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Justice Development Programming in Fragile and Conflict-Affected Areas:

Perspectives of Two Leaders in Justice Administration

Chief Justice Abdul Salam Azimi,
Chief Justice of Afghanistan
Christiana Tah,
Minister of Justice, Republic of Liberia



Legal Vice Presidency
The World Bank

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Inquiries:

Telephone: +1 202 458 2950

Justice Reform Practice Group
The Legal Vice Presidency
The World Bank
1818 H Street NW
Washington DC 20433, USA

Email: justicedevelopmentworkingpapers@worldbank.org

Website: www.worldbank.org/lji

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Foreword

The Afghan chief justice and the Liberian minister of justice were each invited to attend and address the World Bank Legal Vice Presidency's Law, Justice and Development Week Forum on November 8, 2011. Their presentations about justice development in fragile and conflict-affected environments offered a firsthand perspective, bringing informed and authoritative opinions on the subject. Their observations about the strengths and weaknesses of the relationships formed with donor organizations provide an invaluable source of guidance in calibrating the nature, scope, and objectives of future justice development projects in their countries, and no doubt also in others.

The text by Chief Justice Azimi is a revised transcript of his impromptu speech to the forum. The text by Minister Tah is a revised version of a paper she presented at the same forum.

Biographical Notes about the Presenters

Professor Abdul Salam Azimi completed his school studies in 1959 and started teaching at the Paghman Sharia Madrassa in Kabul. He moved to Cairo in 1967 to complete a master's degree in law at Al-Azhar University. In 1973 he commenced postgraduate studies in comparative law at George Washington University, returning to Kabul in 1975 to take the position of academic deputy of education at Kabul University, later being assigned as university director. After the communist regime was established in Afghanistan in 1978, he was appointed legal affairs advisor in the ministry of justice, progressing to head of its legal department in 1979. In 1982 he moved his family to Pakistan, emigrating to the United States the following year. In the years up to 1999, Dr Azimi worked on a range of teaching assignments for the benefit of Afghan students in the United States, Afghanistan, Pakistan, and Kuwait. After the Taliban regime was deposed in 2001, Professor Azimi returned to Afghanistan, working in a range of government positions and also contributing to the drafting of Afghanistan's new constitution from 2002 to 2003. In 2004 he was appointed senior legal affairs advisor to the president of Afghanistan and director of the president's Judicial Board Office. He was appointed chief justice of the Supreme Court of Afghanistan in August 2006.

Christiana Tah has worked for the Liberian government since the mid-1970s and served in various capacities at the ministries of health, justice, and finance. In that period she served as assistant minister for corrections and later as deputy minister of justice. After obtaining her law degree from the University of Liberia, she practiced law in Monrovia in a private law firm between 1985 and 1989, taking a year's leave in that period to work for the Ministry of Finance as special assistant to the minister, immediately followed by another year at Yale Law School, where she obtained a master of laws degree in May 1988. She worked in academia in the United States from 1991 to 2009, teaching various disciplines including criminal justice, sociology, and comparative law. During that period, she concurrently engaged in the general practice of law in the United States, especially in the areas of immigration, criminal justice, and personal injury law. She returned to Liberia in 2009 to take up her appointment as Liberia's minister of justice and attorney general.

Justice Development Programming in Fragile and Conflict-Affected Areas: Perspectives of Two Leaders in Justice Administration

**Chief Justice Abdul Salam Azimi,
Chief Justice of Afghanistan**

Abstract

This spoken presentation profiles the efforts of the Supreme Court of Afghanistan to produce effective plans for developing that court and the judicial system in general. It offers an assessment of the limits of financial assistance by donors in bringing about rapid improvements in the quality of the judiciary. It argues for the need to invest in the human capital of the justice system as the most important—though time consuming—strategy for overcoming poor judicial performance and reducing corruption in the justice system. It also explains the strategic planning processes of the Supreme Court of Afghanistan and the reasons why the court’s current plan deserves continued and sustained support from donors.

