

POVERTY, SECURITY, JUSTICE AND GROWTH – A PERSPECTIVE FROM NIGERIA

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Poverty, Security, Justice and Growth

A perspective from Nigeria

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A. Introduction

Thank you for coming this evening. I am glad to be back in Vancouver after many years away. The last time I was here was for the 10th Anniversary of the International Centre. That was almost five years ago. I think that everyone associated with the Centre can take satisfaction to see how it has grown into an internationally respected policy institute under the very capable leadership of its chairman of the Board, Dean Emeritus Peter Burns, and its Executive Directors, Dan Prefontaine, Frances Gordon and now Kathleen Macdonald. It has more than fulfilled its original promise to contribute to international criminal justice policy development through analysis, research and consultation and to provide technical assistance to implement international policy and standards.

I would also before I start this evening like to recognize Mr. Brian Long who is with us. In 1991, Brian was Director of Education Programs in the Canadian Department of External Affairs. About this time that year, Brian, found \$ 50,000 in his budget to contribute to the International Centre and start this Lecture series. That amount deposited with and then matched by the Vancouver Foundation formed the endowment which continues to support it 15 years later.

In the 1990's the major challenge for those of us who are either criminal justice professionals or human rights activists was to work with others to end the impunity with respect to war crimes, crimes against humanity and genocide which then existed. This International Centre made a singular contribution to the evolution to international criminal law in March 1993¹ by hosting the international experts meeting on an ad hoc war crime tribunal here in Vancouver. That meeting opened by the then Minister of External Affairs, Mrs. Barbara McDougall, was a critical step in the process that led to the creation of the ad-hoc International Criminal Tribunal for the Former Yugoslavia by the Security Council one month later. Several of those participated in that meeting went on to have important roles in the creation of the Yugoslav and Rwanda international criminal tribunals and subsequently, the International Criminal Court: Justices Jules Deschenes of Canada and Karibi Whyte of Nigeria were among the first judges elected to the Yugoslav Tribunal, Ambassador Hans Corell of Sweden was appointed UN Under-Secretary General and Legal Adviser a year later and was key to the entire process in the 1990s. Prof. Cherif Bassiouni who thanked Mrs. MacDougall went on to be chair of the drafting committee of the 1998 Rome Conference on the Establishment of an International Criminal Court. Philippe Kirsch, at the time Deputy Legal Adviser with the Department of External Affairs, was instrumental in the organization of the meeting although he did not participate in it. He went on to serve as Chairman of the Committee of the Whole of the Rome Conference, Chair of the Preparatory Commission for the International

¹ <http://www.icclr.law.ubc.ca/Publications/Reports/1993.pdf>

Criminal Court and was subsequently elected its first president. This Centre continued to make an important contribution to the International Criminal Court process throughout the 1990s not only during the preparations for the Conference, during the Conference itself and subsequently, preparing other countries for accession and ratification.

This is just one example of how the Centre has made a difference. I could go through many more: the China programme; the work on corrections, on domestic violence. There is a significant body of work. It is a contribution all those associated with the Centre can be proud of.

That was the challenge for us in the 1990s. The goal - ending impunity at the international level has been met. Whereas political considerations under the rubric of national sovereignty used to trump the need for justice, it is now the other way around. Justice and the rule of law now trump political considerations when criminal conduct is involved.

This decade's challenge for us is a different one. It is how to provide a greater number of meaningful life choices to the billions of our fellow humans who live in poverty. Security, justice and growth have a large part to play in defining what such a better life might look like and how to bring it about. We, as human rights activists, justice and development professionals or simply global citizens have an important contribution to make to help bring this about.

In the last dozen or so years, I have, through my experiences, learned something about the relationships between poverty, justice, rights and development. I hope to share some of what I have learned with you this evening. The first lesson I have learned is the importance of context or more precisely contexts. The first context is who are the world's poor and how do they experience the poverty.

B. The context

Incidence of poverty

The World Bank² estimated that in 2001 1.1 billion people in the world had consumption levels below \$1 a day and 2.7 billion lived on less than \$2 a day. These are the world's poor. The 20 years between 1981 and 2001 saw significant progress in reducing levels of poverty and in the

² Shaohua Chen and Martin Ravallion, How have the world's poorest fared since the early 1980s? Development Research Group, World Bank, http://www.worldbank.org/research/povmonitor/MartinPapers/How_have_the_poorest_fared_since_the_early_1980s.pdf

number of poor globally however most of that progress occurred in China and to a lesser extent in South Asia.³

The story in sub-Saharan Africa has been very different. The number of poor in Sub-Saharan Africa almost doubled between 1981 to 2001 from 164 million to 316 million. In 2001, 76.6% of the population of Sub-Saharan Africa lived on less than \$ 2.15 per day. Because of improvements elsewhere, sub-Saharan Africa's poor as a share of the world's has risen from 11% in 1981 to 29% in 2001 and, if present trends continue, will be 46% in 2015.

Nigeria in the global context

Nigeria is Africa's most populous country. With 90 million Nigerians living in poverty, only India and China have more poor people. In Nigeria, as in sub-Saharan Africa generally, the poor actually became poorer in those 20 years. The mean income of those living on less than \$ 1.08 a day went from \$ 0.64 in 1981 to \$ 0.61 in 2001. That of those living below \$ 2.15 a day went from \$1.02 to \$0.99.

The shape of poverty in Nigeria

In our development work, we use one of the few market research firms in Nigeria, PSI, out of Lagos. They use a typology of social class in Nigeria which provides a good overview of the shape of poverty there. PSI's typology is roughly based on the British typology of social class which uses A, B, C1, C2, D and E to denote the different classes.

Several factors go into determining a person's or, in the case of Nigeria, a household's class: the area and type of dwelling they live in; the household's 'durables' (appliances) and servants; their occupation and job status; their sophistication (travel, cars, etc) and finally their household income. In Nigeria, the average household numbers 6 people.

A, the Upper Class is extremely wealthy. They live in exclusive areas of town. They own all the conceivable electronics and appliances and have several servants. They are owners or very senior managers of large companies or very top professionals. In Nigeria, government ministers as well as senior military officers of colonel rank and above would fall into this category. They are almost all university educated, travel internationally, and, in Nigeria, have an annual income of over 40,000 GBP/ \$ 82,000 with generous fringe benefits. PSI estimates that 1% of the Nigerian urban

³ *ibid*, The percentage of the population of China living under \$1.08 at 1993 PPP went from 63.8% in 1981 to 16.6% in 2001. The comparable figure in India was 54.8% to 34.7%.

population and less than 1% of the national population are As. Using different indicia, 4% of the UK population are classified as A described as Upper Managerial.

B, in Nigeria, is used for the lower Upper class. They live almost like the As but their houses have fewer rooms or are on the fringe of exclusive areas. They have most but not all of the electronics and usually have only one, at most two, servants/help. They are senior managers of small and medium size companies or intermediate managers of large ones. Some are top professionals. Others military officers from the rank of Captain to Lt. Colonel. Others still, Director level in the Public Service. They are well educated and well travelled. Their annual income averages half that of the As but also comes with fairly generous fringe benefits. According to PSI, 4% of the urban population of Nigeria but only 1% of the national population fall into this category. Using different indicia, 25 % of the UK population are classified as B – Lower Managerial and Professional.

C1 is used for the upper middle class in Nigeria. They live in mostly medium density areas or choice homes in high density areas. They own one or more of the following: satellite TV, small generator, AC, DVD/VCR, Fridge/freezer, video, or microwave. In Nigeria, they are mostly upwardly mobile professionals or owners of small businesses. They are well educated and have high tastes moderated by their means. Their annual household income averages 8,000 GBP/ \$17,000. If they are in the public service, they get reasonable fringe benefits. 8% of the urban population and 4% of the national population in Nigeria fall into this group. Using different indicia, 22% of the British population are classified as C1s – Other non-manual.

