

**Proposal for
The Hague Institute for Global Justice
The Hague, Netherlands**

Institute for Justice Sector Development

The Hague, Netherlands

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Preamble

The Institute for Justice Sector Development (IJSD), the Netherlands, submits this paper to assist in the discussion regarding the potential scope and mandate of the Institute for Global Justice (IGJ) in The Hague. It is the intention of this paper to provide support to the efforts of the Netherlands and the City of The Hague in their significant undertaking to improve the quality and delivery of justice throughout the globe. Specific programmatic proposals are set out at Page 5 and Pages 8 -16 in the hope that they may assist the process of establishment of IGJ and to encourage its founders that their mandate is noble and needed.

Introduction

At the beginning of the Twenty-first century, nation building is still an art and not yet a science. This is especially true in respect to the justice sector and the administration of the rule of law¹ in developing countries. According to the United Nations Development Program, over eighty countries are or have recently engaged in major reform of their justice sector institutions. The principle models to which these nations routinely turn for support and technical assistance are the European and North American systems. This is due primarily to the fact that most of the assistance for such reform comes from those regions or the international institutions (the United Nations (UN), World Bank, European Commission (EC), etc.) primarily supported by Europe and the United States and Canada. However, the legal systems in even this narrow set of donor states differ widely from each other in their legal procedures and their definition of the role of various justice actors, all of which evolved to meet the very specific cultural and environmental needs of the particular society.

As a consequence, “experts” from several different countries with very different legal training are sent at the same time by different donors to provide technical support to transitional justice systems. They often go with contradictory, but well-intentioned, notions of imprinting their experience, professional approach and attributes of their own legal systems on the host state without appropriate understanding of that society’s unique needs. When two or more systems are represented in a given national institution, this becomes very problematic. Additionally they are often deployed for short periods of at most a few years and outside any strategic planning process in which their contributions could be harmonized, sequenced and sustainable. The generally poor results experienced in the field of justice sector development are, accordingly, not surprising nor are the requirements for improvement.

However, while “justice” may never become an exact science, its fair administration has been advanced by the development over the last century of rules, principles and

¹ **Rule of Law** is used here as defined in the Report of the Secretary-General of the United Nations on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies (S/2004/616) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement> .

practices common to all democratic nations within the international community and reflected in the expectations of the major donors supporting reform programs. It is broadly recognized that progress in establishing the rule of law is a long-term endeavor often taking decades before stable and independent institutions are transparent, accountable and efficient. The international tribunals have made major progress in establishing professional standards that carry the imprimatur of “international” to guide the process of national reform. Stable and sustainable nations are built on such a uniform foundation of law applied in the context of the unique traditions of each state’s history and culture over many years of determined effort.

When the international community engages to support fragile states in their development, it must be prepared to provide, through its diplomats and technical experts, clear, consistent and sustained counsel on international norms and expectations. It must do that with a clear understanding of the unique context of each individual state. It must do so not only with a focus on advancing the principles of the rule of law but also with a consistent focus on the effectiveness and sustainability of the assistance provided.

Appropriately, the Netherlands is now engaged in establishing a Global Justice Institute to provide a major contribution to the pursuit of justice, stability and human rights across the globe. This will certainly include initiatives to re-establishment of a reliable system of justice in post-conflict countries. Such a mandate is noble and needed to advance the art of nation building² and bring focus onto improving the methodology of delivering support to emerging and transitional states. That focus is rightfully placed on the policy development, programmatic development and professional competence and the coordination and integration of all three. Within that mandate the Institute can advance global justice in many very practical ways. However, it is important that the IGJ focus on providing support where it is not now available and coordinating support where it is not being provided effectively and sustainably. By linking academic research and curricula for the enhancement of the skills and effectiveness of legal professional practitioners, the Institute can provide a much needed and innovative contribution to improving justice globally. This paper presents a few suggestions on how to achieve that in critical areas of need both nationally and internationally.

Although this paper focuses on the concept of a national justice sector in post conflict, developing and/or transitional states and also the international response to serious violations of international humanitarian law, the proposals presented here apply equally to the non-criminal, legal sector.

