Who Do Your Indicators Work For?

Fresh Questions from the Harvard Project on Indicators of Justice and Safety in Development

The UN, World Bank, and other development organizations are now inundated with indicators of justice, safety, and the rule of law, not to mention poverty, education, infant and maternal mortality. Most of the indicators used to advocate and administer aid programs for these goals originate in government agencies and research institutes in the capital cities in the developed world. A tiny fraction is conceived by people in the countries and government organs whose conduct they are designed to influence. An agreement on international development goals for justice, safety and the rule of law seems likely increase the number and influence of internationally-conceived indicators. Could it also catalyze the construction of indicators for goals that serve the ideas of justice that make sense and matter locally? And if both effects are caused, how will organizations such as OSF ensure their complementarity?

Since 2009, DFID has invested in a system of support for government officials in developing countries that wish to design their own indicators and then use them to advance local ambitions for improvements in justice and safety. For five years now, the Program in Criminal Justice Policy and Management at the Harvard Kennedy School has been supporting officials in Jamaica, Sierra Leone, and Nigeria, and more recently in Bangladesh and Ethiopia, to strengthen their capacity to design and use indicators that matter locally. The fact that these indicators are manufactured and used locally is not their only distinguishing feature. Three other properties differentiate the indicators developed in this project from those that are designed by and for international development organizations.

First, **the purpose** of the indicators is not to measure justice, but rather to produce a set of knowledge and governance effects that come from collaborative efforts to understand and measure complex operations in justice and safety. One of those effects, we believe, is the ability of an agency leader to facilitate incremental improvements in existing operations in the near term, such as a reduction in the number of days it takes prosecutors to file legal advice after police investigations of the rape of children, or an increase in the percentage of law enforcement searches that discover weapons or wanted suspects in areas with especially high levels of violent crime. Such changes can be made without indicators, but they cannot be easily measured, communicated, and carefully continued without indicators. The purpose of the indicators in this project is realized, then, when public officials apply both the measures and the accompanying knowledge for their own objectives at their own pace, using their own discretion -- even when it contradicts our advice and even when the results do not resemble patterns and practices in other systems of justice and safety.

These kinds of indicators cannot be used to monitor the implementation or evaluate the impact of a new development program, such as a paralegal advisory service for prison inmates, or a violence-avoidance scheme for boys in secondary school. Nor are these indicators designed to: a) expose shortcomings in the current system of justice and safety; b) audit and appraise the quality of its governance from a distance; c) advocate changes in the priorities and procedures of public policy in this sector. Indicators that serve these purposes express different theories of change. They also reflect a different philosophy of development.

Second, **the philosophy** of this project proceeds from the realization that it is rare for someone to try to change the course of history, especially for a person in public office, and that most forces of human nature, contemporary politics, and the current socio-economic order conspire against efforts to remake, reform, or even just slightly improve systems of justice and governance. In any complex system, and especially one dedicated to law and order, the bigger the desired change -- the greater will be the power and constellation of forces opposing such change. These opposing forces are more potent still against individuals and organizations that do not occupy a position of recognized public authority, such as NGOs and foreign development agencies. Accordingly, the Program helps officials already in a position of public power to redefine big problems in justice and safety (prison overcrowding; violence against women; distrust of the police) in ways that can be solved or ameliorated by making minor adjustments in current operations. Small but demonstrable changes in justice and safety now, we reason, validate the big and sometimes subversive idea that justice systems can be intentional, and that leading officials can move them in a specific direction without fouling the rule of law.

Third, the **methodology** is more of a mode of interaction with government officials than an ordered set of techniques for infusing practice and policy with surer knowledge. That mode is collegiate and complimentary, respecting and applauding ambition on any scale. Rather than begin with a measure, an idea about what justice should look like, or the ideology of best practices, we find an individual in a position of responsibility who has a sense of accomplishment in justice and safety but no clear way to measure it, or who has a belief about the solution to a persistent problem whose remedy would be a good thing. These impressions are often vague and inchoate, like most human senses. Sometimes they turn out to be wrong. The uncertainty of these ideas and beliefs is what makes them useful.

