process is sufficiently understood by all justice and government stakeholders.

Implementation and enforcement of new laws become nearly impossible when new laws adopted contain numerous directly conflicting provisions with existing laws. The last publication of consolidated laws of Sierra Leone was made in 1960, a year before the country acceded to independence. Since then, new pieces of legislation have only been available in the form of loose supplements to Official Gazettes. Over the years, individual government institutions and legal practitioners have relied on annual volumes compiled at their own expenses and used in their profession. Efforts have been made in recent years to improve access to Sierra Leonean legal information. In particular, the Sierralii Project funded by the Special Court for Sierra Leone has published some Acts and Statutory Instruments. However, the collection is unconsolidated, incomplete and unreliable. Furthermore, during the Ebola crisis between 2014 and 2015, UNDP Sierra Leone supported the Ministry of Justice (MOJ) to develop a Legislative Drafting manual and Legislative Guidance Notes for MDAs with the overall objective to strengthen institutional and staff capacities in initiating and developing legislation. However, due to the limited available resources and restrictions on meetings of large groups of people necessitated by the Ebola crisis, the planned roll out training program was undermined and the efforts made could not significantly improve the law making process across various government MDAs.

While there is urgent need to ensure revision, consolidation and accessibility as well as improving drafting skills within the law making process, it is also paramount for the process to benefit from open and accountable processes focusing on enhancing transparency. The lack of transparency and accountability in the law making process will inevitably lead to the capture and control of the process by special interest groups which will not necessarily ensure that objective procedural standards are met in the entire process. The exercise of adequate oversight in the law making process will guarantee transparency and that generally understood and acceptable laws are drafted, deliberated and enacted to meet the needs and aspirations of the people of Sierra Leone.

The local legal framework is characterised by a plethora of laws that are archaic or conflicting for a variety of reasons including, that they have outlived their usefulness, lack of effective coordination across MDAs in formulating legislative proposals, lack of effective feasibility analysis in the review and deliberative processes, lack of or limited public consultation in the law making process and poor legislative drafting skills. The result is the existence of many laws that are either partially or entirely un-implementable thus undermining the rule of law and the law making process on which credibility of the state and its governance systems depend.

The lack of implementation or the selective enforcement of laws invite and support corruption and elite capture of the state apparatus as well as impede public engagement in democratic processes. These challenges perpetuate the root causes of fragility and accentuate public mistrust in the system.

The rule of law assistance provided by UNDP Sierra Leone rests on a supply and demand equation that combines enhanced services delivery by resilient justice institutions with the public’s ability strengthened to access such services and hold duty-bearers to account. Based on this, the project will not only benefit from the sustained relations UNDP Sierra Leone enjoys with the national authorities and in particular the Ministry of Justice, but also from the interest representation and feedback from a wide network of both national and local civil society actors. UNDP’s comparative advantage as a long standing development partner of Sierra Leone will play a key role in fostering sustainable and partnerships under this project.

1. **Project Objectives and Description of Activities**

The overall objective is to enhance the rule of law in Sierra Leone by strengthening local law-making processes, including by systematising law-making approaches, improving institutional capacity in the law making process, improving access to laws and regulations, engaging local civil society actors to ensure proper interest representation and feedback. Strengthening the law making process has got the potential to significantly improve on the legislative and legal landscape within Sierra Leone with keen interest on contribution of the public in the entire process.

The project will ensure that various components are tailored to local needs and circumstances in the country as they relate to improving the overall law making process as well as strengthening institutional capacity for improved delivery and supporting civil society actors to feedback on public perceptions and concerns.

A strategic priority for this project is to improve governance systems and enhance access to justice, equality before the law, effective implementation of laws with the aim of addressing critical root causes of poor governance by improving transparency, accountability and citizen engagement in policy making and law making processes in order to achieve better quality laws and statutes in ways that can reduce corruption, elite capture of state processes and selective enforcement of laws.

