

Summary of Pilot Workshop for Australian Law and Justice Community of Practice

*Tuesday, 15 November 2016
Australian National University*

Hosted by the Australian National University and the Department of Foreign Affairs and Trade, the workshop brought together approximately 50 participants from government agencies, research institutions and industry to discuss Australia's international law and justice assistance and how aid investments can deliver more effective results.

Scope and objectives of law and justice assistance

Presentations from DFAT, the Attorney-General's Department and the Australian Federal Police outlined the significant scope of Australia's law and justice assistance: from supporting local coalitions to advocate on community justice issues, to government-to-government assistance in the formal justice system, to police development missions and liaison networks to tackle transnational threats. The presentations also set out important challenges those working in law and justice must face:

- With reductions in the aid budget, assistance has had to become more targeted and compete for scarcer resources: how can the case for law and justice assistance be made more clearly?
- In addition to questions of relevance are questions of effectiveness. How can we make a difference to other country's law and justice system given that these are ultimately the result of local histories and processes?
- How can changes we support get beyond transactional change to transformational change?

A range of rationales set out for law and justice assistance underscored the breadth of objectives that programming supports – from anti-corruption, to countering violent extremism and enhancing tolerance, to supporting access to justice for women and the poor. Yet the lack of any guiding government policy on law and justice assistance was also noted. It was suggested that this results in little clarity on the purpose of Australian assistance, although questions were raised as to whether the purpose is best explained through political, economic, social or humanistic motivations.

Are we learning?

Programming approaches are learning, to some extent, from past experience. We know that overly ambitious and technical approaches to reform do not work and that law and justice is inherently political. We know that commitments must be longer term to build partnerships. We know local staff play a critically important role. And we know that flexibility is needed in programs to enable responsiveness to changing contexts. Yet integrating these insights into practice remains a challenge.

Discussion also unearthed a sense of déjà vu. We have known about many of the weaknesses of programming for some time. With the same lessons continuing to emerge, this raises questions about the extent to which the law and justice community have really taken on board previous learning. If we have learnt, how are we programming differently now to what we were doing in the past? There continues to be a strong reliance on institutional strengthening despite the acknowledgement of the usefulness of moving to a more problem-focused approach.

How assistance can be improved

If we are to take seriously the need to move beyond conventional approaches, participants pointed to the need to be willing to engage in the difficult space of social and political norms. This must start from coming to terms – and engaging – with the prevailing social understandings of order, justice and accountability and practices. This would help to shift programming from implementing foreign models and take seriously local beliefs and practices, recognising capabilities to solve problems that already exist at the local level which the international community might support. While this realisation itself is hardly new, integrating it into programming remains limited.

To assist with this, implementers must possess the appropriate skills – especially soft skills of listening, learning and building relationships at the community level. Embedding political economy analysis within programming was also suggested as a way to integrate an understanding of contextual constraints and opportunities – not merely at the outset but to encourage learning and critical reflection throughout the program cycle. In an effort to change ways of working, DFAT's Effective Governance Strategy emphasises thinking and working politically and playing different roles – not just technical assistants but facilitators, brokers and dot joiners.

The political economy of Australia's own international law and justice institutions was noted as itself being critical in shaping the nature of programming – as was Australia's political role in the region more broadly. A number of participants also raised the issue of how Australian law and justice assistance can impact on the political settlement of partner countries, with ramifications for local constellations of power and stability. Local partners have a range of agendas and navigating whose agendas to support and when is far from straightforward.

Communicating results

A variety of audiences were highlighted as important stakeholders for law and justice programs: the Australian government, partner governments, the Australian public and the public in countries programs operate in. Programs have been both more and less effective at engaging with these different audiences. The challenge is figuring out how to achieve influence given the intended audience and what resources you have available. Broadly, the importance of communicating more strategically and more often was noted, as was ensuring that it is not just team leaders and implementing firms talking about progress, but that local partners, donors and relevant stakeholders are also talking about progress.

Opportunities for better communication were seen to lie in social media, particularly to get away from communication being a one-directional flow of information.

The Australian public was noted as an overlooked audience, in part because the popular mood is challenging at the moment, with sense of a more inward-looking Australia. To effectively communicate in this environment participants suggested reframing the dialogue away from 'us giving aid' to 'us working together to solve common problems.' Long-term support is particularly difficult to market to the public (in contrast with humanitarian response, for instance) but opportunities could lie in the appetite to move away from band-aid solutions.

One key challenge programs face is communicating programming when you are working on sensitive issues and 'thinking and working politically.' In many cases, the work cannot be written down and so it becomes more difficult to communicate.

Next steps

The idea of establishing a law and justice community of practice was widely embraced. There was a sense that such a community could help to draw out the substantial knowledge that often stays in people's heads and then 'evaporates,' thereby limiting our collective learning. Suggestions were made about other actors who could be involved – including the private sector, law councils and societies and Southern voices.

The possibility of also splitting into smaller, thematic groupings given the diversity of interests in the room was also discussed. A survey was shared with participants to gauge their feedback and will be used by the convenors to plan for the next steps in 2017.