Working with department heads, supervisors and line staff, we rummage through the records and information systems of an agency whose leader has expressed an intuition about justice. We search for data and insight within their own organization that might approximate a test of that intuition, and then propose at least two ways to measure the scale of the problem or movement toward the desired objective. Agency leaders may reject the indicators and propose another, gambling on its ability to incite the desired response and register the effect. We assist staff to interpret the usually ambiguous data that is generated by means of such an experiment. We then help analyze how changes within that agency affect and are affected by co-occurring changes in other agencies and society at large. Such interactions cultivate a practice of asking and answering questions; it generates shared knowledge about complex systems that are, by design, difficult to govern. In the process, the authority of the leader comes to depend more on the experiences of staff and the movement of the indicator and than their position of responsibility.

<u>Outline</u>

The remainder of this note describes this purpose, philosophy and methodology in greater detail. It illustrates the operating principles of the indicators and the Project as a whole with an account of the efforts of the current Attorney General of Lagos State to expedite the process of filing legal advice (to charge a defendant or dismiss a case) after police investigators have completed an investigation of a homicide, armed robbery, fatal motor vehicle accident or other serious offense such as fraud. This story shows, we think, how locally manufactured indicators help domesticate, fuel, and sustain development.

Big Problems, Small Solutions

Adeola Ipaye was appointed Attorney General of Lagos State in 2011. He had served as special advisor on taxation and revenue for the Governor in the preceding administration and thus knew, as would any lawyer, public servant, and casual reader of the Nigerian press, that the prisons in Lagos were severely overcrowded, primarily with defendants awaiting trial. His predecessor, Olasupo Sasore, had convened an inter-agency justice forum to encourage joint efforts to reduce the scale of the problem. Sasore and his staff worked with the Program in Criminal Justice to generate new knowledge about the scale of the problem, measuring the duration of detention and the length of proceedings before and after the completion of police investigations. Adeola Ipaye came into the office knowing that while delay in the work of the Directorate of Public Prosecution contributed to the problem of pretrial detention, the real solution lay elsewhere, beyond his direct control, in the large number of suspects that magistrates ordered into detention for short periods of time, and in the small number of defendants that spend a long time in jail before trial, sometimes on what is customarily known as a "holding charge." [1]

In March 2012, the AG asked for my help facilitating a meeting with the leaders of most justice agencies in Lagos to discuss ways in which the problem of pretrial detention might be redressed jointly by the police, prosecution and courts. It was clear that no agency wanted to solve the problem of holding charges, so we proposed a simple indictor at the margins of the problem that upset no one's sense of safety or justice and could be shared by all agencies: *a reduction in the number of inmates that had already spent more than 12 months in detention in the two main prisons*. On the day of our meeting that particular measure was small – 23 defendants. The number was quickly generated by the Crime Data Registrar, an information system shared between agencies which we accessed that day during a break in the meeting. The value of reducing it was undisputed. And yet as soon as participants started discussing potential solutions for individual cases, disagreements about specific facts grew into ideological debates about the law and then insinuations of incompetence and inter-agency meddling. The indicator was shelved, and the idea of the inter-agency forum had to be carefully rehabilitated.

Instead of waiting for the emergence of better conditions for inter-agency cooperation, the Attorney General turned his attention to the pace of prosecution. He knew from our research with his predecessor that the number of days it took prosecutors to file legal advice constituted a small fraction of the total time it took to investigate, prosecute, and try defendants. Any change in that number would have a modest effect on the overall duration of pretrial detention and thus the extent of overcrowding. But he also knew that the amount of time it took prosecutors to file legal advice was unnecessarily long, and, more importantly, that it could be moved. The figure had moved from 142 to 44 days in the fall of 2010 when his predecessors first measured it by occasionally reminding prosecutors of the problem and encouraging them to file advice within 30 days. That effort to measure and improve justice was never institutionalized, but the new staff of the Ministry of Justice could rehabilitate the indicator, and they knew what it meant.

