Justice for the Poor

Getting 'a little' real with a Realist based M&E framework

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What's my problem with J4P?

- **How to understand and tell a 'performance story' for a very different development initiative**
- Getting program staff on board in seeing what an evaluative culture can do for them
- Repairing the reputation of the program with key donors
- **Developing an evaluative hierarchy that lets J4P work be more than the 'sum of its parts' – theory, method and results**

What is J4P?

- Program within the World Bank , but also an approach to development.
- Occupies a relatively unique space: aims to incorporate issues of justice across the Bank's development portfolio in order to mitigate and manage conflict and promote sustainable development.
- Operates in countries where <u>legal pluralism (either normative or regulatory)</u> presents a particular development challenge.
- Resident teams and country activities in Indonesia (since 2002) and Cambodia (2005 - 2011), Sierra Leone (since 2007), Kenya (2007-09), Nigeria (since 2010). Ongoing programs in the Pacific since 2008: Timor - Leste, Papua New Guinea, Solomon Islands and Vanuatu.
- In wake of the WDR 2011 on conflict and development, emerging engagements in South Sudan, Yemen, Honduras, Pakistan and Liberia.

The essentials: basic premises

- Issues of law and justice cut across all sectors of social and economic life (there is no "justice sector" as such);
- Equitable development requires an engagement with the dynamics of existing rule systems and the relationships of power that underpin them.
  - World Bank's poverty alleviation mandate encompasses the accumulation of wealth, issues of equity in its distribution, as well as key aspects of human security. Achieving these outcomes involves transforming the institutions and processes through which wealth is accumulated and distributed, and social cohesion maintained.
  - Development inevitably (and properly) gives rise to contests and grievances. Failures in the institutions which determine these contests will negatively affect economic and equity outcomes and, over time, potentially give rise to a risk of violent conflict.

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Interim institutional approach

- The work of development actors -- from international agencies to national line ministries and local NGOS -- tend to produce reforms that encourage (and in some cases actively require) rapid, linear, technically driven transitions to pre-determined end-state institutional forms deemed to be global 'best practice'.
- An alternative: more process-oriented approach that focuses on building 'interim institutions'— formal or informal institutions, hybrid in their nature, based on local knowledge and circumstances but promote principles of rule-based, transparent and accountable decision-making over time. The end-state emerges through a process of equitable political contestation ('good struggles'), and is thus largely unknowable *ex ante*.
- A key goal of development assistance strategies should be to support the emergence of interim institutions which can both facilitate and be transformed by such contests.

Interim institutional approach

- The cornerstone of the interim institutional approach: thinking about the political aspects of governance in operational terms. It is a process-focused approach.

- Rather than starting from a concept of how an ideal set of 'end state' institutions might look, and encouraging linear progress towards it, it focuses from the outset on the process whereby more equitable relationships of power might be brought about.

- In doing this, it asks the following questions:

  - 1) What spaces exist for the negotiation of development conflicts?

  - 2) How can these spaces be filled with institutions that both respond to the realities of power as it is currently exercised and provide the potential to transform these in the direction of greater equity and participation?

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The essentials

- Starting point is not capacity building of state justice institutions or drafting legal frameworks but an understanding of <u>justice from the perspective of users</u>.
- Less interested in formal/informal, state/non-state dichotomies, and more interested in how adjudicative, enforcement and executive institutions <u>actually operate</u> and <u>how equitable systems emerge.</u>
- Institutions: "rules of the game" and broad processes, not just state institutions.
- <u>Endgame:</u>

  - improve the legitimacy, equity, inclusivity and accessibility of institutions (formal, informal, and hybrid,) that are capable of peacefully, equitably, and durably resolving disputes;

  - facilitate development processes that are more equitable and create less grievance/conflict.

Three Operational Areas

Access to Justice
Working to **improve the legitimacy and accessibility** of formal, informal, and hybrid systems capable of peacefully, equitably, and durably resolving disputes

Equity in Service Delivery
Piloting and mainstreaming systems for improving accountability and addressing **grievances** (abuse of power, regulatory failures) around the **provision of public goods and entitlements** including health, education, social protection, infrastructure

Land and Natural Resource Governance
Improving the **equity and durability** of processes for contestation and deal making around land and natural resources – "levelling the playing field" and improving distributional equity

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Two Thematic Areas

Development Effectiveness

Assessing how to support **durable**, **legitimate** and **equitable institutions** that promote justice

