REMARKS TO UN GENERAL ASSEMBLY

Justice for Development: integrating justice and human rights into the post-2015 development framework

Remarks by James A. Goldston, executive director of the Open Society Justice Initiative, to the President of the General Assembly's High-level Event on "Contributions of Human Rights and the Rule of Law in the post-2015 Development Agenda" at its session on June 10, 2014.

Thank you for this opportunity to offer remarks on the importance of human rights and the rule of law in the post-2015 development framework.

My organization, the Open Society Justice Initiative, works to promote access to justice and the rule of law around the world through advocacy, litigation, research, and community based justice services. At the same time, we are centrally engaged in a debate about the next global development agenda. Over the past year, member states, working through the Open Working Group, have made much progress. And yet, a major question remains: what role will justice play in the next generation of development goals?

For people around the globe, it is no secret that the rule of law, good governance, and human rights are necessary preconditions to peaceful, stable, and prosperous societies.

The day-to-day consequences of barriers to justice are practical and restrictive:

- Without secure property rights or means for claiming them, poor people cannot invest.

- Without reliable and responsive criminal justice institutions, people do not feel safe to send their children to school or go to market to trade.

- Without legal identity, one cannot access services, open a bank account or, in some countries, acquire a mobile phone.
- Rule of law deficits – corruption, armed conflict, inefficient public institutions – perpetuate poverty and inequality.

And it's not only people who understand the link between justice and development. States get it too. Just last September, the General Assembly affirmed that the rule of law is of "fundamental importance for ... the further development of the three main pillars upon which the United Nations is built: international peace and security, human rights and development."

In short, we now understand that justice and governance are no less important to equitable and sustainable development than good schools, functioning health clinics, and passable roads.

And yet, what do we do with this knowledge? How concretely do we integrate justice and governance in the development agenda?

I will address these questions in three ways: First, I will recall the many positive impacts that justice and good governance have had on development. Second, I will discuss how justice and governance can—and must—be incorporated into targets in the new development framework. And finally, I will respond to the concern that justice and good governance are not measurable.

Justice and governance are critical for development

In 2011, the World Bank's World Development Report heralded an end to the divide between justice and development. This landmark study found that addressing injustice and insecurity is fundamental to poverty reduction. In the years since, evidence of the links between justice and development has only expanded.

Just a few weeks ago, the legal empowerment organization Namati, which Open Society Foundations supports, published a comprehensive evaluation of nearly two hundred access to justice and social accountability programs. The findings are striking. When government and civil society groups support people to understand and claim their legal rights, development processes are not only more inclusive and equitable; they also drive better health, stronger educational outcomes, and wealthier communities.

Allow me to give you some examples.

Over the course of one year, in 25 villages in Uganda, the government, the World Bank and local organizations partnered to improve health outcomes by fostering greater community engagement in health service delivery. Armed with more information about health policies, local residents developed scorecards rating the performance of health clinics and met with service providers. In just one year, under-five child mortality was 33 percent lower; vaccination rates improved; and community members utilized more health services with lower waiting times. [1]

An Indian NGO helped over 300 people access their public food grain records through a new right to information law, then analyzed the information to expose inconsistencies with the amount of subsidized grain actually received. Public hearings and other pressure helped improve grain distribution to poor families. Based on this success, the Delhi local government incorporated public participation mechanisms into the city's Public Distribution System.[2]

In Mozambique, Uganda and Liberia, community based paralegals have contributed to more secure and equitable land governance, and to resolving intra-communal and territorial disputes.

In Bangladesh, efforts focused on raising women's awareness of rights and responsibilities around marriage have been reported to help decrease the size and frequency of illegal dowry payments.[3]

In Ecuador, the expansion of access to legal information and advice helped address physical violence against women.[4]

People in many countries have used a judicially enforceable right to information to monitor public spending and advocate for change. In Chiapas, Mexico, for example, rural community members found out through Right to Information requests that a government sewage project had been contaminating local water. With that information, they successfully advocated for authorities to halt the project and install proper filter systems.[5]

Legal identity documentation has been found to be a "determining and aggravating factor for social, economic, and political exclusion—for men and women alike". Several projects underway—involving Nubians in Kenya, persons of Haitian descent in the Dominican Republic, and Roma in Macedonia and Serbia — successfully deploy low-cost, community-based paralegal schemes to secure legal identity documents, including birth certificates and identification cards, essential for access to citizenship, education, and health care.

In Ontario, Canada, the provincial government allocates funds for independent community legal service centers to provide advice to citizens to promote healthier and safer livelihoods.

In short, while models of collaboration vary from place to place, the principles remain the same north and south, east and west: projects which promote justice and enhance the rule of law foster more equitable, inclusive and sustainable development.

Targets for the new development framework

Given the essential connections between justice and development, how do we actually incorporate these linkages into the post 2015 framework? In fact, many governments are already doing so through targets contained in their national plans.

Indonesia has adopted numerous economic reforms and developed robust safety-net policies in recent years that have helped drive poverty alleviation. Two specific targets on justice in Indonesia's mid-term development plan for 2010 to 2014, commit the government to:

- Increase the number of justice seekers who report "comfort, certainty, and security in their interaction" with the state, and

- Increase the "trust and respect the general public" have for law enforcement and government justice institutions.

South Africa is another example. In 2010, President Jacob Zuma tasked the National Planning Commission to develop a national development plan to guide South Africa's progress. The Commission concluded that justice, safety and good governance are central to South Africa's efforts to eliminate poverty and reduce inequality. The 2030 development plan includes specific commitments to:

- Realise a developmental, capable and ethical state that treats citizens with dignity, and

- "Ensure that all people live safely, with an independent and fair criminal justice system."