[1] For a detailed account of these findings, see "Prison Exit Samples as Tools of Development," http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/criminal-justice/Indicators-PrisonExitSamples.pdf

Measuring Time

Akingbolahan Adeniran, the senior special advisor to the AG assigned to produce the measure, and his assistant, Yinka Ademuyiwa, were both new in the role and had no formal authority over the 42 state counselors who filed legal advice. Indeed, they had few direct relationships with the counselors, all of whom were civil servants rather than political appointees. Moreover, some of the counselors treated the files in a proprietary manner, which made them difficult to review. The Director of Public Prosecutions actively cooperated in the enterprise, but her registry only recorded the date that cases arrived from police investigators, not what happened afterwards. Akingbolahan and Yinka had to improvise, hunting down the files from individual prosecutors who were often in court or other locations with their files in hand. Sometimes, the files simply couldn't be found.

We struggled for three months to help Akingbolahan ("Boye") and Yinka generate a measure of the duration of this phase of prosecution even for a small sample of completed cases. The registry was, in our view, in disarray; the files meandered across the office between counselors and the multiple layers of internal review and vetting that had become customary. The dates of draft decisions and other events in the life of a case were irregularly recorded on the inside leaf of file covers. Only after several intra-office circulars and personal reminders from the Attorney General was it possible for Boye and Yinka to devise a rudimentary yet reliable method for measuring the number of days that elapsed between the arrival of a case from the Criminal Investigations Division of the police and a final decision on legal advice by a state counselor. By June 2012, they were reporting this figure to the AG on a monthly basis, along with an analysis of the proportion of cases in which advice was filed within one month of the receipt of a completed investigation from the police – a target the AG wished to meet.

The trend, as the chart below shows, was confusing. On the one hand, the proportion of cases in which counselors were meeting the recommended deadline (30 days) increased from zero in March to 17 percent in June. On the other hand, the average number of days required to file advice also increased, from 50 to 80 days. The explanation, we later discovered, lay in the fact that some counselors were focusing on old cases, clearing out the "backlog" in response to the AG's instructions, while others attended to new cases, achieving, in some instances, a swift turnaround time.

In order to eliminate ambiguity about whether progress was being made and send a single message to staff, we advised the AG to focus only on one indicator. But the reduction of backlog mattered greatly to the AG. It was more than just a metaphor of the malaise in prosecution; it was an injustice by itself – a kind of "double-jeopardy" for victims, he said. Because reducing backlog was an equally important goal as making haste with new cases, so the AG insisted on both measures. Later he added a third – an indicator of the "productivity" of prosecutors.

Common Cause

In June 2012, the Attorney General reorganized the Directorate of Public Prosecutions, dividing its staff into two separate groups of state counselors. One group would now focus exclusively on filing legal advice. The other would prosecute cases in court. The Attorney General hoped that putting some counselors together into a "Legal Advisory Unit" would improve both the speed and quality of decisions. It might also allow the other group – the "court group" -- to improve the quality of prosecution at trial as well as the attentiveness of state counselors to the complex needs of victims and witnesses.[2]

The reorganization was not intended solely to facilitate the work of the indicators, but it was an essential condition for the indicators to have a positive effect on performance. In order to align their efforts toward a common goal, prosecutors had to see themselves as having a specific and shared objective – swift prosecution. By itself, the indicator could not cause such an effect. Indeed, indicators that aggregate the results of individual outcomes (such as the average amount of time it takes prosecutors to file legal advice) require a prior collective conscience in order to take effect. The AG, furthermore, wanted to avoid an ugly trade-off between speed and quality, recognizing that counselors

[2] In the Spring of 2012, our Program helped the staff of the Attorney General's office conduct research on the experiences of witnesses and victims. That research did not result in a clear way to routinely measure such experiences, but it spawned the creation of a special Witness Support Unit inside the Ministry of Justice.

might focus more attention on the objective for which there was a clear indicator and neglect the unmeasured other.[3] Separating the legal advisory unit from the court group mitigated that dilemma.