² “nation building” is defined for the purposes of this paper as the process of constructing the essential elements of democratic governance within the cultural, economic and historical framework of a people committed to peaceful self determination under the rule of law.

Objectives

This paper focuses on three objectives, which are key to the advancement of justice sector development, both in the national and international context. These objectives are:

I. Policy Linkage – *The improvement of the mechanics of forming donor policy in the area of transitional justice.*

II. Programme Development – *The design and improvement of models for building coordinated and effective aid programmes to better implement the goals of improved policy.*

III. Competence – *The establishment of practical methods for ensuring professional competence amongst both those deployed to implement such programmes and by national counterparts who will serve the national justice institutions.*

More specifically, this paper proposes that the Institute for Global Justice could focus on these three practical objectives by:

- Facilitating international consensus on standard models and processes,
- Facilitating a consensus on the workable policy options for coordinating peace making³, peace keeping and building the rule of law,
- Facilitating dialogue between policy makers, diplomats and practitioners (both national and international),
- Developing methodologies for effective long-term planning in the justice sector,
- Promoting advocacy and analysis to and for governments, donor agencies, international organizations and legal professionals,
- Building the most effective methods of evaluating success in justice initiatives, and
- Designing, disseminating and delivering training, standards and assessment mechanism curricula

The Institute's focus on these objectives will also establish the framework for implementing effective "proactive complementarity"⁴ between the international tribunals (specifically the International Criminal Court (ICC), but also including Ad Hoc Tribunals) and the post conflict, national systems with which they have complementary jurisdiction. This represents the "cutting edge" of international justice in the age of a permanent international judicial process as found in the ICC.

³ Including all efforts, military and otherwise, to end hostilities.

⁴ See: William W. Burke-White, *Proactive Complementarity: The International Criminal Court and National Courts in the Rome System of Justice*, 49 HARV. INT'L L.J. 53 (2008).

The Context and Challenges of Supporting Justice in the 21st Century

It cannot be disputed that the rule of law is at the very heart of democratic self-governance. The administration of justice through transparent, accountable and efficient justice sector institutions is the foundation of the rule of law under international norms and customs. It is also the ideal for most nations both developed and otherwise. Building and maintaining a nation under the constraints of such norms and customs is, however, often in direct conflict with political expediency (both national and international) and the disease of corruption, especially in post-conflict and transitional societies.

As already defined for the purposes of this paper, “nation” or “state building” is the process of constructing or reforming the essential elements of democratic governance within the cultural, economic and historical framework of a people committed to peaceful self-determination under the rule of law. Not infrequently, the first step in nation building is to end an armed conflict and provide for the peace and security of the people thereafter. Often there is an overlap between war fighting and institution building in the justice sector of an emerging state.

The impediments to successful nation building often include such overwhelming and interlinked challenges as:

- Insufficient infrastructure and financial resources to support economic self-sufficiency prosperity,
- Political factions among the population or within the region who are committed to continuing violent conflict,
- Widespread corruption in both the public and commercial sectors,
- The dominance of religious institutions in the legal sector,
- Traditional justice mechanisms that do not reflect international norms for justice,
- Poverty and polarized wealth distribution,
- Inadequate educational sector with entrenched illiteracy, and
- Poor health conditions and widespread disease.

It is in this context that donor country policy is formed, programs are designed and professionals deployed to support effective national building. It is well documented that many laudable efforts by donors (both bi-lateral and multi-lateral) to assist young nations to establish the necessary legal foundations fail to build sustainable justice systems (in spite of all good intentions) because of the lack of effective delivery of the international support. Many lives and great fortunes are needlessly squandered in no small part because of those failures. Long term dependency and cycles of violence and poverty are too often the result.