C2 is the lower middle class in Nigeria. They live in mainly flats of various sizes. They have the same appliances but fewer. They are supervisors or foremen in large companies, managers of small companies or senior staff of private companies. Most lecturers and teachers are in this group as are the vast majority of public servants. It also includes traders and other business people engaged in small and medium scale buying and selling. All are skilled or trained with secondary school education. Some have a bit more like attendance at a polytechnic. The annual income of such households averages \$5,000. In Nigeria, 17% of the urban population and 9% of the national fall into this category. Using different indicia, 27% of the UK population are C2s – Skilled manual workers.

D is the upper lower class in Nigeria. They live in 2 room apartments with toilets and other facilities shared with other tenants. The whole environment is overcrowded and dirty. Any basic electronics are second-hand: black and white television, standing fan. They may have a bicycle or beat-up motorcycle (Jincheng, a Chinese make). They are mainly the junior staff in all organizations: security men, office clerks, drivers, and hospital attendants. Some have trades like

bricklaying or car mechanics. Some are graduates. Most did not go beyond secondary school. Their annual income averages half of the C2s – \$ 2500 US. In Nigeria, 55% of the urban population and 60% of the total are in this category. Using different indicia, 16% of the UK population fall into this category – Semi-skilled manual workers.

E is the lower class in Nigeria. They live mostly in the rural areas in mud houses where toilets and bathrooms, if available at all, are outside. Those in the cities live in crowded tenements. They possess only the essential cooking and eating materials; can hardly afford a bed or fan. They sometimes share a bicycle. They are mostly farmers or in the cities, household help. Most stopped their education after primary school because of poverty. They have no regular source of income and rely heavily on relatives in the urban areas. 15% of the urban and 25% of the total population in Nigeria fall into this category. Using different indicia, 6% of the UK population fall into the category of Unskilled Manual Workers and others.

Comparisons between Nigeria and Canada are difficult given contexts worlds apart but let me try one which might put all of this in a global perspective. If we just consider income, 85% of the Nigerian population, all DEs, live in conditions comparable to the bottom 3% in Canada: the urban destitute and almost homeless and the rural dirt-poor. The comparability is very rough but I think makes the point.

UN Millennium Summit & Declaration

In September 2000, the nations of the world gathered in New York at the United Nations to recognize and reaffirm certain values and principles at the dawn of a new Millennium and identified a number of key objectives to translate these values and principles into action. The United Nations Millennium Declaration which emerged from that Summit⁴ set out key objectives relating to peace, security and disarmament; development and poverty eradication; protecting our common environment; with regard to human rights, democracy and good governance; protecting the vulnerable and meeting the special needs of Africa.

The Declaration is a statement of global policy to be realized through certain goals and objectives. Most of the goals and objectives are extremely relevant to crime and justice so much so that I have included a copy of the Declaration in the Annex to this speech.

The Millennium Summit recognized that Africa had special needs and so committed the world community to support the consolidation of democracy in Africa and assist Africans in their

⁴ <http://www.un.org/millennium/declaration/ares552e.htm>

struggle for lasting peace, poverty eradication and sustainable development, thereby bringing Africa into the mainstream of the world economy. The United Nations therefore resolved to

- to give full support to the political and institutional structures of emerging democracies in Africa;
- to encourage and sustain regional and sub-regional mechanisms for preventing conflict and promoting political stability, and to ensure a reliable flow of resources for peacekeeping operations on the continent;
- to take special measures to address the challenges of poverty eradication and sustainable development in Africa, including debt cancellation, improved market access, enhanced Official Development Assistance and increased flows of Foreign Direct Investment, as well as transfers of technology and
- to help Africa build up its capacity to tackle the spread of the HIV/AIDS pandemic and other infectious diseases.

Since the Millennium Summit, international organizations, national aid agencies, international and national NGOs working in poverty eradication, security, justice and rights have entered into a discourse both internally and amongst other members of the international community as to how to best achieve the key objectives outlined above.

The Millennium Development Goals in context

Aid agencies such as UNDP, DFID and the World Bank have incorporated the development goals from the UN Millennium Declaration into their core purpose, mission or mandate. DFID, for instance, often describes itself as the UK's Millennium Development Goals agency. The Millennium Development Goals are to

- 1) halve the number of people living in extreme poverty and hunger
- 2) ensure that all children receive primary education
- 3) promote sexual equality and give women a stronger voice
- 4) reduce child death rates
- 5) improve the health of mothers
- 6) combat HIV & AIDS, malaria and other diseases
- 7) make sure the environment is protected
- 8) build a global partnership for those working in development.

Achieving these goals will be crucial if a significant number of the poor are to lead better lives. But they are not stand alone goals but rather form part of an integrated whole – the Millennium

Declaration – as to do the peace and security goals, the human rights, democracy and good governance goals.

DFID's leadership in poverty reduction

Of all the aid agencies, I am most familiar with the discourse within the United Kingdom's Department for International Development. It funds our programme in Nigeria and will be referring to it often this evening. In my view, DFID has been setting the pace for the entire development community in this area through its willingness 1) to think innovatively and rigorously, 2) to commit to large and long-term programmes such as ours, (£ 30 million over 6 to 7 years) and in tricky areas such as policing areas which few development agencies are willing to take on; 3) to open its procurement processes to everyone in the world rather than restrict it to its own nationals and 4) to re-examine fundamentals relating to power relationships that keep poor people down.

DFID, as part of the UK's overall foreign policy apparatus has been able to capitalize on the UK's political influence as a permanent member of the Security Council and the G8 and its financial leverage with the European Community, World Bank and the United Nations programmes to lead an active discourse on poverty, rights and growth⁵. Over the last five years, its influence has worked and it has begun to partner with the Bank not only in policy development but also in the implementation of country programmes. In Nigeria, the collaboration between the Bank and DFID has resulted in one of the first Country Partnership Strategies and implementation framework which includes the Federal Government of Nigeria.

⁵ The UK's Gross Public Expenditure on Development (GPEX) amounted to **£4,823m** in 2004/05. The DFID aid programme accounted for **3,838m** of this expenditure, or 80%. The UK's GPEX has increased year on year since 2000/01- as has DFID's bilateral aid programme. In the calendar year 2004 the UK reported **£4,302m** as official development assistance (ODA), making the UK the fourth largest OECD-DAC donor on this internationally agreed classification of aid. The UK's ODA/ GNI ratio for 2004 was **0.36%**, giving a ranking of 11th out of the 22 donors. In 2004/05 **£2,145m** (56%) of DFID expenditure was bilateral assistance and **£1,504m** (39%) was channelled through multilateral organisations. The remaining **£190m** (5%) was spent on administration costs.

DFID's bilateral assistance to sub-Saharan Africa rose from **£672m** in 2003/04 to **£825m** in 2004/05. Assistance to Asia also increased over this period, but at a slower rate. **India, Bangladesh and Tanzania** received the largest amounts of DFID bilateral aid. The proportion of bilateral assistance (excluding humanitarian assistance) going to **low income countries** rose to 83% in 2004/05 (from 74% in 2003/04). DFID has a target to spend 90% of such aid in low income countries by 2006. In 2004/05 £233 million of bilateral assistance was channelled through UK **civil society organisations**. Major recipients included the British Red Cross, VSO and Oxfam. The **European Community's Development Programme** received the largest amount of DFID multilateral assistance (£898m), followed by the **World Bank** (£206m) and the **United Nations** (£194m). DFID **debt relief** through all channels amounted to £70m in 2004/05. Non-DFID debt relief (through CDC and ECGD) was £282m.

DFID has issued a number of policy statements to frame and advance the discourse in this area: Realising human rights for poor people⁶; Tackling Poverty by Reducing Armed Violence⁷; DFID Human Rights Review⁸; The Africa Conflict Prevention Pool: A Joint UK Government Approach to Preventing and Reducing Conflict in Sub-Saharan Africa⁹; Fighting poverty to build a safer world; A strategy for security and development¹⁰; Supporting Security, Justice and Development: Lessons for a New Era¹¹; Reducing Poverty by tackling social exclusion.¹² Many of the policies contained in these statements were incorporated into the Report of the Commission on Africa published by the UK government in March 2005. That Report further evidenced the UK's leadership in this area as it provided part of the intellectual platform for a wide-ranging public discussion (like the Global Call to Action Against Poverty Campaign) of what support should Africa be receiving prior to and at last July's Gleneagles Summit.