Organization is not the only way to produce collective identity, and the performance effects of the indicator were not immediate, as I describe below. But the combination of the indicator and the organizational innovation conspired to produce two effects on knowledge and governance that made possible the exercise of authority in a discrete and transparent manner, triggering, I think, a dynamic cycle of adjustment and innovation as well as new forms of accountability in the justice system.

Knowledge and Governance Effects

The first formal use of the indicators took place in October 2012, nearly four months after a method for generating the measure was established. The Attorney General convened a meeting with all of the counselors in the LAU and discussed the charts (reproduced on the next page) depicting the two measures of speed that Boye and Yinka had circulated in advance. There was some anxiety about the likely effects of the indicators: there were lingering doubts about the accuracy of the data ("what if we turn out to be wrong," Boye kept asking). There was also some concern that counselors might take offense at having their work represented in such a non-legal, instrumental, and possibly reified manner. The results, finally, were mixed. The average number of days to file legal advice had increased from 80 in June to 92 in September before falling to 75 in October. The proportion of cases filed within 30 days of receipt from the police had fallen from 8.5 to 4.5 percent.

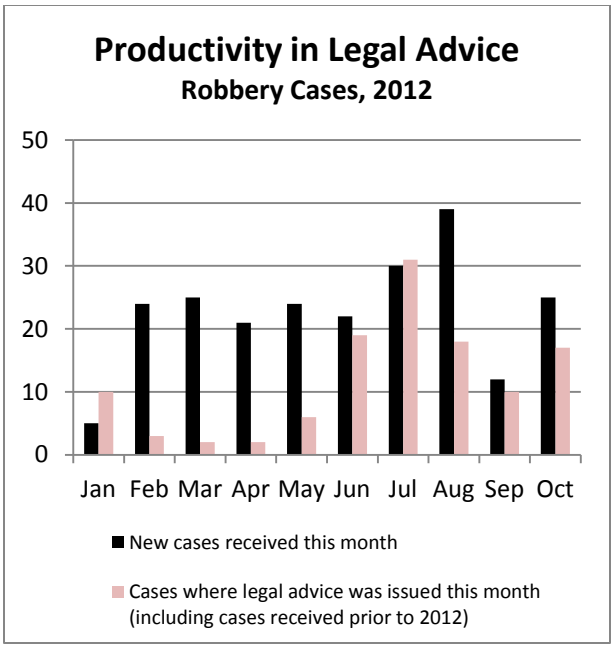
Nevertheless, the confrontation with the indicator sparked a genuine conversation between the Attorney General and counselors in the LAU about the strategic significance of issuing timely legal

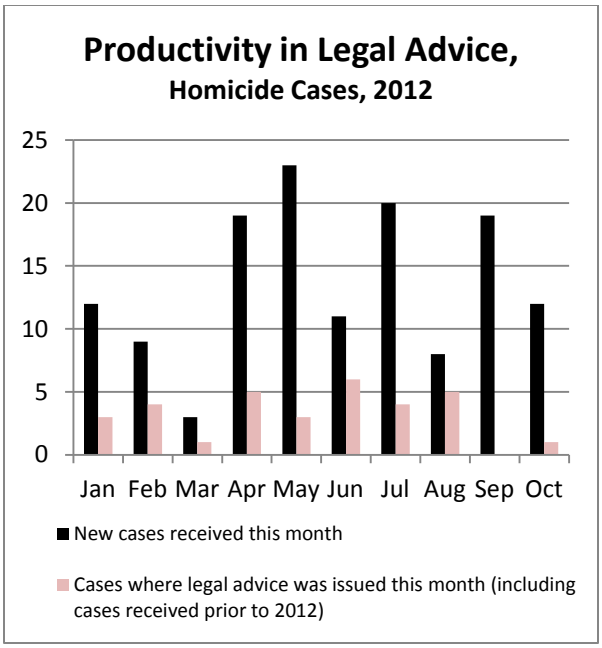
[3] The Attorney General anticipated this dilemma at the 4th Annual Workshop on indicators at Harvard in November 2011, saying: "once we have achieved that shortening of the period of time it takes to file legal advice, the question that would need to be asked again is about the quality of the advice, to be sure that in trying to speed it up we haven't compromised on quality."