Proactive Complementarity⁵ and the Role of International Tribunals in the Regions of Conflict

Regions where genocide and crimes against humanity have occurred present their own challenges to the development of the rule of law in the nations affected. The continuing instability and fragile state of the justice sector in a post-conflict country is particularly troubling when an “international tribunal” has complementary or shared jurisdiction (with the states in which the crimes occurred) over the region for years and sometimes decades. The mandate of the United Nation’s International Criminal Tribunal for the former Yugoslavia (ICTY) for instance, requires it to contribute to the peace and reconciliation of the region of the former Yugoslavia. Fifteen years after the end of the conflict and sixteen years after its inception, the ICTY can claim only very limited success in that part of its mandate. The reason is simply that those that have served in the ICTY either did not know how or did not ask for the resources to do so if they did know. The Prosecutor of the ICC recognizes the obligation to support and coordinate his investigations and prosecutions with national justice actors, but again, how and with what tools? These methods and tools have not been well developed precisely because of the very limited focus on “complementarity” by the international legal community. With the Court of Bosnia and Herzegovina, War Crimes Chamber, as the singular exception, no relationship has yet been developed between an international tribunal and a national justice system to effectively ensure a competent, complete and sustainable judicial response at all levels to such serious and widespread crimes effecting the peace and reconciliation of a post-conflict nation.

Since the advent of international tribunals for adjudication of crimes against humanity, genocide and war crimes in the 1990s to the commencement of the International Criminal Court in 2002, the international community has been confronted with the challenge of holding “those most responsible” for such atrocities before international proceedings providing the highest due process of law and at the same time delivering accountability for all levels of culpability in the region where the crimes occurred. Hundreds of millions of dollars and decades of work have been devoted to trying a few dozen defendants in such institutions as the International Criminal Tribunals for the former Yugoslavia and Rwanda. Unfortunately, the Balkans and the Great Lakes Region of Africa have hundreds of thousands more who bear responsibility for the same crimes at different levels. Before peace and stability are fully restored to these and other similarly situated regions, there must be justice systems that are independent, competent and accountable to the same international principles of the fair administration of justice. Furthermore, most of the international courts, costing in excess of a hundred million a year to administer, have a finite life span focus on a particular region. The society in transition after such violence requires longer and more sustainable institutions to address the legal disputes arising out of conflict. The mechanism for linking the international judicial response with that of nation building in the justice sector has not been well developed. As a result, there remains continuing

⁵ Ibid: Burke-White ... described, in part, as the provision of encouragement and assistance by the ICC to states in undertaking domestic prosecutions of international crimes.

and extensive international involvement in regions like the Balkans almost two decades after the conflict began.⁶

The Institute's development of the linkage between nation building and the work of the ICC and other international tribunals as it develops the mechanisms proposed above would be highly beneficial to the administration of both national and international justice.

Peace Making, Peace Keeping and Nation Building

In promoting the Rule of Law and Global Justice, the international community and individual states face many complex challenges. Acting unilaterally, bi-laterally and multi-laterally donor states must form their policy in the context of military necessity, political instability and immature legal structures often in remote corners of the world. Currently, the United Nations is debating the appropriate placement of the primary authority for their Rule of Law programs between the UN's Department of Peace Keeping Operations (DPKO), United Nations Development Programme (UNDP) and the Office of Legal Advisors (primary UN representatives in establishment of the international "Ad Hoc" Tribunals). The Global Justice Institute's focus on policy formation, programmatic development and competent implementation will serve to advance the principles of justice in these critical areas.

The first step perhaps is to perfect the methodology for sequencing and coordination between peace making - to end conflict, peace keeping - to provide a secure environment for the growth of democracy and institution building - to ensure sustainable self-governance. These three options singularly or in combination are at the heart of modern international engagement in conflict and post conflict regions. Defining where one option ends and another begins has not been easy in either theory or practice. Negotiating their overlap in the field is problematic at best.⁷

Often, the professional perspective of those engaged in one option differs, substantially, from that of the other two. Even many of the basic technical skills required by military deployments, in peacekeeping mandates or within civil governance development differ widely. By focusing on the coordination between these three options of international engagement in the context of the rule of law and "Global Justice", the Institute would have the opportunity to make a dramatic impact on the success of justice initiatives that involve all three components.