Four (4) main components will underline the law making process within this project in Sierra Leone:

***I. Systematise law-making approaches***

This component aims at reviewing, assessing and improving weaknesses in all administrative processes (including oversight and safeguard systems) related to all steps in the law and regulation making process. This will include clearly defining the roles/functional accountabilities of agencies/officials at all steps in the process; conducting proper impact and costing assessments; ensuring overall consistency and coherence of the national legal framework; ensure compliance with national and international human rights obligations; and ensuring transparency and effective oversight in all steps of the process through to promulgation, printing, publication and dissemination and engagement of all MDAs that form part of the law making process in Sierra Leone. In addition, the component will focus on creating systems and procedures by which officials or the public can propose laws or regulations for review and improvements taking into account our national interests and peculiarities.

***II. Improve Institutional Capacity in the Law Making Process***

This component will focus on providing on-line research facilities for institutions to broaden and deepen their knowledge in areas for which legislation or reform is required. It will provide easy access to international jurisprudence and contribute to building national jurisprudence.

Another aspect of this component is the establishment of sustainable training programs to upgrade general legislative drafting skills as well as support bilateral and other forms of exchanges and cooperation. This component will ensure that legislative drafting skills are improved in a sustainable manner for long term utilization. It will provide on-going training in law making and related topics for government officials, Members of Parliament, the Judiciary and Law officers, etc.

***III. Improve accessibility to laws and regulations***

This component is aimed at clarifying laws and improving access to laws by carrying out a revision and consolidation of the laws in force in Sierra Leone. While ensuring wider accessibility of laws and regulations, the component will also contribute to ensuring greater access to the law making process through increased access to the official gazette and widening means of accessing law making processes (media, outreach, ICT). It is also essential to ensure the establishment of online portals that will help improve on accessibility. Overall, this component will serve to better protect rights and support Government institutions to carry out the essential and ongoing business of law reform.

***IV. Engage civil society actors to ensure proper participation and inclusion***

This component is aimed at enhancing and democratising law-making processes. It is essential to engage local civil society actors to ensure proper interest representation and feedback as well as actively contribute to legal reform processes. In addition to supporting a wide range of local civil society actors (CSOs/CBOs, professional unions, academic institutions, media outlets etc.), this will require facilitating broad-based consultation processes, including at the local level. This will contribute to the monitoring and oversight on law making processes, advocacy for public inputs and exposure of lapses to enable corrective measures and improve on the public perception in the whole process.

1. **Results and Outcome**

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| **Component** | **Outputs** | **Outcomes** |
| 1. **Systematize law making approaches (Administrative Processes for consultations, policy formulation, review, deliberation proofreading, printing, publication, dissemination & codification; formal procedures to repair defects in laws)**
 | * Policy paper developed identifying weaknesses in existing law making processes with recommendations on improved processes, oversight roles, and adherence to specific mandatory national policy criteria
* Revised laws & regulations based on formal agency reviews
* Regular impact and costing assessments
* Adopted laws & regulations reflecting improved administrative processes for law making through adoption, execution, printing, dissemination & codification
* Policy paper proposing new system & procedures for identifying laws & regs in need of remedial action
* Stakeholder consultations on proposed system & procedures
* Draft laws/regs in line with revisions reflecting stakeholder consultations
* Adopted laws/regs & effective implementation of system & procedures
 | Clear & transparent administrative procedures for laws and regulations making processes together with improvements in minimum (mandatory) standards in review & deliberation will improve transparency, accountability & stakeholder consultation in the law making process, as well as implement-ability and equitable enforcement of laws. Effective system for identifying & remedying seriously defective laws/regs will result in:* Improving implementation of laws/regs
* Improving equitable enforcement of laws/regs
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| 1. **Improving institutional capacity in the law making process**
 | 1. Provision of on-line research facilities for institutions to broaden and deepen their knowledge in areas for which legislation or reform is required
2. Permanent training programs designed and implemented to upgrade technical skills of legal drafting & harmonizing laws/regulations for:
* officials & MPs (on-going courses)
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1. Continuous capacity enhancement for legislative drafters ensured through the undertaking of legal drafting courses and exposure to legal drafting best practices
 | Upgrading technical legal drafting skills of officials & MPs and law school students to improve legal drafting quality and implement-ability of laws and regulations.  |
| 1. **Improve accessibility to laws and regulations**
 | * Revision and consolidation of laws through annual law volumes codification, printing and availability to legal practitioners and the public;
* An online professional standard legal research portal created and maintained for use by legal professionals and government institutions. The portal will include existing and amended laws.
 | Making laws and regulations accessible to and available for all to improve state authority and legitimacy of governance.  |
| 1. **Engage civil society actors to ensure proper participation, inclusion and community feedback on the whole process**
 | * Civil society capacity to provide interest representation and feedback and actively engage in law-making processes strengthened
* Broad-based consultation processes enabled allowing local civil society actors to review draft laws and amendments and provide community and interest group feedback
 | Improve legitimacy of law-making processes through broader inclusion of societal groups and perspectives |