advice, possible solutions to the impediments to that goal, and the need for better reporting practices. Counselors acknowledged shortcomings in their performance alongside frailties in the data and then offered to help improve the reliability of the information by promptly and consistently reporting the status of their cases. Counselors also noticed that it was in their interest to better document their productivity, so that it could be reflected in charts that would later be shared with the entire LAU. In the end, counselors agreed on a set of steps by which to increase the speed at which they issue legal advice, creating the first step in a cycle of feedback and accountability for performance.

Using the indicator at a management meeting generated a new and shared understanding of some of the structural obstacles to better performance. Despite the establishment of a specialized unit for Legal Advice, which in theory had freed the counselors from an obligation to make court appearances, some prosecutors were still going to court: magistrate court cases were still assigned to them *personally*. The Attorney General decided to transfer these cases to the new Court Group and to dedicate 2 counselors to these particular cases, pushing a little further the specialization of responsibility he initiated in June. Without the indicator as catalyst, and without the meeting at which it was discussed, the negative effects of the inseparability of specific cases from individual prosecutors might have gone unnoticed by the Attorney General.

A second discovery was made possible by the disaggregation of the data by types of offense. As the charts on the next page show, productivity – the third indicator of interest to the AG – was particularly low for the group filing legal advice in homicide cases. More than double the number of cases were being filed each month in the robbery unit, despite a higher case load and equal number of counselors. It was unclear why this variation persisted; the indicator could not simultaneously serve diagnostic purposes. Its discussion, however, prompted a conversation about the reasons for shortcomings and involved staff in the hunt for solutions, some of which were simple. For example, asked why legal advice had been issued in only a few cases over the past months, the head of the homicide group said that many drafts of advice were still on her desk, awaiting action. She then apologized to counselors in her group who were upset that the charts had failed to capture their good work.





The use of the indicator of productivity in disaggregated form exposed different management practices in each department within the LAU and also the need for improvements in the skill-sets of counselors. The head of the Robbery unit was vigilantly monitoring conduct, and some prosecutors had developed more efficient ways to analyze case files and draft legal advice in complex cases. In response, the AG instructed the heads of each group in the LAU to emulate practices in the robbery unit -- closely monitoring performance, discussing cases in pairs -- and advised them of his intention to follow the work of each individual counsel in the future. The AG also organized trainings in which he, Boye and experienced prosecutors created guidance for cases with multiple defendants. The AG eliminated layers of internal review that he deemed superfluous, including review by the DPP of most advice to prosecute. Some combination of these changes appears to have had a large effect. The number of homicide cases in which legal advice is filed each month went up and now frequently exceeds the number of new cases received from the police.

Accountability Effects – Internal and External

The use of indicators to drive performance has changed the structure of accountability inside the Ministry. The constituent units of the LAU each are now expected to achieve progress and contribute to the overall goal of a swift and nimble prosecution service. Prosecutors are also now held responsible individually for results. The AG recently required that each individual prosecutor write their names on each instance of legal advice drafted. The new form and type of accountability has come with additional responsibility, too, and perhaps even some additional authority. Not only do line prosecutors now play a central role in the collection of the data underlying the indicators by which they are evaluated, they are also expected to discuss the problems revealed by the indicators and propose solutions to these problems. In short, the use of the indicators has increased communication between line counselors and senior management and created a kind of reciprocal accountability that is focused on results.