Commission for Africa

The commitments made in Millennium Declaration are noble ones but it has become painfully clear that, five years on, in spite of some progress, Africa's special needs remain largely unmet. Asia and Latin America are likely to meet the Millennium Development Goals set out in Articles 19 and 20 of the Declaration. Africa isn't. That obvious fact prompted the UK Government in 2004 in anticipation of its Presidency of the G8 and the European Union in 2005 to set up the Commission for Africa.

'Weak governance'

The Commission's Report identified the 'weakness of governance' and the absence of an effective state as the "One thing underlies all the difficulties caused by the interactions of Africa's history over the past 40 years."¹³ By 'weak governance', the Commission meant the inability of government and the public services to create the right economic, social and legal framework [to] encourage economic growth and allow poor people to participate in it.

⁶ DFID, October 2000 All documents on DFID's website, www.dfid.gov.uk

⁷ DFID, April, 2003

⁸ DFID, July 2004

⁹ DFID, September 2004

¹⁰ DFID, March 2005

¹¹ Stone, Miller, Thornton and Trone for DFID, June 2005

¹² DFID, Sept. 2005

Growth is key

Growth is the goal. “Economically, since growth is driven principally by the private sector, that requires governments to provide a climate in which ordinary people – whether they be small farmers or managers of larger firms – can get on with their daily tasks untroubled, and feel that it is worthwhile investing in their future.”

One of the most important things for a justice professional working in development to understand is how central economic growth is to the entire discourse. Without significant economic growth in many of the poorest countries, the number of poor people in the world will not be reduced from 1.1 billion. But growth is not enough. There must also be progress in significantly lowering the levels of the persistent inequalities (in both income and other essential measures) that keep the poor from participating in whatever growth that does occur.

The link between growth and security

The Commission made a directly link between security, justice and growth when it stated that “At the heart of the proper function of government is establishing an economic environment that encourages investment. That means basic functions such as providing security, setting sound economic policies under the law, collecting taxes and delivering adequate public services like health and education. It means seeing that physical infrastructure is in place – roads, railways, water, electricity and telecommunications. But there are also more abstract forms of infrastructure, such as legal systems to protect basic property rights, human rights, and respect for contracts, to uphold order and to act as a check on governments.”

This function extends beyond the direct business of government into a wider area of governance. It is about ensuring that other institutions are in place: an independent judiciary, an effective impartial police and prison system, and a wide range of financial and regulatory systems such as central banks, land registries, and bodies to administer ports and customs posts.”

To strength governance one needs “skilled public servants and managers, at national and at local government level. And they in turn need training, as well as basic equipment such as the tools of keeping records, files, accounting systems, telephones and computers.” In short, they need to increased capacity.

How do the poor experience governance? – Voices of the poor

Having just stated that the weak governance is the single most important factor in inhibiting Africa's development, it would be useful to describe how the poor experience the impact of weak governance in their daily lives.

In 1998 and 1999, The World Bank in an unprecedented effort to understand poverty from the perspective of the poor themselves collected the voices of more than 60,000 poor people from 60 countries. It published the results of this participatory research initiative chronicling the struggles and aspirations of the poor in Voices of the Poor; a series of three volumes: Can anyone hear us?; Crying out for change; and From Many Lands.

Chapter 10 of Crying Out for Change¹⁴ sets out a Poor People's Scorecard on Governance. Not surprisingly, from the perspective of the poor world-wide, there is a deep and widespread crisis in governance. The simple fact is that poor people are excluded from participation in governance. State institutions, whether central ministries or local governments, are often not responsive or accountable to the poor. In community after community poor people report that state institutions - whether delivering services, providing police protection or justice, or making political decisions - are either not accountable to anyone or accountable only to the rich and powerful. . "Poverty is also caused by lack of law and order and lack of equality. It looks like laws are written for the poor only, and the rich do whatever they please."

Poor people are treated with arrogance and disdain by government institutions. In their interaction with such institutions, poor people see little recourse against injustice, criminality, abuse and corruption. Public officials commonly use their positions for economic gain and poor people feel powerless to take action. In the face of dependency and little recourse to justice, poor people remain silent even when confronted with gross abuse of power. They are very critical of their "elected representatives."

Powerlessness stemming from gross inequality is at the core of the poor people's experience of government. Poor people know their needs, problems and priorities. Both private enterprise and civil society can assist poor people to meet their needs but poor people still believe that they need partnerships with governments to solve many livelihood and community problems. Government institutions, whether national or local, are not only ineffective in helping them meet their needs but often abuse them as well. For example, the police. In community after community, the

¹⁴ <http://www.worldbank.org/poverty/voices/reports/crying/cry10.pdf>

police are often the least accountable institution. They play such a negative role in poor people's lives that they add to poor people's insecurity rather than alleviate it.

By and large poor men and women encounter the rich as obstacles to their struggles for a livelihood. Accounts of exploitation, low wages, and exclusion from partnership are common when poor people get involved with private enterprise. Despite such problems, work in the formal economy is highly valued; poor people consider these institutions effective because they are often their only source of income and help in a crisis.

Poor people survive by depending on each other. Friends, neighbours, and both formal and community-based organizations play critical roles in poor people's lives. Civil society institutions, including NGOs, help poor people survive. They seldom, however, help poor people develop bargaining power with more powerful state institutions, politicians, local government and the rich. NGOs have stepped in to fill important gaps created by the breakdown of government and provide basic services to poor people but they again only have limited presence in some places and furthermore, they themselves may not be accountable to poor people.

Poor people living in urban and rural communities are rich in social networks and local institutions. Nonetheless, communities often lack unity. Poor people's informal networks and organizations by and large have not been able to strengthen their bargaining power with states, private enterprises, traders or NGOs. Local leaders, whether formal or informal play important roles in poor people's lives, particularly in rural areas.

Faith-based organisations emerge frequently in poor people's list of important institutions. Spirituality, faith in God and connecting to the sacred in nature are an integral part of poor people's lives in many parts of the world. They are also highly valued for the assistance they provide to poor people. However, their role varies from being a balm for body and soul to being sometimes a divisive force in the community.

Finally, poor people frequently turn to shopkeepers, pawnbrokers and moneylenders to survive. With little access to formal credit channels, these resources prove critical to the survival strategies of poor people almost everywhere. They borrow funds, buy goods on credit or sell off personal property. Consequently, they rate these institutions quite high in importance.

Poor people survive but they do not prosper because they are powerless. "Ill-being or bad quality of life is much more than just material poverty," said the lead author of the Voices study. "The many dimensions of poverty combine to create and sustain powerlessness, and a lack of freedom

of choice and action." Poor people find it difficult to organise and apply political pressure on their own. A big part of the problem is risk: the risk of offending patrons and powerful officials, and incurring loss of work, fines, violence or other penalties.

Justice and rights for poor people: the Nigerian experience

For poor people, justice often does not mean primarily legal justice but rather 'social justice' - a term which comprehends greater equality in economic circumstances, greater social acceptance and integration rather than exclusion and a greater respect for the person as an individual regardless of economic circumstances.

Similarly with regards to rights. Our programme has a "rights-based" approach to development which Save the Children defined in 2003 as follows: "A rights-based approach to development combines human rights, development and social activism to promote justice, equality and freedom. It makes use of the standards, principles and approaches of human rights and social activism to address power issues that lie at the heart of poverty and exploitation in the world."

DFID maintains that a human rights approach to development provides the rationale for empowering people to make their own decisions. DFID's Human Rights Strategy is intended "to enable people to be active citizens with rights, expectations and responsibilities – based on three cross-cutting principles of participation, inclusion and fulfilling obligation"¹⁵

The poor do have their rights violated through illegal arrest and detention, but they also experience violations of their social and economic rights. To the extent that these rights can be turned into positive entitlements, the poor would benefit.