⁶ The Court of Bosnia and Herzegovina, War Crimes Chamber and Organized Crime, Economic Crime and Corruption Chamber is an excellent – and perhaps the only - example of how complementarity has worked, albeit well after the fact and at dramatically different funding levels with the ICTY. Website of the BIH Court. See also: William W. Burke-White, *The Domestic Influence of International Criminal Tribunals: The International Criminal Tribunal for the Former Yugoslavia and the Creation of the State Court of Bosnia & Herzegovina*, 46 COLUM. J. TRANSNAT'L L. 279 (2008).

⁷ Iraq, Afghanistan and East Timor are only recent examples that have proven the type of challenges presented when all three phases are operating at the same time and seek to achieve similar impact on the same governance structures.

The coordination required must again occur within and between (vertically and horizontally) three levels: Policy, Program Development and Project Implementation. The Institute could contribute substantially to the development of the tools necessary to accomplish such coordination both by concentrating on the policy alternatives for sequencing of the three options; Linking the programmatic planning (long-term strategic planning⁸); and cross training of professionals (both national and international) engaged in building and administering effective and sustainable justice sector institutions. While the war is fought, the population builds expectations about issues of justice, order, security and peace. During the peace process, agendas are set for peaceful governance and expectations of accountability and the fair administration of justice. After the peace is secured and the institutions of self-governance emerge, demands are made for efficient delivery of justice services and transparent administration of the mechanism of accountability. The foundations are laid while the military is still in the field. The legacy of their attention to the rule of law is found decades later in the maturing institutions of courts, prosecutors and public defenders.

Therefore, the horizontal coordination of policy development between Military Commanders, Civilian Police and Peace Keeping Forces, and Justice Sector Planners is essential to sequence and coordinate the process of nation building effectively over time. The mechanism for synchronizing the development of multiple projects in the same sector over potentially decades by differing donors and agencies through sophisticated planning strategies will dramatically save resources and successfully manage expectations on all quarters. The cross training of legal professionals on the various requirements for a sustainable justice system will ensure that the implementation of the strategies over the long-term will result in sustainable growth and institutional maturity.⁹

Vertically, the Institute could build the model for the exchange of actual knowledge and experience of the experts and national officials on the ground with the program development officials in aid and development agencies and the policy makers in parliaments and capitals across the world. This process would provide a common level of knowledge and a forum for informed debate on what works and what does not. Though this is done on an ad hoc basis in respect to some regions, a shared and recognized model does not exist and is therefore far from being institutionalized to improve the management of aid and development programs across the justice sector.

⁸ The Danish Institute for Human Rights has recently facilitated the Justice Sector Strategic Planning (twenty year plan) through the Ministry of Justice of the Republic of Timor-Leste supported by the Australian AID and UNDP – approved by the Council of Coordination on 12/02/2010 And the Council of Ministers on 31/04/2010 (<http://www.mj.gov.tl/?q=node/158>) The process was an innovative model appropriate for replication in many regions. A Planning Secretariat is managing the Implementation process, which could again produce a model for long-term sustainable planning and project implementation management. The Information Management Project (automated and manual case management and tracking), undertaken as one priority of the Strategic Plan, represents the vertical and horizontal integration across the sector and within institutions.

⁹ Timor-Leste is an example of the critical need for planning and coordination early in the transition and throughout the delivery of international support. Emerging from conflict in 1999, it has experienced numerous international initiatives with little long-term sustainability and intermittent outbreaks of civil unrest and destabilizing violence in spite of a massive presence of foreign “advisors” and the UN (including UNPOL and UNDP).

Building mechanisms for coordinating the participants vertically on a regular and predictable basis would greatly improve effectiveness at all levels.

As stated, such tools for information exchange do not now exist, and, except in ad hoc or the most random of circumstances and through no fault of anyone in particular, this linkage does not occur routinely in today's world. Through formalization of such vertical and horizontal linkage the competence, coordination and sustainability of the international contribution to developing nations will be greatly enhanced and the ends of justice will be better served

Proposals

I. Policy Linkage – *The Challenge of Forming Effective Policy*

The formation of successful policy both bi-laterally and multi-laterally in the field of global justice requires a full understanding of what is needed in the specific context, what could possibly work to meet that need and what skills are required of those deployed. Policy makers have many sources from which to obtain the information they require to set successful policy on both the national and international level. However, rarely do parliaments or ministries have the opportunity to speak openly and candidly with those who have been deployed to implement their policies. Frequently they lack the necessary research to support their choices. Rarely do they have the benefit of coordination with other donors at the policy formation level.