In December 2012, the AG started to use the indicators to advance a different kind of governance objective – making prosecution more publicly accountable. In response to a request the Governor of Lagos State made to some of his ministers late 2012, the AG started to report on his activities during monthly press conferences, even sharing the monthly figure on productivity. Such "off-license" use of the indicator makes the AG more accountable to interests outside of the justice system, which are now able to scrutinize at least one aspect of the Ministry's work.

So far, the press has reported monthly figures on productivity in prosecution and also quoted pledges of better performance from the AG. *PM News*, for example, reported in February 2013 that the AG intended to "step up" prosecution after he revealed that his services had issued legal advice in about 70% of all cases received from the police in 2012. Specifically, *Vanguard* quoted the AG as saying:

> *" […] a lot of cases are prosecuted daily by the Police at the Magistrate courts. 753 reports of various investigations reached us for legal advice in 2012 and we exceeded the 70 percent mark in dealing with them. In 2013, we shall be stepping up our prosecution to ensure Lagosians that criminals will not go unpunished."*[4]

The representation of the work of prosecution in the press in this way may in turn alter the accountability structure for the administration of criminal justice as a whole. The media may become accustomed to receiving corroborated claims of improved results on a regular basis. It may ratchet up pressure for continuous progress. During the February press conference, one journalist asked whether the LAU would be able to sustain the pace of improvements, especially if more cases were brought to the attention of prosecutors by police investigators. We do not yet know how durable the demand is for continuous improvements in the Ministry, but other justice agencies in Lagos have taken notice.

Side-Effects

One unexpected but likely beneficial side-effect of the AG's effort to accelerate the pace of prosecution is that the judiciary appears more measured in its own approach to resolving delays in pretrial detention. In March of 2013, in advance of scheduled visits to the Kirikiri Medium Prison and Kirikiri Female Prison, the Chief Judge of the Lagos State Judiciary sent the Attorney General a list containing the names of 573 inmates who had been awaiting trial in these two prisons for more than three months.[5] The Chief Judge informed the AG that she was considering releasing prisoners on the list in whose cases the Directorate of Public Prosecutions had not yet issued legal advice and no legitimate reason for the delay was offered. This time, the judge also communicated her intention at a meeting of

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[4] The Attorney General of Lagos State as quoted by Vanguard: http://www.vanguardngr.com/2013/02/lagos-has-zero-tolerance-for-crimes-and-criminals-ipaye/ Other accounts of press conferences given by the Attorney General can be found at http://thenationonlineng.net/new/law/lagos-to-enforce-rule-of-law-says-ipaye/ and http://news.naij.com/23530.html

[5] In August and September of 2012, the new Chief Judge of Lagos publicly threatened to release from custody all inmates whose length of pretrial detention exceeded twelve months and whose further confinement could not be justified by specific circumstances. In October, the chief judge released 233 such inmates.

the Criminal Justice Sector Reform Committee, a forum recently established to discuss and resolve problems common to several agencies, including the Ministry of Justice, the Judiciary, the police and prisons.

The Judiciary's announcement was unsettling to the Attorney General, especially since the profile of the charges for defendants that might be released indicated that prosecutors in the ministry of justice were responsible for 423 (87 percent) of the defendants in Kirikiri Medium for more than 3 months. The other 50 had been charged with offenses that are prosecuted independently by the police. A deeper inspection of the list by the AG's staff, however, revealed a more complicated and disturbing picture of the relationships between police, prosecution and courts. In approximately 200 of the cases on the list, prosecutors had not yet offered legal advice to police investigators. But the DPP had not yet received the case file from the police in another 200 cases. This meant that the police had not submitted the file to the DPP even after a magistrate had authorized the remand of the suspect.[6]

Instead of accusing the police of the unlawful practice of deliberate delay, the Attorney General simply forwarded to the police the list of 200 awaiting trial prisoners whose cases had never been brought to the DPP and enquired about the status of these cases. The police promptly forwarded 115 of these cases, soliciting legal advice. The influx of cases was inconvenient for the DPP, taxing staff resources and compromising forward movement on the indicators of the speed of prosecution. Nevertheless, as the chart below shows, a temporary mobilization of a task force on backlog combined with persistent attention to deadlines helped the legal advice unit to sustain forward progress. From May to July 2013, it took prosecutors 66 days on average to file legal advice.