Introduction

My first foreign language is Arabic, not English, but I will do my best to explain what is on my mind and to share information about Afghanistan and its judicial system. I speak only on behalf of the Supreme Court and the judiciary of Afghanistan. Under the constitution of Afghanistan, the Supreme Court is an independent and separate power that is distinct from the executive government.

Afghanistan’s Human Resource Needs

You all know Afghanistan now. It has become a famous country that everybody knows about. It is a postwar country. We have had three decades of fighting, shooting, and the emigration of our people. People are leaving the country, scholars are leaving the country. Everything we have is damaged—roads, office buildings, schools, hospitals—everything. But the most damaged asset is its manpower. If roads are destroyed, if buildings are destroyed, or if bridges are destroyed, you can rebuild them, if you have money. But what about the human resources of Afghanistan? Even if you have plenty of money, you are not able to just go down to the local market and buy more of it. Out of necessity, you need to wait years and years, for example, to develop a qualified and educated judge. This is a big problem for us, not just for the Supreme Court, but for all other

ministries across the country. As a nation we are behind in our efforts to make up for the loss of our human resources. The Supreme Court, in particular, is very much behind.

Why, after years of international assistance to Afghanistan, does there remain a large deficiency of human resources? I believe that this deficiency was not given significant attention during the first six years of reconstruction efforts in Afghanistan. In that period, the human resource needs of the judiciary were largely forgotten. I personally do not blame the international community for this oversight. We blame ourselves. Why? Because although the international community sought from us a list of our priorities, a plan for the future development of the judiciary and the priorities we wished to apply, we did not adequately express our needs. Until only four years ago, we failed to specify what we needed, to set our priorities or to estimate the likely costs of those priorities. This led the international community to assume that everything was okay in the judiciary. Some simple donor-funded training programs were conducted from time to time, which seemed the best thing to be done, and donors were happy that these efforts were meeting our expectations.

Recent Initiatives in Justice Reform

But four years ago, when I took up my appointment to the Supreme Court along with my senior judicial administrator, we took the position that we had a duty to lead the development of a new supreme court, a court to be properly and solidly established according to the constitution. At that time, we realized that in deciding what needed to be done to build such a court, we had lost ourselves. This realization scared us a little as we attempted to decide what new directions were needed. At first we struggled to decide where we might start. But the first conclusion we reached was the need to overcome the deficiency of human resources. This issue became most pressing for us because within the judiciary over many years, all kinds of people were in office occupying the position of judge or court administrator. Most particularly, there were unqualified people and illegally appointed people. Personnel of the court system had been appointed during different political regimes and different governments, including the communist government, then the Mujahedeen government, then the Taliban government, then even after the Bonn Conference. During all of these periods, unqualified people were appointed or people were appointed under processes that were not procedurally valid.

So, after assessing the consequences of these deficiencies, we decided that it was very important to address this problem of unqualified and illegal appointments. And we decided to do this by screening all the judges, one by one, to find out how many were qualified and how many were legally appointed, to assess their knowledge and to decide what should be done with them.

So we started this vetting process. We dismissed some because they were not qualified, some because they were not legally appointed. We found some of them weak in terms of their knowledge and competencies. As many as 50 percent were found to be deficient in this way. But we were not able to dismiss weak staff. Why? Because it was not easy for us to replace them. So we tried to conduct seminars, workshops, and programs and give them more knowledge just to kill time.

The process of vetting to clean house, so to speak, is one thing, but keeping the house clean, this is another thing. We started cleaning house, but the challenge for the future is to keep it clean of further unqualified or illegal appointments to the judiciary. We can keep it clean by keeping the doors and windows firmly closed, effectively by not letting anybody come in illegally, as it was before. And we started reopening the door only to those who are properly qualified, beginning with those who have met essential criteria: to be a graduate of the Afghanistan college of law, to have passed a qualifying competitive test, and to have completed a two-year training program after college for those selected for appointment.