The 1999 Nigerian Constitution deals with rights in two different chapters. Chapter 4 "Fundamental Rights"¹⁶ deals with what we would term legal and political rights. Chapter 2 "Fundamental Objectives and Directive Principles of State Policy"¹⁷ is a composite statement of fundamental values: "The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice" and "the security and welfare of the people shall be the primary purpose of government". These then translate into a series of obligations on all state officials in Article 13. "It shall be the duty and responsibility of all organs of government, and of all

¹⁵ DFID 2000, 7

¹⁶ http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm#Chapter_4

¹⁷ See Appendix

authorities and persons, exercising legislative, executive or judicial powers, to conform to observe and apply the provisions of this Chapter of this Constitution.”

In Nigeria, the vast majority of informed legal opinion is that the obligations set out in Chapter 2 are “non-justiciable” (i.e. a citizen can not go to a court to force government officials to observe them.) This view holds that a citizens’ only remedy is political. For what it is worth, I take a different view. I believe that through the use of prerogative remedies, government indifference and inaction can be challenged in the courts. So far, the matter has not been litigated so the question of whether there can be any kind of judicial review for government neglect must be considered still open.

Power, rights and poverty: a view within the development community

Eleven months ago, DFID as part of its influencing strategy convened a working meeting with the World Bank on this topic. Gobind Nanakani, Vice President of the World Bank for Poverty Reduction and Economic Management in the Foreword to the volume of meeting papers¹⁸ stated that the Bank has clearly committed itself to working to empower poor people. He also indicated that much of poverty work of the Bank and other donors is informed by the same notions of equality and non-discrimination that are central to human rights and empowerment approaches to development.

In the opening paper for the meeting, Alsop from the World Bank and Norton from DFID stated. “Power and rights. These terms are increasingly heard in the corridors and offices of international development agencies, but the notions are less apparent in the poverty alleviation activities of such organizations.”¹⁹

The Empowerment Team at the Bank defines “empowerment as increasing the capacity of individuals and groups to make choices and to transform these choices into desired actions and outcomes. Empowerment is dependant on the interplay of two inter-related factors: agency and opportunity structure. Agency is an actor’s ability to make meaningful choices: to envisage and choose options. Opportunity structure are those aspects of their context within which actors operate that effect their ability to transform agency into effective action. Imbalances in power relations affect people’s capacity to make effective choices and benefit from poverty reduction efforts. ... This approach to empowerment has direct relevance to rights-based approaches to

¹⁸ Alsop, . Ruth ed. Power, Rights, and Poverty: Concepts and Connections, Report of meeting sponsored by DFID and World Bank, March 23-24, 2004

¹⁹ Id, p. 3

development which are based on a sense of justice and equality in relations between people, as well as on the idea that individuals have a set of entitlements that the state is responsible to advance, promise and protect.”

Power and rights are very much at the centre of what development programmes such as ours are about. Before I set out what we are trying to do and why in Nigeria I want to further explore the critical relationships between power, rights and development.

The World Bank/DFID meeting concluded that development agencies (and development programmes such as ours) “must not only work to enhance the capabilities of disempowered and disenfranchised citizens but also must ensure that the enabling environment is conducive to equalizing opportunity for all.”²⁰

There is a view that the international aid system is a part of a global power structure that reproduces rather than reducing poverty. Against this view, there are many examples of aid contributing to greater social justice and equity. On the other hand, there are also examples of aid making things worse. The goal must be to do more good than harm. One way may be to be more self conscious of how our efforts affect power relationships within the societies in which development agencies work.

Rosalind Eyben’s produced a paper for the March 2004 meeting “Linking Power and Poverty Reduction” which examined ‘power’ from a number of different perspectives.

One definition of power is “Power is the capacity to have an effect.” As Eyben points out “ This understanding of power informs the capability approach of Amartya Sen (1995) who asserts that people are not free when they do not have the power to make choices about their lives.” ‘Power to’ is about agency and Agency is about intention or consciousness of action sometimes with the implication of choices between alternative actions. Development is invariably about developing capacity – capacity to choose and then to act effectively. As you will see much of what we in Security, Justice and Growth has to do with enhancing the capacity to choose and act primarily by state actors – ministries and para-statal (agencies and Crown corporations in the Canadian context) but also by non-state actors.

The second definition of ‘power’ which Eyben examines is ‘power over’ – the ability to act on a person or thing. Power is relational. It is about social action. It is power over others. Closely associated with the concept of ‘power over’ is the idea of hegemony – understanding the way the

²⁰ Power, rights and poverty, p. 14

world is as being the only way the world could be. Hegemony is a world view in which we can not imagine alternatives to how the world is. Ideology on the other hand is just one view among others of how the world should be. In Nigeria, power over is exercised by many over others both by government but much more importantly, in light of the weakness of the formal state, by non-state actors.

One of the remarkable features about working in this sector in Nigeria, remarkable because of its intensity rather than its uniqueness, is how powerful non-state structures are in shaping poor peoples lives – vigilantes, (which we euphemistically call informal policing structures) are a wide-spread community based phenomena. In a national survey we did in October last year, 56% of Nigerians said they had a vigilante group in their local community. It's difficult to generalize about these groups as their organization, activity and effectiveness varies greatly from community to community. They patrol at night, provide security for markets, arrest armed robbers, arrest cheats and settle disputes. Some operate entirely within the law, others almost entirely outside it in effect as criminal gangs. Most operate somewhere in between administering what Nigerians (politically incorrectly) term 'jungle justice' or 'mob justice'. In our October national survey, half of Nigerians had seen vigilantes apprehend someone and a majority of these respondents had seen them administer physical punishment. Of the majority of Nigerians who have vigilantes in their community over 80% are either very satisfied or satisfied with their performance.

Poor people also rely on traditional rulers and non-state actors such as church men or imans to mediate their disputes. We have done two studies of this phenomena in different parts of the country. Reliance on non-state actors varies with the intensity of the physical presence of the Nigeria state and people's respect for it. In the South East, for instance, there is still a social stigma in going to the formal institution of the state, the police and the courts, to settle disputes rather than relying on the local informal power structures.

Eyben also defines other varieties of power. 'Power with' is a term intended to describe common ground among different interests and the building of collective strength through organization and the development of shared values and strategies. DFID Nigeria is encouraging the development of issue-based initiatives which seek to rally social movements and community and interest-based organizations around specific issues or clusters of issues to demand change and to develop their capacity to get it. The power to organize for change is related to a person's self-worth and sense of dignity and that has been described as 'power within'.²¹

There is, of course, the relationship between knowledge and power. Poor people are often given wrong information by those who have an interest in controlling the discourse. Two years ago, started providing support to the Centre for Islamic Legal Studies at Amadhu Bello University, Zaria for a research and policy development project "Promoting Women's Rights through Sharia. The project seeks to refute a number of incorrect or misleading assertions about what Sharia says about women, their rights and their responsibilities.

The Nigerian legal and institutional framework

1999 Constitution

The 1999 Constitution provides for a federation of 36 states and the Federal Capital Territory. There is a national government and 36 state governments. The Constitution resembles that of other federations in many respects. Its organization and division of powers between the executive, legislature and judiciary takes its inspiration from an American Congressional system. The division of powers between federal and state governments with its exclusive and concurrent lists would sound familiar to a Canadian.

Political process

The political structures and processes are American in inspiration with two elected chambers, the lower being based on population, the other providing for three senators per state regardless of size. The parties are loose coalitions based more on regional considerations than ideological ones. As is the case with many poor societies, the system runs on patronage and money all of which makes alliances very fluid.

Judiciary

Although the judiciary most resembles the American in its organization, it has borrowed ideas from other systems. Nomination and discipline of judges is through a National Judicial Council. The laws themselves and the traditions of the Bar are still very much grounded in their British origins.

It is important to note that at the state level two parallel systems of courts operate. There are State High Courts, a state magistrate courts and lay justices of the peace. There are also Sharia courts in the North and Customary Courts in the South. The constitution provides for a state level Sharia Court of Appeal and/or Customary Court of Appeal for all states that require one or both.

²¹ Ibid, p. 22

The jurisdiction of these courts are set out in art. 277²² for Sharia courts of appeal and art. 282²³ for customary courts of appeal.

