

Asia Pacific Judicial Reform Forum

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Searching for Success in Judicial Reform



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The Regional Experience



1. Ten challenges
2. Stock-take
3. Frontier issues

Ten challenges



1. Purpose
2. Leadership
3. Independence
4. Community
5. Donors
6. Training + development
7. Capacity
8. Integration
9. Data
10. Results

1. Purpose



- What are we trying to achieve?
- *Instrumentalist*
Economic growth; state and markets; institutions of title + contract; top-down; 'thin' reforms [Weber, North...] (World Bank/MDG's)
- *Constitutive*
Human-centred; freedom, opportunity, equality, rights; participation; bottom-up; 'thick' reforms [Rawls, Sen ...] (UNDP, Danida ...)
- *Others*
Rule of law +/- democracy (USAID); good governance (WBI, TI); safety + security, post-conflict (DfID) ...

2. Leadership



- Ownership: *whose agenda?*
- Home-grown reforms
- Pro-active role
- Access to justice
 - *A2J to the courts*
 - *A2J through the courts*
- Managing the human factor

3. Independence



- Integration in national reform agenda
- Critical, sensitive, complex, nuanced
- Engagement *not* isolation
- Key relationships
 - Executive
 - Community
 - Donors
- Collaborative partnerships

4. Community



- Inclusion: who are reform stakeholders?
- Leadership + participation
 - Ownership, authenticity, sustainability
 - Needs assessment, implementation, evaluation
- Supply + demand sides
- Coalitions: non-state actors + civil society
- Pro-poor development

5. Donors



- Whose agenda (again)?
- Role – support and facilitation
- Planning, local systems
 - *Monterrey (2002), Marrakech (2004), Paris (2005), Accra (2008)*
- Coordination, competition
- Sustainability – dependence, feasibility
- Change management: realistic time-frames
- Organisational learning ...

6. Training + Development



- Indispensable but insufficient
- Integration with related strategies
 - Incentives for behavioural change
 - Structural + systemic reforms
- Pedagogy - educational effectiveness
- Judges as learners
- Training-of-Judge Trainers (ToJT)
- Court-owned, judge-led

7. Capacity



- What is capacity-building?
- Limits of short-term assistance
- Transitional strategies for generational change
 - Human rights, gender equality, corruption, impunity ...
- Resource scarcity; development cost

8. Integration



- Critical interdependency – reform packages
- Size + complexity = difficulty
 - feasibility, not resources
- Towards sector-wide approaches (SWAps)
 - latest elixir?

9. Data



- Getting more serious: empirical approach
- Accurate accessible reliable data
 - research
 - analysis
 - monitoring
 - evaluation
- Keeping IT simple – feasible solutions
- Evidence-based decision-making

10. Results



- Lack of results, or evidence?
- Evaluate what?
 - accountability v effectiveness
 - process v results
- Evaluate how?
 - scientific v participatory
 - causality, attribution
 - time, cost, rigour
- Purpose + results: planning + evaluation
if you don't know where you're going, any road will take you there

Stock-take



- Courts are seizing reformist role to improve justice
- Orthodoxy - economic development, good governance, safety and security
- Emerging - equality, opportunity, fairness, rights
- Evidence of development merit and potential
- One size does *not* fit all
- Uneven, fragile foundations

Frontier Issues



- Refine purpose
- Improve data, empirical approach
- Learning by doing
innovation, evaluation, refinement
- Engagement with stakeholders
- Political-economy factors
influences of political institutions, economic systems and law
- Focus on effectiveness, results.

Possible next steps



- Extend APJRF program
- Promote exchange of experience
- Support to facilitate implementation
- Local workshops
- Participatory how-to-do-it guides ...