What parliamentarians and ministers would better appreciate, if that dialogue, research and coordination were available while they are deliberating on international initiatives, is that rarely are their clear policy goals achieved in the development projects that are intended to fulfill those goals. The reasons are many and varied, but the constituents of justice and the taxpayers are the ones who suffer. The Institute could very effectively develop mechanisms to systematize and thereby facilitate the dialogue between the implementers and the parliaments who fund them to improve the outcome intended.

One of the most frequently identified causes of failure in justice initiatives is the lack of coordination among donors engaged in the same sector and sequencing of war fighting/peace keeping/nation building in the realm of the rule of law. One donor will focus on the development of the judiciary and another on the prosecution and a third on defense, etc.. The international military, UN policing missions and legal teams often provide rule of law support to different institutions in the same sector without communication between them. It has been recognized in the Paris Declaration of 2005¹⁰, in which the “basket funding” approach was agreed upon as the preferable method of delivering aid to developing regions, that successful support to the recipients of aid is dependant upon donor coordination at all levels.

¹⁰ Paris Declaration on Aid Effectiveness 2005

Additionally, the diplomat's view of progress and the view of the professional skilled in developing legal institutions and systems and deployed "on the ground" may differ. Regular and routine discussion on the actual progress achieved in a given development project between policy makers and practitioners from the field is crucial to actually achieving success through incremental course corrections and programmatic adjustments. Decisions to preserve in a given project, change course or even abandon the initiative all together should be critically and holistically reviewed regularly during the execution of policy.

An essential group of participants in these discussions is the national officials receiving the technical assistance. If conducted properly, inclusion of the national officials could greatly reduce the "donor driven aid syndrome" and give the recipients of the aid a meaningful and constructive voice at the table. Conducting it properly requires including officials who will be honest and candid, who are not corrupt or engaged in manipulating donors for personal or political agendas and understand the partnership between their nation's efforts and the interests of the donor states in their success.

Where there is jurisdiction of international tribunals there needs also to be support to both the international and the national institutions to help balance the delivery of accountability at all levels.

Broad programmatic options for the Institute should include:

1. Organizing conferences for discussion of methodologies and mechanisms by which basket funding and inter-donor cooperation can be achieved in the current regions of interest – Africa, South Asia, Eastern Europe and the Balkans,
2. Facilitating the coordination of donor objectives in accordance with the Paris Declaration and the principles of multi-lateral "basket funding" mechanisms in specific regions (using for example, Afghanistan) by:
 - a. Sponsoring and compiling and publishing field research (example: relationship between military support to police reform and international support to the Ministry of Justice/prosecution/defense/courts and prisons),
 - b. Organizing and institutionalizing regular dialogue between the donor states, institutions and practitioners targeted to bring the policy makers (including, for example, foreign ministries, parliamentarians, justice ministers, UN agencies) together with practitioners (cross section of program delivery experts and national practitioners) from the field and the project managers responsible for outcome delivery.
3. Development of model policy statements that focus on coordinating collective donor objectives with bi-lateral donor project implementation,

4. Research and facilitate dialogue and model principles for sequencing and coordinating of war fighting, peace keeping and justice sector institutional development,
5. Providing training, research and advice to parliamentarians to better understand the realities of policy implementation in critical regions of interest, and
6. Research, develop, disseminate and train national and international justice institutions on methodologies for effective collaboration and sharing jurisdiction in regions where crimes against humanity have occurred.

II. Programme Development – *The Challenge of Designing Sustainable Programmes and Institutions*

Those responsible for executing policy, setting the priorities, building the programmes, collaborating with allied donors and deploying the assets to emerging democracies need to know what works, how to manage expectations regarding progress and, perhaps most significantly, how to assess that progress for policy refinement. Fundamentally, they need to know how to help transitional states construct strategic plans for developing over the long-term, justice institutions as part of an integrated sector with the capacity to be independent of political influence, transparent, accountable and efficient.