The two-year training we offer to persons selected to be judges is something additional to what applied before (previously it was only one year) and is aimed at overcoming the shortcomings of the existing legal education system in Afghanistan. During the last three decades, the curriculum at the university level did not change. So the curriculum is old curriculum. After I took up my appointment as chief justice, I asked the minister of higher education to come to my office and I told him, “Dear friend, you are my friend, but the universities within the control of the Ministry of Higher Education, they are like a factory. You are a factory and we in the judiciary are the market, and we are not happy with your product.” He asked me why. I told him, “Because while the judges are supposed to apply current codes governing commercial, civil, criminal, and judicial procedural law, your universities do not teach these laws. They are wasting time and money. We need a new curriculum.”

A new university law curriculum for Afghanistan is still not yet completed, but we have started working on finalizing it. In the meantime, we continue to apply the special two-year training to compensate for this shortcoming. We now select 150 candidates each year out of around 800 law graduate students from all over Afghanistan. Nobody else is allowed to enter the door of the judiciary as a judge. Candidates are selected by a secret number process to ensure that there is no favoritism or other undue influence on the selection. In this way, we can keep the house clean from the inside. And as long as we continue to keep the door under control in this way, it means after five years or ten years, maybe, we will have a new Supreme Court and a new type of judge who is well educated and properly qualified.

So, in developing priorities for the development of Afghanistan’s judiciary, we started from this point of focusing on human resources. We did this as a part of broader work on developing a strategy for a five-year plan, which sets out in a list fashion the things we wanted to achieve for the development of the judiciary from one year to the next. We knew that the international community would expect us to identify priorities for our plans, because donors are unable to fund the fulfillment of all we wanted to achieve in a single year. So our plan describes the priorities for each successive year, the kinds of projects that will fulfill them, and the tentative cost estimates of each project. We distributed this plan and the strategy to all donors and also to embassies, to the United Nations Assistance Mission for Afghanistan (UNAMA), and to the European Union. After distributing the strategy to all of these organizations in Kabul, I believe the international community realized what seemed to have been forgotten beforehand: that something was missing from prior donor programs concerned with the justice system. It reinforced acceptance of the fact that if there is no judiciary system, it means there is no rule of

law. Rule of law is the basis of social stability, of safety, of security, of everything needed to rebuild a broken state.

So then international donors conferred in Dubai and agreed to work more for this strategy. This is also why there was a Rome conference, attended by President Karzai, UN Secretary-General Ban Ki-moon, plus 70 or so countries, which pledged money to support rule of law development in Afghanistan. This included a project organized through the World Bank facility, the first phase of which is shortly due to be completed. They told us at the time that the first phase would be like the appetizer before a meal. It entailed only modest levels of funds intended to be used as a kind of test, for us and for themselves. I know they have a lot of experience in other countries, but they were testing us to confirm that we were able to cooperate with them, to work with them, to have mutual understanding. We benefited during this phase in receiving motor vehicles and the renovation of some buildings, plus furniture. We are happy with that experience. For the first time, the Supreme Court received new vehicles. Four years ago, when I came to the office, we had just a Russian Volga, used cars, and two new cars that were donated from the Italian Embassy. But today we have another. This is a first step.

Future Directions

Of course, now we are living in the twenty-first century and I am not satisfied to just administer the Supreme Court as it was 50 years ago. Like every other country that is developing itself, we should adopt new technology and computerize our court registries. In my office today, I am not happy that I am still disconnected from my courts in other provinces. I do not know how many cases there are in any particular court. But today in places that have computers, there is a lot of information available to a chief justice about the numbers of cases, types of cases, age of cases, and so on. We set a priority for ourselves in preparing our five-year strategy to pursue such things for the Afghanistan judiciary. We have started working on these kinds of court automation projects by looking to the examples set in countries that are ahead of us, such as Egypt, a country with a similar legal system to ours. We have signed a contract protocol with the Egyptian judiciary, which was able to start its own program 15 or 16 years ago. They now have specialist experts, technology, and experience that we can use in our country. It is expected that as a result of this collaboration, we will be able to set up a computerized judiciary information center in pursuance of our strategic plan.