Laws

Both at the federal and state level, Nigeria has laws which on cursory examination very much resembles their English antecedents. Comparisons as to practice however must be made with caution because of the existence of parallel legal systems Sharia for Muslims and customary law for others. Marriage is a good example. Persons can get married either under the formalities of The Marriage Act: An act to make provisions for the celebration of marriage²⁴ or under customary law for non Muslims or Sharia for Muslims. Someone can marry under both customary and the Marriage Act at the same time provided they are not married to anyone else²⁵. Section 35 of the

²² **277. (1)** The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal Law which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

(2) For the purposes of subsection (1) of this section, the sharia Court of Appeal shall be competent to decide -

(a) any question of Islamic personal Law regarding a marriage concluded in accordance with that Law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;

(b) where all the parties to the proceedings are muslims, any question of Islamic personal Law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a founding or the guarding of an infant;

(c) any question of Islamic personal Law regarding a *wakf*, gift, will or succession where the endower, donor, testator or deceased person is a muslim;

(d) any question of Islamic personal Law regarding an infant, prodigal or person of unsound mind who is a muslim or the maintenance or the guardianship of a muslim who is physically or mentally infirm; or

(e) where all the parties to the proceedings, being muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

²³ **282. (1)** A Customary Court of Appeal of a State shall exercise appellate and supervisory jurisdiction in civil proceedings involve questions of Customary law.

(2) For the purpose of this section, a Customary Court of Appeal of a State shall exercise such jurisdiction and decide such questions as may be prescribed by the House of Assembly of the State for which it is established.

²⁴ Laws of the Federation of Nigeria, Ch. M6

²⁵ Id, sec. 33

Act also provides that anyone married under the Marriage Act shall be while married incapable of contracting another marriage under customary law²⁶.

The regime which you are married under determines the rights that apply during the marriage or on dissolution of marriage. Again, Nigeria does have a Matrimonial Causes Act²⁷ which looks very much like its English antecedent. But how much does that tell you? Not much, given that based on the results of a national survey our best estimate is that fewer than 10% of Nigerians are married under the Marriage Act. 94% of Nigerian Muslims marry under sharia.²⁸ Accordingly, for Muslims, sharia rather than Federal legislation governs marital relations.

Unlike personal law matters, business and commerce are governed by the statutory regime. Accordingly, modernization of the investment and banking laws is important to improve the climate for inward and local investment with a view to job creation.

State institutions

The police at 320,000 persons are by far the largest single institution in Nigeria in this sector. The next largest is the prison service which has about 35,000 officers. All of the courts and ministries of justice both federal and state would not amount to more than 5,000 personnel.

Non-state institutions

Because of the informality of their organization, it is difficult to estimate the total number of vigilantes in Nigeria but 100,000 would be a fair guess. There would as well be a couple of thousand traditional rulers who provide informal dispute resolution services in their own communities. The programme also works with non-governmental organizations both national and international, and with many community-based organizations such as the Jigawa Women's Network which is a group of local women activists working to improve the treatment of women in that state. Similarly, we work with local women's organizations in Enugu to eradicate practices which are harmful to widows. The practices were outlawed by legislation in 2002. They have yet to be eradicated.

²⁶ Of married men in Nigeria both avowedly Christian and Muslim, 17% had two wives, 3% had three wives and 2% had four wives. For Muslims males only, 28% had two wives, 5% had three wives and 3% had four wives.

²⁷ Laws of the Federation of Nigeria, Ch. M6

²⁸ National Survey, Women's Rights in Nigeria, done for SJG by PSI, July 2005

C. Three key objectives

We in the Security, Justice and Growth Programme have set out three key objectives for our work the overall purpose of which is to improve the quality of pro-poor governance and protection of human rights (in pursuit of the MDGs).

The first key objective is to promote a rights culture and, its flip side, oppose a culture of impunity. The second is to support improvements in the capacity of justice sector institutions to deliver services especially to poor people. The third is to contribute to improving the investment climate for economic growth.

My view which I will argue for in the rest of this talk is that any development programme in the justice field must contain elements of all three objectives if it hopes to be pro-poor.

1. Promoting a rights culture/ opposing a culture of impunity

To read the Nigerian Constitution of 1999 you would think that Nigeria has already established a rights-based culture. That is not the case. In Nigeria, as in other societies, there is a substantial disconnect between what the law says should happen and how individuals actually experience the law and the institutions of justice.

The reason for this disconnect is personal power which often runs roughshod over the law evading or corrupting the operations of justice institutions such as the police, the courts, registries, the prison service and informal justice institutions. A culture of impunity when such behaviour becomes entrenched as the norm and no one is called to account for it.

A culture of impunity clearly favours the rich and powerful at the expense of poor. The rich use the organs of the state especially the police against the poor whenever they wish to pursue their interests or feel their interests threatened by them. A culture of impunity feeds on inequality and in turn reinforces it.

In Nigeria, no one has any illusion about this. Quarterly, we commission national surveys to capture public opinion and especially the opinions of the poor and very poor who usually have no voice.²⁹ In several state wide surveys we have found that the one area of police performance which the public is most dissatisfied with is the fact that people are not treated fairly by the police

²⁹ SJG did three national surveys in 2005. An April survey of metropolitan areas examined fear of crime and satisfaction with policing and land registration. A July survey of metropolitan, semi-urban and rural areas looked at women's rights and again fear of crime and policing. The October 2005 survey examined public attitudes and experiences with vigilantes (informal policing structures), economic growth and consumer protection.

who give preferential treatment to the rich and powerful to the detriment of the poor.³⁰ Nigerians value equality before the law and equal treatment in the application of the law and very much resent the fact that the police act so blatantly in favour of the rich.

Many development programmes fund “know your rights” campaigns and information to the public. Although such campaigns are a useful first step to promoting a rights culture, they are only a first step. Without any effective institutional follow-up the benefits from such courses evaporate. Poor people not only need to know their rights and how to access them but also must successfully experience doing so. Because of high-level of illiteracy, poor people need a grass-roots service provider to accompany them through any process of claiming their rights.

Providing legal advice

That is why we have financially support a variety of legal service providers such as the Ekiti Justice Centre in which services are provided by the federal Legal Aid Council³¹, the state Bureau of Citizen’s Rights and by an non-governmental organization, the Legal Resources Consortium under one roof. We fund³² two legal clinics in Jigawa state, one in an urban, the other in a rural setting. The person’s first contact there is with a social worker employed by the state government. They provide whatever advice and mediation services they can. Legal advice is provided by law students from Bayero Kano University who come on the weekends. The Jigawa Women’s Access to Justice Network is collocated in one of the Centres.

In Enugu state, we have financially supported the creation of citizen’s rights centre run under an Act of the State Legislature. We are also financially supporting a coalition of NGOs working against serious violations of the rights of widows³³. A law banning such practices was enacted in 2002. The challenge now is to eradicate the harmful practices. Although legal advice is essential, providing it is expensive even at this basic level. In Jigawa, the cost of providing legal advice per case so far has been around 18,600 N or \$170 CDN. In Enugu, we have provided an average of 25,000 N or \$225 to bring each case of violations of widowhood rights to some form of satisfactory conclusion. Both are in a social context in which most rural families who would be those benefiting from such live on less than 8,000 N per month - \$75.

Combating a culture of impunity – Corruption and abuse

³⁰ In Ogun state, 29% of respondents believed the police were effective in treating all people fairly irrespective of status or position, 60% thought they were not, 11% had no opinion. In Kano state, the difference was even more dramatic, 24% were positive, 64% were negative, 12% had no opinion. In Enugu state, 20% were positive, 66% negative and 14% had no opinion.

