

Agenda 2030 -Time to Revisit Rule of Law programming

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As the development community re-focuses on how the rule of law agenda enables sustainable development as expected in fulfilment of [Agenda 2030](#), questions will continue to arise concerning the mixed results of rule of law assistance projects.

D. Marshall in his treatise "[The International Rule of Law Movement: A Crisis of Legitimacy and the Way Forward](#)," emphasizes that there is a profound knowledge deficit regarding the justice system, its actors, and its processes and the apparent lack of interest in understanding, or learning from what worked, what did not, and why or in applying lessons learned from similar contexts. While the standard results based project management methodology and tools may work for many other projects, the case is different for law and development or rule of law programmes.

To gauge effectiveness of rule of law programmes, one needs to understand what the rule of law means for the given community, vis a vis the definitions of the development and global community, as well as establish what to take into account when designing projects as well as how to measure impact and when.

This post aims at highlighting possible measures to address these limitations.

Rule of Law definitions

The multiplicity of definitions of rule of law by development partners operating in the same sphere is likely to impact on the design and delivery of rule of law interventions whether by the United Nations Agencies, Funds and Programmes or other development partners as project proponents design project proposals to meet the specificities of a potential financier. The question will be whether the rule of law defined in the proposal meets the intended objective and the priorities of the beneficiaries on ground.

The complexity of rule of law

The rule of law is complex in nature, comprising of a large number of interacting components (agents, processes, etc.) whose aggregate activity is nonlinear (not derivable from the summations of the activity of individual components) and typically exhibits hierarchical self-organization under selective pressures. In that regards, monocausal linear approaches of activity-output-outcome may not be realistic in meeting the objective. While I do not provide concrete proposals, I think the time for rule of law actors and project management methodology experts to devise approaches that allow for the unique aspects of rule of law projects will have to be explored if rule of law programmes are to provide a better result. Such approaches will have to address systemic issues affecting the rule of law.

Who owns the rule of law?

For any project, success is to be measured from feedback obtained from the beneficiaries. With a history of colonialism, the evolution of the post-colonial state and the impact of global governance in general, a multitude of actors with diverse interests operate in any singular political space. In that regard, one has to answer questions such as: who makes the law; who participated in the rule making; who does the law apply to; who applies the law; who is affected by the law, including on the basis of the principle of 'unintended consequences'; who is the custodian of the law and; who owns the law?

Bearing in mind the recommendations made by the movement pushing for [“Doing Development Differently \(DDD\)”](#), the challenges identified have to be addressed by some of the proposals set out below if rule of law projects are to meet planned objectives. The DDD movement proposes that projects: focus on solving local problems that are debated, defined and refined by local people in an ongoing process; are legitimised at all levels (political, managerial and social), building ownership and momentum throughout the process to be 'locally owned' in reality (not just on paper); work through local conveners who mobilise all those with a stake in progress (in both formal and informal coalitions and teams) to tackle common problems and introduce relevant change; blend design and implementation through rapid cycles of planning, action, reflection and revision (drawing on local knowledge, feedback and energy) to foster learning from both success and failure; manage risks by making 'small bets' pursuing activities with promise and dropping others; and foster real results – real solutions to real problems that have real impact: they build trust, empower people and promote sustainability. These will have to cover the whole project cycle from conception to closure.

After Action Review

Conducting an after action review after different phases of the project would help in promoting reflective learning. This helps project managers analyse what happened, why it happened, and how it can be done better to promote better results.

Introspection

As individuals, rule of law practitioners carry out introspection on the way project activities were executed. Questions such as 'when do I know when I am succeeding?' are helpful in evaluating how well the specific officer is performing. It will help in identifying local priorities, initiatives, and solutions.

Inculcating a well-developed PDCA Cycle

Proponents of rule of law programmes would benefit from developing and following a well-executed plan-do-check-act (PDCA) cycle that is relevant in the specific context of the area. The PDCA as a four-step model for carrying out change by that is repeated again and again at each step of the project for continuous improvement. The PDCA cycle's four steps are more likely to allow for improvement or change and can be included in the change management strategy.

Glocalization of the rule of law agenda

Well harnessed, glocalization (the “simultaneous occurrence of both universalizing and particularizing tendencies in contemporary social, political, and economic systems”) can ensure that local contexts are developed when addressing the rule of law agenda laid out in the Sustainable Development Goals. This allows the development of home-grown solutions to problems that are prioritised at global level, comprised of smaller, local solutions rather than big, global solutions. National ownership that will be fostered through glocalisation is critical as a means of achieving sustainability.

Change management for the rule of law

While there is a tendency to focus on legal and technical changes, rule of law programme managers will have to measure change and how it manifests. This implies developing and executing a change management plan for rule of law projects, a main stay in adaptive project management.

Addressing the question of ownership

It is critical to take into account the different stakeholders to re-define the rule of law within the local context. This will bring on board parliaments, local authorities, the executive branch of government, judiciary and law enforcement, development partners, international financial institutions, international community (collective of states), general public, business sector, civil society and other non-governmental actors, and the media.

Conclusion

Effective programming on the rule of law requires balancing the different types of needs and time-lines, meeting the expectations of different stakeholders while bearing in mind who the ultimate beneficiaries are.

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