The diplomatic corps serves as the filter and translator for events on the ground in a given region. Though skilled in their fields and well intentioned, their interpretation of highly technical issues of due process, transparency and accountability mechanisms in the legal realm often suffers in clarity or accuracy when ultimately translated to the policy makers far removed from the region in question. Success may be difficult to identify and mistakes frequently obscured by those who may soon rotate out of an embassy. Theirs is an important view, but not the only one that should serve to influence the flow of support to institution building, sector planning and the development of sustainable professional capacity in a transitional government.

Broad programmatic options for the Institute would include:

1. Researching and designing model tools and model programs that reflect a broad consensus on the best practices available,
2. Researching and designing various methodology of assessment for both international agencies and national institutions – measures of success,
3. Research, dialogue and design of justice priorities to overcome donor driven demand,
4. Field and academic research on methods to coordinate donor support and integrate the contribution of divergent donor experts,

5. Establish planning models for sector development that provide continuity of assistance over time,
6. Researching and publishing the comprehensive results of successes and failures of various programs undertaken in the international and national justice field, and
7. Develop, disseminate and deliver training curricula for aid agency personnel (DIFIT, GTZ, SITA, USAID, AusAID etc.).

III. Competence – *The Challenge of Building Professional Competence in Those Charged with reaching Policy Goals*

The success of the Institute's efforts in the field of justice sector development will depend upon building on the level of *technical competence* of the professional legal actors within each discipline (competence), enhancing their *ability to plan and work in close collaboration* with others (coordination) and the establishing the *capacity of national actors* to understand, accept and incorporate the international assistance into national agendas and ambitions (sustainability).

The Institute should and can focus on integrating the development of all three simultaneously, precisely because they are so closely interdependent. Training and discussions in the field today often focus on one at the expense of the others. One without the others is inadequate and leads to failure. The field of justice reform and international legal assistance does not now have the luxury of experimentation or even effective analysis. The results of thoughtful, scientific research and inquiry can be of dramatic significance in shaping the establishment and development of young and/or post-conflict, transitional justice institutions. Much of the discussion that does occur is reserved exclusively for the realm of the academic rather than the professional development model. The Institute could bring the two together with significant improvement in performance as a result.

The rule of law requires fostering a cultural of respect for the principles of the rule of law, not just the construction of courthouses and the training of police, judges and prosecutors. It is also the establishment of expectations within the political and commercial arenas and civil society. The intangible elements that support and often sustain effective respect for and delivery of justice are found in codes of professional conduct, professional associations, civilian commissions, advocacy groups, the media, and such. Rarely is the development of these elements included or incorporated in a justice sector development project. Rarely do these elements achieve the necessary gravitas to provide the essential balance.

A. The Challenges in Staffing the Assistance Programs – “International Experts”

The first and most significant attribute of international experts is the ability to work together with their counterparts and international colleagues. This is not exclusively a matter of personality but one of coordination and preparation.

An understanding of comparative legal systems is a specialty of very few professionals engaged in delivering support to the justice institutions of emerging states. The knowledge held by these professionals of the legal heritage of a region, the influence of past colonial administrations on the expectations of the populations for access to justice and the role of informal and religious legal traditions is often very minimal until after they have served in the country for an extended period. As an example, the influence of institutions like shariah are little understood by practitioners in Europe and North America and it is rare to find a sophisticated understanding of its traditions and the cultural significance it holds in many regions of the world. Yet many legal experts from both Europe and North America are engaged in support to the justice sectors in regions where shariah is dominant and highly influential.

The refinement of any profession is dependent upon learning the lessons of both mistakes made and successes achieved. Without that learning process, mistakes are repeated and successes become random. This is no less true when the resources of international development are applied to building the rule of law in post-conflict and transitional environments. The focus must be on identifying the skills required and the most efficient and effective systems for building those skills. This is not now being done in any systematic or effectively “international” way. Therefore the Global Justice Institute can, by researching, designing and building the recruitment and training and evaluation tools to help donors, identify, prepare and retain competent professionals capable of implementing development policy in coordination with their counterparts.