³¹ Report on Ekiti Justice Centre

³² Terms of Reference and reports for Community Law Centres

³³ Terms of Reference

Promoting a culture of legality is essential if poor people are to receive some measure of respect, have their rights observed and be treated fairly. However, this will not be enough. Governments and civil society must also tackle cultures of impunity invariably reflected in gross disparities of power founded in political, social and economic inequality. Impunity also thrives in military or one-party states in which there are few if any mechanisms for holding powerful persons to account. Cultures of impunity invariably are characterized by high levels of corruption with those at the top also occupying the end or near end points in the corruption food chain. Torture, beatings and false imprisonment become routine ways of dealing with dissent or any other challenge - even ordinary street crime. Given weak state institutions which can not or can only sporadically challenge corruption, it becomes a way of life. Nigeria in recent years has ranked as one of the most corrupt countries in the world on Transparency International Annual Corruption Index. Last October it was front page news when it was announced that Nigeria was only the 6th most corrupt country in the world.³⁴ Corruption costs by diverting funds from essential public services, by allowing large amounts of money to be hoarded in economically unproductive ways, and by distorting economic priorities away from job creating activities³⁵.

Tackling corruption has to be an 'all-fronts' effort to have any chance of success. It is both probably pointless to go after petty corruption without at the same time tackling large-scale corruption. Over the last twenty years, some jurisdictions which had histories of massive and deep-seated corruption have been successful in reducing levels of corruption. The Hong Kong Independent Commission against Corruption of the 1980s and 1990s is often cited as an example. That Commission took a three-prong approach to fighting corruption. Strong investigation and prosecution was combined with a pro-active prevention strategy and strong and extensive public opinion campaign to mobilize co-operation in the reporting of corrupt acts and political support for the fight against corruption generally.

In Nigeria, we, along with a bevy of international actors, are providing support for the fight against corruption at two levels – against large scale corruption through the EFCC and against police corruption on the street and in police stations.

The Economic and Financial Crimes Commission was established in 2004. Its motto is "Nobody is above the law" – a clear statement against impunity. The Act which established the EFCC mandates it to combat financial and economic crimes. The Commission is empowered to prevent, investigate, prosecute and penalise economic and financial crimes and is charged with the

³⁴ http://www.icgg.org/corruption.cpi_2005.html

³⁵ In a national survey conducted by SJG in October 2005, 66% of Nigerians said they strongly agreed and 27% agreed with the statement that "Corruption holds back the development of the Nigerian economy". 3% disagreed and 2% strongly disagreed.

responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes.³⁶

The EFCC last year undertook a number of high profile investigations and prosecutions. One against the last Inspector General of Police, the top police man in Nigeria, who while not admitting that he had looted large sums from the Police nonetheless agreed to disgorge a large number of properties which he could not have owned relying on his salary alone. The EFCC has also gone after a number of state Governors. One of whom was impeached and is facing numerous counts of fraud, embezzlement and money laundering.

By such investigations and prosecutions, the EFCC has won public support for its campaign against corruption. In a national survey we conducted in October, we found that 68% of Nigerians either agreed or strongly agreed that the EFCC was doing a good job.³⁷ The European Union is providing 23 million Euros to the United Nations Office for Drugs and Crime in Nigeria for a programme of support to the EFCC. SJG is providing support for a reform of the training curriculum for EFCC investigators and other operatives, for a research strategy and for the further development of their research capacity.

Countering large scale corruption which is largely invisible is important but it also essential to act against retail corruption. One of the most publicly repugnant forms of corruption is the shakedown which occurs at police checkpoints. In Nigeria, the police are the most visible 'public service' that citizens encounter.

In Nigeria, as in many other countries, there has been a long tradition of police setting up roadblocks and at them extorting by smiles or menaces small amounts of money from every motorist. At this "toll-gates" police expect 20 N or 20 cents from each passenger vehicle, more from buses and much more still from commercial vehicles. In the military era it was a very brave driver who refused to pay a dash. With the coming of democracy, the practice of demanding a 'dash' has become spottier with more and more drivers refusing to stop and pay. In places, such as Enugu, SJG has supported citizen strikes refusing to dash police. It's this kind of citizen action that de-legitimizes such corrupt behaviour. Because the practice is so wide-spread³⁸, it also tarnishes the police in the public view in to a far great extent that I think they realize.

³⁶ Economic and Financial Crimes Commission Establishment Act (2004); The Money Laundering Act 1995; The Money Laundering (Prohibition) Act 2004; The Advance Fee Fraud and Other Fraud Related Offences Act 1995; The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994; The Banks and other Financial Institutions Act 1991; and Miscellaneous Offences Act

³⁷ 17% had no opinion, 11% disagreed with the statement and 3% strong disagreed.

³⁸ In a National survey in April 2005, 54% of Nigerians reported that they or a member of their family had been asked for or had paid 20N at a police check point. That was far higher than any form of other police

In a national survey conducted in April 2005, the principal reasons given by Nigerians for their dislike of the police were all related to issues of impunity: 65% resented the Bribery/illegal toll at check points; 28% gave as their reason illegal and unlawful arrest and detention; 23%, police harassment, embarrassment and threatening citizens; and 18% the high level of corruption 18%.

That is the first key objective.

2. Enhancing the capacity of government and non-state actors to deliver services in this sector

The second key objective which development programmes in this area should address is how to enhance the capacity of institutions to deliver services. In SJG we are working with several institutions to help them improve their service delivery: the Nigeria Police, the Legal Aid Council, the Lagos Judiciary, the Ministry of Justice in Jigawa State, the Director of Public Prosecutions Office in Enugu,

One of the challenges in development projects of this kind is to ensure that we are always mindful of the distinction between modernization and reform. The importance of the distinction goes back to the issue of who has power and how do they exercise it. Development projects such as ours which seek to advance the interests of the poor in societies which are so inherently unequal and unfair will always be greeted with caution by those in power. We need to be always mindful of this. Projects which bring much needed resources for modernization whether it be new equipment, new ways of working more efficiently or new knowledge and skill through training will always be welcome by elites until they threaten established power relations. If that is perceived to be the case, the elites who control access to the poor, may resist allowing development projects access to the poor. It is important not to delude oneself that modernization always equals reform. Development projects should avoid at all costs reinforcing inequality. We always need to ask ourselves how will this improve poor people's life chances. The real challenge seems to be to create initiatives which will benefit both the elite and the poor in a win-win matrix.

Non-state actors

In many cases, the poor have created their own local non-state mechanisms for providing services for each other. We work with two such wide-spread local self-help systems: the vigilantes and informal dispute resolution mechanisms. Both have the virtue that they are locally based, accessible and inexpensive. They are however almost exclusively male unlike the police

misconduct such as demanding a bribe before a person is released on bail which should be free, 24%; unlawful arrest 23%; or intimidation 17%.

who are about 6 or 7% female nor the state high courts and magistrates (not counting the Sharia and customary courts) whose members are around 30% female.

The first - the "vigilantes" (informal policing structures). 56% of Nigerians³⁹ report that they have a vigilante group in their community. Because they are such a local phenomena, it difficult to provide a general description of the vigilante phenomena except to say that the local groups are mostly volunteer organizations grounded in and accountable to their communities and financially supported by them⁴⁰. We did a study of the groups in eight different localities in 2003.⁴¹ Most are unarmed or lightly armed. Many co-operate with the police. Some are in conflict with them. Many groups contain retired military and police officers. They patrol at night, arrest cheats, arrest armed robbers, protect markets, and settle disputes. Politicians try to capture the vigilantes and use them for their own purposes but most groups remain loyal to their communities. They generally are seen to be less corrupt than the police (only 1% of the population say that they extort money).

Before getting too enchanted with them, it is important to keep in mind that they are very male-based and that often they physically punish persons whom they suspect. Of the half of Nigerians who had seen the vigilantes apprehend a suspect, 59% said that the group administers physical punishment to suspects. Two thirds of these had seen this with their own eyes⁴². Vigilantes are popular and seen to be effective. 81% of those Nigerians who had vigilantes in their area were either very satisfied or satisfied with their performance. Vigilantes were seen as being readily accessible. Of the 56% of Nigerians who had vigilantes in their community 89% could get to them in less than 30 minutes. In spite of their satisfaction with the vigilantes for immediate protection, when asked who they would prefer to report a crime to almost three-quarters said the police rather than the vigilantes⁴³.