But there is another important feature of our reform plans: the need for adequate interpretations of our law codes. In Afghanistan we have several codes, comprising some 2,500 articles. In the region this is considered a very large number of articles of law for judges to work with. The criminal code alone has 500 articles, but with no interpretation yet to guide judges in the application of the codes. It is difficult to imagine that a code lacking interpretation would be applied properly. Without interpretative guidance, judges cannot know the law, nor can professors at the university, students, prosecutors, or lawyers. Nobody can know the law, because law without interpretation means nothing. If a judge doesn't know the law, how do you apply it? This is my big concern as chief justice. In addressing this problem, we have asked for the assistance of Egypt, using our protocol agreement with them. Using the legal resources

available in Egypt, we are planning to develop interpretations for the code articles in Arabic, which will then be translated into Dari and Pashto. The translations will then be printed and distributed to students, teachers, lawyers, prosecutors, judges, for everybody. So this is another project we are developing that we anticipate will eventually contribute to the establishment of a permanent judiciary education center, to complement our efforts to establish a judiciary information center.

Our concept of developing a judiciary education center in Afghanistan includes a heavy emphasis on developing a sustained translation capacity along with a capacity for training judges and court administrators. Ongoing training courses for judges on contemporary law developments is among our priorities. Today we do not have railroad cases in our courts because we do not have railroads, but maybe tomorrow we will. Today we do not have computer or Internet crimes, but tomorrow it may be different. Also, maybe we will have aircraft and air space crimes to prosecute in the future. We need the capacity to educate judges on the skills needed to determine new kinds of litigation and prosecution. Similarly, we need judges, administrators, and others also to be educated in using computers to carry out their work, warranting the need for sustained computer training courses.

The learning of languages by judges will be another goal for the development of the judiciary. I am interested in sending judges to the United States, to the United Kingdom, to France and to Egypt. If judges do not know English or French or Arabic, they will not be able to find new knowledge elsewhere that may be brought to Afghanistan. With access to languages, all roads from different countries will be opened to them to gain scholarships and fellowships and join other visitor programs. This gives you an outline of our thinking about the value of establishing and sustaining an education center and also an information center.

But the very important issue nowadays in Afghanistan and elsewhere—but especially in Afghanistan—is corruption. Corruption is not just in courts, it is everywhere. This is why the president appointed me to chair a group to develop a strategy for anticorruption for the whole country. Before this group was established, and before completing the Supreme Court's strategy, we created a bureau three years ago called the Anticorruption Department. Since that time until today, we have dismissed 612 individuals from the Supreme Court. Not all them were judges, as that number also included administrators and police. Those dismissed were found to have made money or asked for money in the name of a judge, lawyer, and others. The dismissal of 612 does not mean there is no longer corruption, but it is no longer of the same kind, by reason of the number of dismissals.

We have suggested to the president that if all ministries have a similar kind of office as the Anticorruption Department, they can also make similar achievements. This has helped us to reassert some control over the extent of corruption. This used to be the role of what was called the Monitoring Department, but the monitoring department system collapsed over the last three decades. It has only just been revived. Now groups of monitors are traveling to all provinces and districts with the task of checking decisions within the judiciary. Monitors assess whether, in particular decisions, courts apply the law properly and whether any mistakes were made. Monitors report their findings and the Supreme Court punishes some and rewards others

accordingly. Those who excel in their roles are recognized and promoted, while those who fail to apply the law are officially punished and their punishments are announced on TV. So now I can say that there is a big change in this area of judicial monitoring and accountability, but still it is not enough. There is more work to be done.