Since the pursuit of global justice serves the highest ideals of civilization those engaged in building it should have the most refined skills attainable. The skills required are rarely found in national experts alone and the international professionals have generally not yet developed in sufficient numbers or specialty to serve all of the world’s needs for technical assistance in the justice sector. Most frequently, the deployment of technical legal experts to developing countries occurs through the recruitment from the pool of a donor nation’s experts who have extensive experience in their own country’s laws or judicial administration and are willing to live abroad for extended periods. As an example, the Netherlands would necessarily deploy Dutch judges and prosecutors and court administrators who have significant experience and reputation in the Netherlands to countries seeking Dutch development support. Judicial administrative agencies or other government offices would provide candidates with sufficient background to fill a needed roster for a specific program in a specific developing country under a specific development program.

In some countries, this process has been outsourced to private development corporations who manage development programs under contracts and recruit legal “experts” to fill the required positions. The specific obligations of each professional expert “advisor” or “consultant” are defined under “terms of reference” in his or her individual contract, and it is to that contract that they are obligated.

By researching, building and promoting justice sector training and strategic planning models and processes, the Hague Institute for Global Justice is in a unique position to provide a real and substantial contribution to improving the effectiveness of the practitioners in the field and thereby the entire effectiveness of international support to justice initiatives. By providing a clinical program for preparing legal professionals for the challenges of international work, the Institute can be the premier legal academic institution engaged in legal education of this nature.

B. The Challenges in Developing National Counterparts to Sustain the Assistance Programs “National Capacity Building”

National lawyers, prosecutors and judges frequently face very different pressures and challenges than do the political leaders and opposition parties in emerging democracies. Substantial debate and theorizing has centered around the techniques for building capacity in national actors. They are frequently required to construct transparent, independent and competent institutions capable of protecting the rights of the public and holding fragile governments accountable to the very laws that their parliaments pass, but frequently do not fully understand.

There is a critical necessity to identify effective means of building capacity in the legal community of a transitional state receiving support from the international community. Capacity building is the most prominent aspect of international aid programs and little is known of how that capacity is built and how it is sustained over time. Practical research involving national actors would serve to dramatically enhance the effectiveness of aid efforts.

Broad programmatic options for the Institute should include:

- a. Facilitating the consensus on comparative legal systems and the universal standards for professional conduct of legal actors engaged in providing technical assistance,
- b. Developing, disseminating and delivering training on those standards of professional conduct to both international development experts and national actors,
- c. Developing, disseminating and delivering curricula for the training of national (donor) legal actors (practitioners) prior to deployment on a wide range of essential topics including, the history and culture of the

regions and their legal systems and past successes and failures in similar circumstances.

Conclusion

The Hague is universally recognized as the legal capital of the world. As such it has a unique opportunity to advance the state of justice globally in the Twenty-first century by utilizing its unique position and extensive professional resources to further the coordination of international support to justice initiative across the globe. To do so will require that the Global Justice Institute focus on improving the formation of policy in the field of international justice, the approach to supporting justice initiatives through donor funded programs and the quality of professional expertise deployed to governments and legal institutions in need of support.

In the form of a significant academic and practice oriented institution, The Global Justice Institute can build research capacity, clinical programs and advance legal training that will bridge the gap between academics and practitioners in the international legal field. This is an innovation that is much needed to advance the state of global justice.

If these are proper objectives for the Institute to pursue, then an appropriately designed programmatic structure can be built within the Institute in The Hague to utilize the unique resources available there. The Hague Academic Coalition, the numerous non-governmental organizations and the international judicial institutions provide a wealth of experience in the pursuit of all three of the objectives. There are professional experts from all over the world (both those who deliver aid and those who receive it) who would be honored to contribute to this Dutch led initiative. The Dutch government and its parliament is a substantial donor engaged around the world in rule of law and development projects and are receptive to assistance in improving their results. The influence of the Netherlands with the rest of the European Union, European Commission, NATO and the United States is extensive and valued.

Therefore, it is in The Hague where the necessary process to build consensus can be appropriately facilitated, researched, debated, published and promoted.