The other large phenomena of non-state service delivery in this area is as to informal dispute resolution. Rather than relying on courts which the poor regard for the most part as inaccessible, costly and slow, many of the poor take their disputes to the local traditional ruler or to some other informal dispute resolution forum. These forums rely on the authority of the local traditional ruler to bring the other party in for mediation. Such forums have the virtue of being

³⁹ National survey conducted by Practical Sampling International for SJG, October 2005

⁴⁰ 73% of those who have vigilantes in their communities pay fees for them. October 2005 Survey

⁴¹ The Poor and Informal Policing, Access to Justice, 2003

⁴² Footnote 33

⁴³ Footnote 33

informal, being in situ and in the local language. They do provide a service but such forums place a very high value on community harmony so occasionally strong pressure is applied to individuals to come to a harmonious resolution even where that over-rides a person's legitimate right.⁴⁴

Police - largest of the state actors

The largest service delivery initiative which we are undertaking is to support the transformation of the Nigeria Police a force of some 320,000 personnel who are generally perceived as ill trained, under-resourced, endemically corrupt, publicly alienated and dysfunctional and engaged in human rights abuses including systematic torture and extra-judicial killings. The Nigeria Police is responsible for policing in all thirty six States and the Federal Capital Territory – Nigeria's widely diversified population of over 130 million.

Community policing can mean different things to different people. The Nigeria Police Community Policing Project defines community policing in holistic terms, providing a catalyst from which fundamental and contextually radical reform can evolve. The primary values it is based upon are the same as those demanded of the democratic process in Nigeria itself – to be accountable, representative, responsive and effective.

The principle governing the style of our intervention is that organisational transformation is achieved only when the attitudes and behaviours of the people in that organisation have changed to the desired extent, and an organisation will change only as far and as fast as its collective individuals change. The Project at state level this consists of: training, deploying and mentoring personnel in a range of change agent roles designated as Community Policing Developers (CPDs) and Community Safety, Vigilante Support, Divisional Intelligence and Human Rights Officers, Leadership and management training and mentoring for State Command Teams, implementing geographical and intelligence-led policing, implementing a monitoring and evaluation framework to assess and track impact. At Federal level the focus is on: enhancing the training function by introducing the new training methodologies that are necessary to develop appropriate attitudes, behaviours and competencies in police personnel; revising existing curricula to ensure training programmes effectively address current and future policing needs and conducting a series of executive workshops with the almost 100 DIGs, AIGs and Commissioners to develop their strategic management and leadership skills.⁴⁵

⁴⁴ See Monye, Ezumah, Ugwu, and Umoh, Human Rights and accessible justice during the proceedings of Igwes-in-Council in Enugu State, Nigeria, Access to Justice, December 2003

⁴⁵ As at February 15, 2006, 12 specially trained senior police officers comprise the 'Project Team' to help lead and manage the project. 19 officers have been trained and deployed as omni-competent trainers to train and mentor the CPDs and the other new infrastructural roles. Over 400 CPDs have been trained and deployed to date, and another 100 are currently being trained.

Change is difficult. The initial response of Nigeria Police officers has been “first, look after our salary and welfare needs and resources and then we’ll show you how effective we can be”. The challenge has been to persuade officers of the imperative to first demonstrate enhanced performance and commitment, so as to gain the leverage offered by improved public support and government/international confidence.

What has been the impact so far of what we are doing? So far, we have conducted three public perception surveys in our first pilot State, Enugu, one by the police themselves, one by the police supported by independent observers, and the third by an independent research organisation. The results have been encouraging but its still early days for a project of this magnitude. There is less corruption, improvement treatment of prisoners, fear of crime is down, police/public relations and cooperation are improving. But that is still in just one of 36 states. We are involved in is change that will take a generation to work itself through.

Legal Aid Council – state actor delivering services directly

We have also worked in improving the effectiveness of service delivery by the Legal Aid Council of Nigeria. The Legal Aid Council is a government agency established in 1977 to provide free legal services to indigent people charged with serious criminal offences, in respect for civil claims for accidents or for breaches of fundamental human rights.

Over the years the need for more and better services has grown. For instance, as at the end of 2003, awaiting trial inmates in Nigerian prisons in need of legal representation constitute over 70% of the prisons’ population. Further, the LAC is being inundated with a myriad of applications for assistance on civil cases bordering on Landlord/Tenant, minor Land disputes, Insurance claims, Family/Inheritance matters, unlawful dismissals from work, domestic violence, road traffic offences, insurance claims, etc. Currently the Ministry of Justice is working on a Draft Bill to amend the Legal Aid Council Act to strengthen it.

This number will increase to about 1000 by year-end. With the Community Safety, Vigilante Support and Human Rights Officers who have been trained thus far, the number of police personnel currently engaged fulltime on the project is nearly 700. State Command Teams are being exposed to a wide range of modern approaches to leadership and management, and will be complemented by strategy and policy workshops now being arranged for the 100 police executives. About 10000 police personnel have so far attended sensitisation workshops (only another 310000 to go!). Geographical and intelligence-led policing is being implemented in the pilot States. The reform of the national training function is about to commence.

To meet this need for expansion and better service delivery, the LAC devised some innovative ways of handling some of the applications including counselling, mediation and duty solicitors' services in some police stations and magistrate courts. In spite of these, the LAC has been still unable to meet the expectations of its teeming clients due to severe handicaps - poor funding, inappropriate staffing arrangements, inadequate and misleading case data, poor case management, diminishing productivity, heavy case backlogs, low level of job satisfaction, overall poor performance by LAC Lawyers, weak reporting and supervision structure, inadequate supervision and monitoring of activities, low success/completion rate for cases and lack of customer/client satisfaction.

The Director General of the Legal Aid Council approached us for assistance in improving its services. A series of reforms were carried out that has led the Council becoming much more effective in delivering its services. However its capacity given the need is still miniscule. It is handling only 2,700 cases in a country of 130 million.

Land registry system

The importance of land and a modern land registry system are discussed further below. Land registration is a public service and the current efforts in Lagos State which SJG has supported will result in a model for service delivery which other states and other sectors may wish to imitate. The Lagos State land registry is working to extend its capabilities to enable a more decentralised and customer focused service. It is developing a transaction-based Web Portal/Website for Lands. It also plans to establish a Land Registry Call Centre for inquiries and complaints and tele-kiosks or mobile tele-centres around the state for decentralised access to land information and for the enhancement of data capture. It is upgrading and computerizing the Land Registry Court to increase its efficiency in dealing with land disputes.

Prisoners awaiting trial – a set of state systems that don't work

These are three success stories. There are also disappointments. Because of the lack of leadership committed to reform in the Prison Service, we have not been able to support a reform of the organization despite the fact that it is badly needed. In a country in which those who can buy their way out of the justice system usually do so early (to avoid arrest or to get out of police detention), it is only the very poor who find themselves in prisons for a long time many forgotten or abandoned. Two thirds of those in Nigerian prisons are awaiting trial. Many have been there for longer than the maximum sentence they would have served had they been convicted. We have now evolved a programme to trace where the files of those long forgotten in the system.

3. Contributing to economic growth

The third key objective is to contribute to economic growth. A Drivers of Change analysis done by DFID Nigeria indicated that one of Nigeria's principal constraints is the absence of non-oil sector growth. DFID Nigeria's Country Assistance Plan (CAP) concentrates on initiatives to support such growth by addressing institutional constraints. Addressing the institutional constraints will have both transformational and direct impacts. Changing the regulatory environment at federal level would be transformational. Improving the state level and local environment to allow economic actors to engage in higher levels of activity or to encourage new participants would have a direct impact.

Institutional reform

There is a growing body of research that suggests that the quality of a country's institutional arrangements have a major effect on economic performance. Institutional factors may either encourage or retard the quantitative levels of economic growth and may also play a major role in the distributional results of economic growth – the latter of major concern if the focus of activity is to stimulate "pro-poor" economic growth in order to meet the requirements of the MDGs. Such a strong framework should lead to new business start-ups, increased jobs, increased economic activity, increased incomes and increased outputs of goods and services.

The changes should result in an adequate and efficient legal framework for economic activity – sound banking laws, streamlined administrative procedures laws and regulations that directly encourage business development, reasonable tax regimes, efficient and speedy court and arbitration processes to settle disputes and strong and active institutions combating corruption - an unnecessary cost of doing business.