Let me now come to another important part of our reform program. We always say for judges, “do not do this,” “be honest,” “be on time.” But with 50 dollars salary per month for a judge, is it logical to ask them to be honest? According to the constitution of Afghanistan, judges are supposed to be paid proper payment, a proper salary according to a statutory register, which determines remuneration rates for parliament, members of parliament, ministers, the chief justice, the president and vice president, the attorney general, and also all judges. But we were still paying them this small amount. This is why we sought the enactment of a new law to improve judicial remuneration. In three steps over a three-year period, we were able to increase judicial salaries from 50 dollars to 500 a month, a major achievement that had been identified as a priority in our strategy. Our strategy had identified five things to be achieved: to provide judges with (i) a good salary, (ii) transportation, (iii) security, (iv) housing, and (v) an office. Salary was the number one priority.

Transportation came next because in contrast to judges, the commanders and district administrators are provided with a couple of vehicles. Judges had been expected to walk if the judge did not have a bicycle. I pointed out to the government that it was difficult for a judge, with the power to imprison criminals for up to 20 years in jail, to operate from a private home. And the security of judges is also critical. We have lost 11 judges to violence. Some were tortured by the Taliban, some were assassinated. Adequate transportation is part of the security provided to a judge and it is also part of the dignity and respect a judge is entitled to enjoy. During the time of the king, judges were not living in rental houses—they were not allowed to live in a rental house. So why now? In Afghanistan, for judge to stay in rental house, it means something. A judge’s landlord may apply undue influence over the judge. This was evident during the king’s time. So they decided that judges must live in a government house, not in a private rental house. Also, police and other security personnel are provided to judges even in safe times in courts here in the United States. Because of respect for the court and also because of the higher risks of incidents in courtrooms in a courthouse, security is provided to judges in many countries. Police ought to be present in our courts, but you will not find one in any court in Afghanistan. Similarly, judges lack basic access to an office in which to work. Some judges are forced to rely on rooms provided to them in mosques, or maybe in a cantina.

These are among the most pressing priorities for our judiciary identified in our five-year plan. Now we know and have articulated the challenges. Now we share these problems with our friends, with donors, who now appreciate the problems that are most pressing. So I hope, in the near future, if we continue this way, maybe we will be able to build a genuinely new face for the Supreme Court and the judiciary of Afghanistan.

Christiana Tah, Minister of Justice, Republic of Liberia

Abstract

This paper reviews the record of the current government of Liberia in bringing about substantive improvements in the performance of the justice system with the support of donors. It identifies the shortages and deficiencies of Liberia's human capital and the need to adopt policy frameworks that can foster better performance of the justice system by strengthening the capabilities of individuals who participate in justice administration. As with the presentation made by Chief Justice Azimi, this paper emphasizes the need to recognize the effect of prolonged warfare over many years on the ability of young citizens to adopt standards of ethical conduct that they have not previously witnessed among government office holders. It also highlights the plans the government of the Republic of Liberia has developed for the justice sector and the value of thoughtfully leveraging donor support in fulfilling those plans.

Brief Background Information on Liberia

Situated on the west coast of Africa, the Republic of Liberia shares its border with Sierra Leone to the west, Guinea to the north, and Cote D'Ivoire to the east. It is a relatively small country of roughly 43,000 square miles with a population of approximately 3.4 million, consisting of 49.9 percent women and 62 percent young people under the age of 25 years. There are 16 tribal groups, as well as the African-American settlers (often referred to as "Americo-Liberians") who established the government we have today, and a number of immigrants from the Caribbean and other African countries. All of these groups are spread unevenly among the 15 political subdivisions designated as counties.

Historically, the checkered conflicts between the tribes, on the one hand, and the tribal groups and the Americo-Liberian-led government, on the other, which was based largely on ethnic differences, have embraced the added dimension of social class. The government's failure to adequately address the grievances of citizens embodied in these conflicts provided an opportunity for opposition politicians to gain the trust and support of the population. Consequently, the country experienced its first military coup in 1980, led by Master Sergeant Samuel Kanyon Doe of the Krahn tribal group, who became the first indigenous head of state in Liberian history. Only nine years later, in 1989, the Doe government, having four years prior won elections that were shrouded with suspicion of fraud, was challenged by a group of rebels led by Charles Taylor, a former Doe official who had earlier escaped the country to avoid facing corruption charges. President Doe was eventually overthrown in September 1990 and the country was plunged into a full-blown civil war that lasted until 2003, despite so many failed attempts to restore peace and provide a semblance of good governance to the country.