[6] In another 123 cases, prosecutors had already filed legal advice but defendants were either awaiting the issuance of a formal indictment (a separate phase of criminal proceedings that takes place after legal advice to charge has been filed), the assignment of a case to a judge, or the commencement of a trial at three other post-charge stages of legal processing.

The possibility of a rupture in relationships across the justice sector occasioned by the Judiciary's initiative was considerable. The prospect of an arbitrary release of inmates charged with serious offenses could have been perceived as a threat to public safety, for which the Attorney General personally feels responsible and is sometimes treated so by the Governor. Instead of responding to the courts in antagonistic fashion, though, the Attorney General used the opportunity to strengthen the system of inter-agency governance. He dropped charges in the cases of those inmates who had been released by the Chief Judge, thereby demonstrating respect for the Judiciary's initiative as well as reinforcing the message that swift prosecution matters. Boye asked the prisons to give him the figures on awaiting trial prisoners every month, a practice that permits the Attorney General to keep tabs, indirectly, on the incidence of "holding charges." The Attorney General asked to be involved sooner in the judiciary's review of the list in the future, encouraging a shared approach to the resolution of a system-wide problem. And the Attorney General convened a training for judges about section 264 of the Criminal Laws of Lagos State, which enjoins magistrates to release defendants after 60 days of remand and yet is rarely applied. That training not only reiterated an important norm in criminal justice, it bound the prosecution service together with the courts in a shared approach to a common goal.

Indicators as the Rule of law

It is easy to exaggerate the role of indicators in these developments. Without the Attorney General's savoir faire, no amount of knowledge and measurement in these circumstances would have made the delays in prosecution susceptible to intervention and improvement. The indicators themselves, moreover, did not moderate the relationships within the office of the prosecution or between the leaders of different agencies. The Attorney General did. Prudent leadership by a gifted individual may explain most of the movement in this story.

But it is also easy to underestimate the role of indicators. In this case, both the indicators themselves and the process of their generation made possible the kind of *understanding* and *politics* that is required for a leader to exercise influence on a system that is, by design, difficult if not impossible to govern.

Consciousness and Caution

Justice and Safety are vast concepts, intangible and ineffable, especially when written in capital letters. Only the crudest materialist would reduce Justice and Safety to the pedestrian, bureaucratic operations we measure and manipulate on a daily basis in formal systems of justice and safety. Justice systems are also vast and sprawling, even in developing countries where, in contrast to the UK, US, and even Europe and Australia, the number of victims and offenders, suspects and inmates, police officers and prison guards, not to mention judges and prosecutors and defense attorneys is comparatively small. Wrapping one's head around these concepts and systems so that they are subject to intervention and change on human scale requires a sociological imagination and an empirical friend.

Indicators can be a trusty source of this kind of consciousness and caution, and their use can instantiate the rule of law. But most indicators do not have these properties, and they do not play this role. Most the indicators known to the world today emanate from cities like London, Geneva, Brussels, and Washington, D.C. and are designed to expose shortcomings in the operation of someone else's system

of justice. They are not designed to help someone solve a problem on their own terms. They tend to abbreviate conversations about the purpose of justice. They tend to make the governance of justice a question of compliance to someone else's norm, not legitimate and sustainable conflict about competing norms in society or deliberations about how to make modest improvements to government operations in circumstances that are not freely chosen.