Let me give you one example to illustrate this point - the Lagos Multi-Door Courthouse. SJG is facilitating the development of an alternative dispute resolution mechanism (ADR) that will increase the capacity of the legal system to offer resolution to commercial disputes. In itself this intervention will neither create new jobs nor new direct economic activity. However, problems of dispute resolution and the associated problems of time and costs which are key constraints on the economic activity will be addressed. The creation of new ADR facilities contributes to the enhancement of the economic environment and consequentially assists the growth process.

In addition to creating an environment which will produce more jobs, there are two other ways to contribute to economic growth which directly benefits poor people. The first is to ensure greater security and stability generally and in particular, reduce the number and intensity of violent conflicts. Violent and armed conflicts destroy poor peoples' livelihoods and render them destitute. The second is to provide poor people with capital to start small businesses. This involves not only

small credit schemes but it also involves providing the poor with security of tenure for any land they hold so that they can pledge it for start-up business loans.

Security and growth - anticipating, preventing and managing violent conflict

The Commission on Africa identified violent conflict as still the biggest single obstacle to development. In the Commission's view, "the most effective way to tackle conflict – to save both lives and money – is to build the capacity of African states and societies to prevent and manage conflict. That means using aid better to tackle the causes of conflict. It means improving the management of government incomes from natural resources and international agreements on how to control the 'conflict resources' which fuel or fund hostilities. It means controlling the trade in small arms."⁴⁶

At the moment, SJG is focusing on conflict over land in one Nigerian state, Benue, which has been in a chronic state of conflict over land in one part of the state or another for years. Starting with a research analysis⁴⁷ done as to the multi-causal nature of conflicts over land in the state, we have started a process which will try to build the capacity of the Governor's Office to anticipate, prevent and manage violent conflict if it should occur. (The Governor is the chief official responsible for security in the state.) Any early warning and response mechanism should be a partnership between government and civil society including voluntary associations, religious leaders and local leaders. SJG is looking at ways to curb arms trafficking. Small arms have proliferated in Nigeria with sectarian violence. Fewer instances of sectarian or communal violence should reduce the need and demand for weapons.

Importance of land to poor people and economic growth generally

An interest in land is usually the only major asset which poor people have. Some own livestock, some vehicles but in a society in which the majority of people feed themselves and their families through agriculture, interests in land and the right to work the land are key.

Rights to land are therefore central to any development process. Secure land rights underpin sustainable development by making it possible and attractive to undertake long term investment. The more liquid land and real estate assets are, the greater their possible use as collateral for mortgage purposes which in turn may lead to economic activity which would contribute to poverty

⁴⁶ Report of Commission on Africa, p. 14

⁴⁷ Egute, M. A., Ode, I. O. and Kur , J. J. Land rights and mechanisms for resolving land disputes in Benue State, 2004

alleviation. Government, therefore, needs to create, manage and monitor a land registration system to determine rights to land, record and disseminate information about the ownership, value and use of land. As such it also contributes to "good governance" by 1) creating government capacity to manage a valuable natural resource; 2) sustaining a legal regime which regulates real estate and land markets; 3) provides security for landowners, national and international investors and the finance sector; 4) assists the development of labour markets by easing labour mobility; 5) assists the development of financial markets by providing collateral security; 6) assists in the creation of new business entrants; 7) provides government with a source of revenue

A land registration system and campaigns to increase or encourage registration may also contribute to the "alleviation of poverty" by 1) providing information for land reform or land redistribution policies; 2) providing access to a secure tradable commodity; 3) providing access to formal services and rights; and 4) providing access to credit for investment in either business or human capital

Current improvements in land registration

In Nigeria, Lagos State is the most advanced in its plans for improvements. The current system based on a paper process is extremely cumbersome, time consuming and easily open to malpractice. The Lagos State government is undertaking a programme of improvements to computerise the land records and simultaneously digitally map the state. The specific improvements are: 1) rehabilitating the infrastructure including strong room and map section; 2) completing an Electronic Document Management System (EDMS) and Automated Land Title System; 3) undertaking a property Identification Exercise/Expansion of Property Tax Database; 4) Implementing Workflow Management Software and 5) processing of Satellite Imagery and Development of an Oracle-resident geodatabase

These improvements should 1) increase the number of plots of land being registered on weekly, monthly or annual basis, 2) speed-up the processing and document registration, 3) lower the cost of registration, 4) increase the percentage of the total land registered, 5) increase the volume and speed of dealing with customer enquiries while lower the cost of dealing with them and 6) generate greater income for the state from land registration.

D. Conclusions

To come

Appendix

1999 Constitution of Nigeria

Chapter II - Fundamental Objectives and Directive Principles of State Policy

14. (1) The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.
- (2) It is hereby, accordingly, declared that:
- (a) sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority;
- (b) the security and welfare of the people shall be the primary purpose of government: and
- (c) the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.
- (3) The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few State or from a few ethnic or other sectional groups in that Government or in any of its agencies.
- (4) The composition of the Government of a State, a local government council, or any of the agencies of such Government or council, and the conduct of the affairs of the Government or council or such agencies shall be carried out in such manner as to recognise the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among all the people of the Federation.
15. (1) The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress.
- (2) Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.
- (3) For the purpose of promoting national integration, it shall be the duty of the State to:
- (a) provide adequate facilities for and encourage free mobility of people, goods and services throughout the Federation.
- (b) secure full residence rights for every citizen in all parts of the Federation.
- (c) encourage inter-marriage among persons from different places of origin, or of different religious, ethnic or linguistic association or ties; and
- (d) promote or encourage the formation of associations that cut across ethnic, linguistic, religious and or other sectional barriers.
- (4) The State shall foster a feeling of belonging and of involvement among the various people of the Federation, to the end that loyalty to the nation shall override sectional loyalties.
- (5) The State shall abolish all corrupt practices and abuse of power.
16. (1) The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution.
- (a) harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy;
- (b) control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;
- (c) without prejudice to its right to operate or participate in areas of the economy, other than the major sectors of the economy, manage and operate the major sectors of the economy;
- (d) without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy.
- (2) The State shall direct its policy towards ensuring:
- (a) the promotion of a planned and balanced economic development;
- (b) that the material resources of the nation are harnessed and distributed as best as possible to serve the common good;
- (c) that the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group; and
- (d) that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.
- (3) & (4) omitted
17. (1) The State social order is founded on ideals of Freedom, Equality and Justice.

- (2) In furtherance of the social order-
 - (a) every citizen shall have equality of rights, obligations and opportunities before the law;
 - (b) the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced;
 - (c) governmental actions shall be humane;
 - (d) exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented; and
 - (e) the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.
- (3) The State shall direct its policy towards ensuring that-
 - (a) all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;
 - (b) conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life;
 - (c) the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused;
 - (d) there are adequate medical and health facilities for all persons;
 - (e) there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;
 - (f) children, young persons and the age are protected against any exploitation whatsoever, and against moral and material neglect;
 - (g) provision is made for public assistance in deserving cases or other conditions of need; and
 - (h) the evolution and promotion of family life is encouraged.
- 18. (1)** Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.
- (2)** Government shall promote science and technology
- (3)** Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide
 - (a) free, compulsory and universal primary education;
 - (b) free secondary education;
 - (c) free university education; and
 - (d) free adult literacy programme.
- 19.** The foreign policy - omitted
- 20.** The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.
- 21.** The State shall -
 - (a) protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this Chapter; and
 - (b) encourage development of technological and scientific studies which enhance cultural values.
- 22.** The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.
- 23.** The national ethics shall be Discipline, Integrity, Dignity of Labour, Social, Justice, Religious Tolerance, Self-reliance and Patriotism.
- 24.** It shall be the duty of every citizen to -
 - (a) abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge, and legitimate authorities;
 - (b) help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;
 - (c) respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood;
 - (d) make positive and useful contribution to the advancement, progress and well-being of the community where he resides;
 - (e) render assistance to appropriate and lawful agencies in the maintenance of law and order; and
 - (f) declare his income honestly to appropriate and lawful agencies and pay his tax promptly.