In 2003, Liberia emerged from the agonizing 14-year civil war and was placed under the governance of an interim body headed by Charles Gyude Bryant, in keeping with a peace

agreement brokered in Accra, Ghana, between civil society organizations and the warring factions. In 2006, the mantle of constitutional authority to reestablish the rule of law in Liberia, among other functions, was passed on to a new leadership. This task, which encompassed an international mandate under the aegis of the United Nations Mission in Liberia (UNMIL), was devolved onto Madam Ellen Johnson Sirleaf, who won the presidential elections in November 2005 to become the first female president of a country on the continent of Africa.

The Justice System: Legal and Structural Frameworks

The Government of Liberia consists of three branches: the legislative branch that enacts the law, the executive branch that enforces the law, and the judicial branch that interprets the law. The justice system consists of three major components: law enforcement, prosecution, and corrections, which work interdependently to ensure that there is a balance in the delivery of services to the public. Unlike many other African countries, the security institutions, such as the police, the prisons, the immigration services, the Drug Enforcement Agency, the National Bureau of Investigation, the National Fire Service, and so forth, are under the direct supervision of the Ministry of Justice, rather than the Ministry of Internal Affairs. Additionally, the Ministry of Justice is tasked with prosecution services, codification, and negotiation of concession agreements. It is noteworthy that at the time the justice system was developed, the functions of the various sectors were very limited in scope; hence, the consolidation of both the justice and security sectors.

In 2008, the Government of Liberia launched a three-year national Poverty Reduction Strategy (PRS), which consists of four pillars: infrastructural development; governance and rule of law; peace and security; and economic development. The fact that two of the four pillars specifically focus on justice and security institutions is a manifestation of the government's realization that historical weaknesses in these key sectors underlie the instability in Liberia over the past decades. Therefore, in order to enhance its ability to achieve the targeted deliverables under the PRS, the government, with the support of international partners, has developed a strategic plan for each of the justice and security sector agencies to ensure that projects of donors and the government are aligned and implemented within the context of the PRS.

Expectations of Various Stakeholders

During the civil war in Liberia, as in any civil conflict anywhere, many atrocities were committed against innocent citizens and vulnerable groups of people. Women and children suffered the most, as there are many stories of rape, murder, sexual slavery, and forced recruitment of child soldiers. In addition to the foregoing atrocities, many displaced individuals (both fighters and nonfighters) moved into unoccupied houses, or constructed dwellings on the vacant land of people who had been killed or fled into exile. In some instances, the owners of property were present but felt too helpless or afraid to protest. Legal institutions barely functioned, as many of the well-educated and well-trained citizens in law enforcement and the law fled the country in the 1990s. The few who remained tried to provide a semblance of law and order but were often threatened into submission, leaving citizens very distrustful of the formal

legal system. Corruption among judges and other public officials became more prevalent than in the past, due to the fact that for protracted periods, civil servants received meager salaries several months in arrears.

Ultimately, the formal justice system essentially collapsed and, consequently, most citizens (educated and uneducated) resorted to the informal justice system as a viable alternative. In a few instances, vigilante justice or mob violence prevailed. While it is less frequent today, angry and impatient crowds still demand immediate retributive justice without regard to due process, which citizens often characterize as slow, complex and unaffordable. Citizens generally want immediate gratification, be it an apology, incarceration, retribution, or restitution. When an accused person is let out on bail, for example, the general public is of the opinion that the accused has been set free and the government has failed them, setting the stage for vigilante justice. A renewed alliance between the police and community organizations is being fostered as one of the many strategies for alleviating mob violence. This is aimed at countering the killing of captured suspects and frequent attacks on police officers to vent frustration against a system the public perceives as unresponsive to its complaints.