Indonesia and South Africa are not unique. Across the world, government-led poverty reduction strategies and development plans include targets on justice, governance, and safety.

Afghanistan's poverty reduction strategy from 2008—the blueprint for government and donor policy—included a goal to ensure that the "public can rely on effectively organized and professionally staffed, transparent and accountable justice institutions." The Afghan plan offers concrete justice and governance targets including that "justice institutions have access to infrastructure, transportation, equipment, and supplies adequate to support effective delivery of justice services" and that "citizens are more aware of their rights and are better able to enforce them."[6]

As far back as 2001, Honduras incorporated justice and governance into its development plan, and included a target to "achieve parity and raise by 20% the Human Development Index related to gender."[7]

In 2005, Mongolia adopted a 9th development goal - to 'strengthen human rights and foster democratic governance' – with three targets and 12 monitoring indicators.

Many other countries have followed suit. [8]

The Secretary General's High Level Panel, the Open Working Group, and others, have offered suggestions for potential targets in the new development framework, but I want to use this opportunity to put forward a few concrete recommendations. These targets are contained in a statement developed by over 200 civil society organizations from 50 countries. They have been endorsed by eminent persons including Desmond Tutu, Mo Ibrahim, and former presidents of Brazil, Mexico and the United States.

- Government should ensure that access to legal identity is universal and all people can participate fully in society. A target could be to "ensure that no one suffers from a lack of legal identity."

- Government that should ensure communities and individuals, including women, have secure rights to land and property. A target could be to "increase the amount of land for which communities have secure tenure and decisions are taken through an open and accountable process" or to "increase the share of women, men and communities with secure rights to land and property."

- People should know about the laws and regulations that govern their lives, particularly those concerning essential services. A target could be to "guarantee the public's right to information and to access government data."

- Finally, citizens must have a role in shaping the fundamental, everyday work of their governments. A target could be to "ensure the participation of citizens in monitoring essential services, including water, healthcare, and education."

Indicators of progress under the new development framework

Having demonstrated the connection between justice and development, and describing some possible ways to incorporate these linkages through targets, I will conclude by responding to the most frequently voiced concern I have heard in these debates - that justice is not measurable.

In fact, governments have a long tradition of using indicators to monitor progress towards justice and governance.

- Ministries of justice and judiciaries regularly gather administrative data on case volume and duration.

- Security agencies and departments of health track homicide and crime statistics.

- National statistics offices regularly include justice, legal knowledge, and access questions in surveys to document the lived experiences and perceptions of people.

- Dozens of governments collect information on birth registration rates, and developing countries increasingly have full or partial data on registration of children.

To be sure, governments do not tackle the challenges of measurement alone. Academia, civil society and international organizations often help.

- The Afro- and Latino-barometers are independent, nonpartisan research projects that record experiential data through population-based surveys throughout these regions.

- UNICEF helps governments collect national data on birth registration and legal identity.

- UNODC supports national data collection around homicides and conviction rates in more than 80 countries.

- The Organisation for Economic Co-operation and Development and the World Bank are working with the g7+ to develop ways to measure justice and security across many of the world's fragile states.

Because a single indicator is often insufficient, governments and academics are increasingly creating baskets of indicators that capture progress across different dimensions through various data sources.

- Administrative indicators document government effort and inputs;

- Objective indicators9 identify broad trends over time;

- Experience and perception indicators, typically gathered through surveys, ensure that the real experiences of people inform overall assessments.

In support of its governance goal in its existing MDG national plan, the Government of Mongolia has adopted a basket of indicators approach including the following four:

- Government performance in the Human Development Index;

- Expert evaluation of the conformity of Mongolian laws and regulations with international human rights treaties and conventions;

- Public perception of the political, economic, and financial independence of mass media; and

- The Number of state organizations that regularly place reports of their budgets and expenditures on their websites.

Other g7+ countries including Timor Leste, Solomon Islands, Liberia, and Somalia are also developing baskets of indicators to track progress across a range of peacebuilding and statebuilding goals. These include

- The number of violent deaths per 100,000; and

- Public confidence in the performance of justice systems—both formal and customary—including human rights mechanisms.

In short, many governments now recognize that experiential and perception data are valuable tools to help them target programs for effective service delivery.

Conclusion

Over the last fifteen years the MDGs have enabled us to make progress as a global community towards reducing extreme poverty.

By including justice and the rule of law in the next development agenda, we can do even better.

Specific targets and measurable indicators are available.

It's time to put them to use. Thank you.

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[1] (Namati Evidence Review, citing Martina Bjorkman and Jakob Svensson, "Power to the People: Evidence from a Randomized Experiment on Community-based Monitoring in Uganda," Quarterly Journal of Economics 124:2 (2009), 735-769.)

[2] (Namati Evidence Review, citing Suchi Pande, "The Right to Information and Societal Accountability: The Case of the Delhi PDS Campaign," IDS Bulletin 38:6 (2008): 52.)

[3] (asian Development bank 2001.

[4] (Rodríguez 2003

[5] (Dokeniya 2013

[6] http://www.imf.org/external/pubs/ft/scr/2008/cr08153.pdf

[7] http://www.imf.org/External/NP/prsp/2001/hnd/01/083101.pdf

[8] For library of PRSPs http://www.imf.org/external/np/prsp/prsp.aspx

[9] *Addressing Conflict and Violence from 2015: A vision of Goals, Targets and Indicators*, Saferworld Briefing, February 2013 ("Saferworld, February 2013") available at http://www.saferworld.org.uk/downloads/Post-2015-4th-goals,targets-and-indicators-FINAL.pdf.