Indicators that are not just obeyed but intentionally manufactured and even manipulated by people who seek to govern their own lives can be the source of a creative confrontation of Justice with a capital J and justice with a small j. Indicators can help people whose actions are modest, whose perch is low, and whose sphere of influence seems small, to see the connections between their work and the larger mission for which they work. Indicators do this by measuring the collective effects of individual action. The aggregation doesn't do this by itself since it is just the sum of the individual parts. It is the interpretation of the indicator -- the effort to ascribe meaning to the measure -- that makes the whole behind the sum of the parts subject to human perception. Because of this ambiguity, indicators compel conversation about the meaning and purpose of ordinary administrative action.

Indicators also expose the channels of authority on which influence and power really depends in complex organizations such as police departments, judiciaries, and prosecution services. The leader of an agency cannot move an indicator by him or herself. It is line-staff that have agency, not the principal, and they are more likely to agree on goals that are within their reach and within the realm of existing norms when the dependence of the leader on them is recognized and respected. Demands for great changes in strategic outcomes immediately undermine the cause of reciprocal accountability in government. They privilege the measure over the measured.

Politics

Justice systems all around the world are loosely-coupled sets of practices and institutions with no single principal, or principle, in charge. In no country is there a minister with control and responsibility for all operations and all outcomes in justice and safety, and there is no super-norm to which all behavior must comply. Any change within an individual agency, moreover, has knock-on effects for others, upsetting not only the routines to which line officials are attached and reasonably expected to be attached but also the appearance of control that often symbolizes the authority and power of their leaders. Big changes are a political menace, especially in systems that are imbalanced in favor of one institution, such as the police. Structural adjustments are always politically destabilizing: they tend to cause de-coupling and un-coupling rather than re-coupling.

Many other elemental forces, most of which are invisible and not captured by or in law, constrain the ability of anyone to make major changes in justice systems. First, the real categorical imperative of the justice system in any country is to reproduce the current social order, not change it. In some countries, the quest for social justice through criminal justice has been a "hollow hope," and not just because of implementation failure.[7] Second, the procedural rules by which justice systems are administered are designed to solve individual conflicts, not classes of problems. While the rule of law may function on

[7] Gerald Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* Chicago, 1991.

macro-economic principles, justice operates on a micro-economic scale. Third, the people whose conflicts come to the attention of justice systems often have broken lives and families, problems with roots that may be exposed and smoothed by justice but not cured.

Still other considerations oblige development and justice reform in particular to start and stay small. Modest adjustments in existing operations are a better bet in fragile states and weak governments – the categories conventionally used to depict the systems of order and rule in most developing countries. This is not because of some purported congenital weakness of the justice sector. It is because the legitimacy of innovation inside an individual institution is less likely to be contested when it builds upon an existing practice rather than introduces new routines. Furthermore, the small scale of reforms that are inspired by locally generated indicators capitalizes on one of the greatest comparative advantages of justice in developing countries: their small size. Minor changes don't have to be "scaled up" before their effects are visible and appreciated.

Indicators, of course, may not be the only means by which leaders can exercise influence over unruly systems of justice and their constantly changing operations and expectations. But indicators are especially helpful and, I think, potentially democratic devices of governance – particularly if the means by which such change takes place are deemed as important as the ends. Indicators of accomplishment, after all, cannot be fashioned without confronting questions about what deserves to be considered an accomplishment, and these considerations may lead ineluctably to moral and existential questions about the purposes of government and the meaning of justice – useful additions to a mercenary and hurried world of development.

Even a marginal increase in the speed of a particular operation provokes the kind of resistance that can only be overcome with moral justification and the energy of ethics. Indicators cannot be made, moreover, without first agreeing on the units of measurement. Conversations about those units require a shared vocabulary and common concepts -- a more level playground -- that might help balance relationships of power and knowledge in the course of their construction.

Indicators are not a technocratic dream. They are agents of political provocation, just like a conversation about the rule of law. They also are assertions of power, but not power itself. They state a claim about our ability to know, measure, and change the world. But without real authority – the agreement or permission of others, the license to act on that claim – indicators are merely representations of power, knowledge and ambition. In practice, in real life, the work of indicators is done by people. The conditions in which they operate, the circumstances in which they can change the world and make history, are those that men and women create.