The public also expects all grievances, past and present, to be redressed by the government with immediacy and without regard to resource limitations. The international community, however, expects the justice system to function today as any other justice system in the region and, in some instances, according to international standards, without regard to cultural diversity, limited resources, or the abyss from which the country has ascended. The net effect is that the government is often left to balance between conflicting demands for accelerated transformation.

A case in point involves more than 700 inmates, from among the total prison inmate population of nearly 1,500, who are in prolonged pretrial detention status ranging from six to 36 months, sometimes for very minor offenses such as petty larceny. A significant number of inmates in this category, however, are accused rapists and armed robbers on whom there is insufficient information on file to prosecute. On the one hand, human right advocates (both national and international groups) demand the immediate release of those held in violation of their constitutional right to a speedy trial, while, on the other hand, the general public demands that the accused individuals remain incarcerated indefinitely to ensure that public safety is not compromised. Again, the government has to strike that delicate balance where the perceptions of human rights between the two communities take divergent paths.

The simple fact is that public education as to evidentiary standards, presumptions of innocence, and the principles of human rights will not automatically assuage the concerns and distrust of a public that for so long has been alienated from the formal justice system, and therefore the transformation we so impatiently desire will only occur over time. In the meantime, the number of people in the population who now resort to the customary justice system (at times involving questionable practices) in their quest for justice has increased, rendering perplexed a government that is still struggling to provide justice institutions, such as courthouses, prisons, and police stations, throughout the country, especially in the rural areas.

Under the leadership of the current government, we have taken many major steps to restore law and order in Liberia. To date, the government has invested heavily in infrastructural development, including new court houses, prisons, and police stations, and the training of law enforcement and security officers. We have also introduced new legislation and established institutions to attract investments and promote transparency and accountability, some of which include the Public Procurement Concession Act, the Public Financial Management Act, the Liberian Anti-Corruption Commission, the Land Commission, the Law Reform Commission, the Independent Human Rights Commission, and the Liberian Extractive Industries Transparency Initiatives. We are currently developing a new commercial code, a commercial court, a prison reform act, and an antidrug law.

Notwithstanding this progress, very little attention has been given to some seemingly insignificant but crucial areas of concern, such as the impairing effects of Liberia's persistently traumatized population. Because of the disintegrated value system affecting the whole population, there is a weakness, for example, in donor-sponsored capacity building programs that impedes the foundational preparedness of the benefitted trainees to absorb and apply what they are taught. The attention to these issues seems, without a doubt, to be the prerequisite to any rebuilding or reconstruction process in a post-conflict environment. Security, rule of law, and the level of productivity in the country all depend on how well we address the psychosocial problems of society and restore to the country the value system that was so badly damaged during the years of war, disabusing citizens of mixed messages about the difference between right and wrong. These confused values are clearly reflected in the persistent corruption in the country, in spite of the commendable efforts of the government of President Sirleaf to stamp out such practices.

Approach to Meeting Expectations

Generally, it is the policy of the Government of Liberia to include relevant stakeholders, such as international partners and civil society, in the planning and implementation of major projects, especially those pertinent to the reconstruction and rebuilding goals of the country. Allowing for wider participation by stakeholders can provide broader perspectives, leading to more concrete and sustainable resolutions. Meetings among stakeholders are usually followed by additional consultations with various communities, public awareness and education, drafting of policy documents, and, if necessary, legislation. The government recently adopted this approach with respect to its Access to Justice Project. For instance, although the Supreme Court of Liberia declared "trial by ordeal" unconstitutional nearly 100 years ago, many Liberians continue to use this method of informal justice to seek redress of grievances. The Supreme Court took this decision not only because certain fundamental rights (such as the right to trial by jury and the right to appeal the decision) provided for in the constitution are disregarded by this system of justice, but also because some of the methods employed are oftentimes fatal (such as having the accused drink a poisonous concoction to establish guilt or innocence). Consequently, the government has set up an access-to-justice committee to determine how best the society can enhance access to justice for all citizens by harmonizing both the formal and informal systems of

justice. We believe this will ultimately lead the country to develop legislation to provide new legal and structural frameworks that will result from this endeavor.