1. **Implementation and Supervision Arrangements**

UNDP project team has closely collaborated with government counterparts on project design and preparation, and this level of fruitful cooperation of mutual benefit will be continuous and strengthened in the implementation phase. Collaboration on implementation and supervision will continue through cooperatively drafting and agreement on detailed (step-by-step) implementation plans and timetables that specify all roles, responsibilities of UNDP project team and various government counterparts.

The project will hold quarterly meetings to monitor and evaluate progress made on activities, identify and make recommendations in efforts to address implementation challenges.

Where un-anticipated challenges arise, partners will agree jointly on solutions in ways that keep the project moving toward completion. Implementation plans and timetables will include detailed (jointly agreed and objective) indicators to enable easy supervision. As main implementing partner, the MoJ will play a lead role in implementation, stakeholder consultation with UNDP ensuring technical assistance and supervision with strong support from the donor partners.

1. **Risks, Issues and Mitigating Factors**

A myriad of project risks and issues underpins the execution of a project of this nature in Sierra Leone. Below are some identified risks and issues with mitigating factors:

1. The lack of political will and interference in the law making process: this risk has got the potential to adversely affect delivery as well as the content of the project. As mitigating factors, it is worth mentioning the advent of the new Attorney-General and Minister of Justice who has demonstrated his willingness and ability to drive this process. In addition, the AG is surrounded by a team of dedicated professionals who have contributed significantly in the development of the project proposal.
2. Delays in the finalization of the Constitutional Review process with the potential to affect the revision of existing laws and regulations: As mitigating factor, the implementation of the project will place emphasis on existing laws and regulations that could be dealt with even without the conclusion of the CRC process.
3. Limited ability of the people to provide useful feedback to the process, limiting oversight and monitoring: the incorporation of civil society actors in the law making project will play a key role in strengthening communities’ ability to contribute to the overall goal of the project.
4. Limited resources available and inability of the project to meet target goals: the project will develop activities and targets prioritizing the achievement of components with optimum impact within the lifespan of the project.
5. Lack of coordination among various law making stakeholders and confusion on roles and responsibilities: this risk will be minimized through stakeholders’ consultation meetings to clarify roles and responsibilities as well as identify areas for capacity development within law making institutions. In addition, UNDP’s comparative advantage and long term working relationship with government counterparts will help build fruitful partnerships among various institutions intervening in the law making process.
6. **Budget**
7. 2016: 850,000
8. 2017: 1,250,000
9. 2018: 1,625,000

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| Activity Description | Estimated Budget (USD) | Estimated contribution from other sources (USD) |
| Consultant Fees and related project support costs | 500,000 |  |
| Technical assistance and support to project implementation  | 450,000 |  |
| Outreach/media engagements  | 350,000 |  |
| Institutional capacity development, trainings and project oversight  | 2,175,000 |  |
| Travel and study tours  | 250,000 |  |
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| **Total Expenses** | **3,725,000 USD $** |  |

1. See the Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies (S/2004/616. [↑](#footnote-ref-1)