In addition to including all stakeholders, the Ministry of Justice has adopted a policy to collaborate with the judiciary on all projects that require action on the part of the judiciary for full implementation. Hence, the judiciary and the Ministry of Justice are currently collaborating on the following projects:

How to Enhance Access to Justice

In response to the increased use of the informal or customary justice system, the government has set up a committee to collaborate with stakeholders (inclusive of civil society organizations) to determine how best the formal and the informal justice systems can be harmonized to increase access to justice in the country. We believe that the popularity of the informal justice system is driven by the fact that most citizens view the formal justice system as too expensive, too complex to understand, and too unreliable in outcome.

Pretrial Detention

Historically, we have had problems with the prolonged detention of those who are accused, even of minor crimes. Sometimes a detainee awaiting trial may remain in prison longer than any sentence that might have been imposed for the crime, had he or she been convicted. The problem here lies both with the judiciary and the Ministry of Justice with respect to the pace of prosecution, the management of the docket at the court, and the lack of an efficient case management mechanism throughout the criminal justice system. A special task force established in 2009 is working on releasing inmates in prolonged detention status on a prioritized basis and developing mechanisms for ensuring that the process is sustainable.

Magistrate Sitting Court

Two years ago, the government started the Magistrate Sitting Program, whereby magistrates from six magisterial jurisdictions hold court on prison grounds in order to fast-track cases.

Probation and Parole

For more than 40 years, the government has made provisions in its Criminal Procedure Code for probation and parole, but has never introduced these programs. On August 1, 2010, the Ministry of Justice and the judiciary launched the first training program for probation and parole officers. This program will provide judges with discretionary power to use alternatives to incarceration and also give convicts, who are ideal candidates for rehabilitation, a second chance. The program will be modified to take into consideration the limited financial resources of Liberia, as well as its special cultural attributes, fully recognizing the need to facilitate better social cohesion within the implementation framework of the program.

Challenges to be Addressed by Government and Donors

Holistic Approach

For the justice sector, we have repeatedly requested from our donors that projects should be identified and funded in a very balanced manner so that the attempt to strengthen the sector is not lopsided, with the net effect that the entire system continues to remain weak. Most donors openly express a preference for providing assistance for the police—which is good—because there is a need for increased assistance to the police. However, when the immigration services, prosecution, and corrections receive little or no assistance, the entire system remains weak.

Donor Competition

Competition among donors, as well as institutions of the recipient government, can result in duplicative activities, disruption of services, and waste. Recipients at times lament that donor representatives are more interested in meeting the requirements for submitting reports to their superiors or headquarters rather than in focusing on the outcomes of their projects. This problem can be resolved with increased consultation, collaboration, and coordination among stakeholders. In our own experience at the Ministry of Justice, we hold regular meetings with partners and have developed a reporting system as well, to ensure that proposed donor projects are aligned with our priorities and ongoing programs.

International Best Practices

There is a need to be cautious about embracing international best practices as a stock approach to developing justice reform programs. Liberia's problem is especially distinguished by the level of brain drain, cultural nuances, limited financial resources, and the psychological scars of a prolonged war. Therefore what is often described as a "cookie-cutter" approach to resolving some of its problems might not necessarily be the best option. For instance, as noted above, there are numerous inmates across the country who have been in pretrial detention status for several months for minor offenses. Yet the symptoms in one part of the country contributing to the crowding of jails might stem from entirely different pathologies than those in other parts of the country. For these kinds of problems in post-conflict countries like Liberia, there is no quick fix, no textbook solution, no best practice; rather, there is a need for a diligent inquiry into the deep-rooted causes of specific problems that will guide the development and application of innovative, probably unique, and, hopefully, adequate solutions that are likely to endure.

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The Legal Vice Presidency
The World Bank
1818 H Street, NW
Washington, DC 20433
USA
Telephone: 202-458-1530
Internet: www.worldbank.org/legal
E-mail: legalhelpdesk@worldbank.org