Gender

As a **primary source of inequity** in contests around rights and entitlements
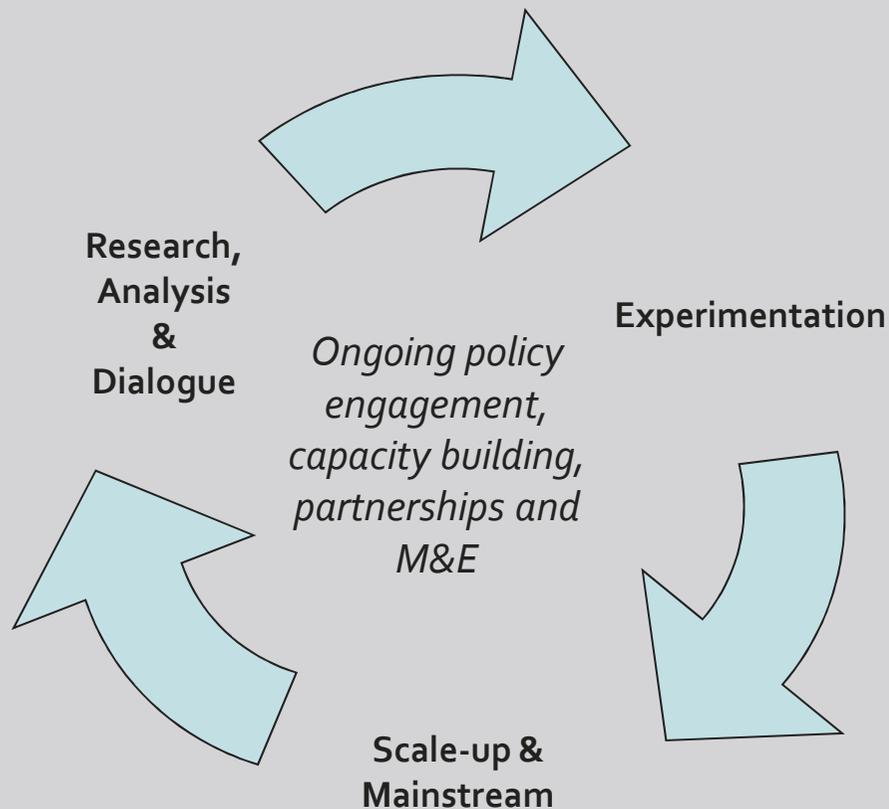
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Program Approach

- Embodies a particular approach to identifying development problems and the pathway to change (6 steps):
  - (i) Conduct context-specific empirical research to inform policy and operational dialogue
  - (ii) Research informed by the user's perspective (of grievance, exclusion, and how redress is sought). What are the sources of grievance/disputes? 'What is broken' in terms of mediating those conflicts?
  - (iii) Building a detailed understanding of social and cultural realities at the local level (requiring a nuanced understanding of the political and institutional context well beyond adjudicative institutions);

Program Approach

- (iv) Recognizing the importance of local demand in the development of equitable justice systems and the process of institutional reform;

- (v) Looking for appropriate "space" where external actors can make a difference;

- (vi) Design and pilot innovative justice initiatives across development sectors that have the potential to be up-scaled.

- This approach mandates that J4P maintains resident teams in the countries in which it works.

A response to half a century of learning about what not to do, including the Bank's own legal and judicial reform projects

- We don't understand "what is" before we seek to guide what "should be", and rarely ask the question "what's broken?" before we seek to fix with pre-determined solution.

  - Interventions historically undertaken without an evidence base (of the most frequent or serious legal wrongs faced by citizens, the actors or institutions they actually use to obtain redress) or understanding of the available reform space;

  - As a result, poor functioning of the legal system put down to lack of capacity; resource constraints; insufficient knowledge; a weak legislative framework. THIS IS THE EASY STUFF!

Solomon Islands: context

- **Context:** Nearly ten years after the initial deployment of the Regional Assistance Mission for Solomon Islands (RAMSI), the underlying causes of the civil conflict remain unaddressed, a viable model for justice service delivery remains elusive and the commodification of natural resources is occurring at a scale that outstrips the capacity of institutions to mediate them durably and equitably. International intervention focused on stabilization and filling capacity gaps in Honiara-based institutions has not addressed underlying conflict stresses, the weakening of conflict management capacities (state and non-state) in the post-independence era and a breakdown of social authority.

- **Our interest:** Can external intervention contribute to the development of a viable model of justice service delivery at the local level and enhance citizen security in a durable way?

- **Empirics:** i) research and analysis of the dispute resolution systems that currently exist at the local level in Solomon Islands (both state and non-state), including their capacity, legitimacy and effectiveness; (ii) research on grievance emanating from natural resource deals (logging and mining) (iii) evaluation of the Community Officer (CO) project of the Royal Solomon Islands Police Force (RSIPF), released in May 2012.

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Solomon Islands Analytics: what did we find?

- <u>Four broad areas of disputation</u>: social order problems (arising from substance abuse); domestic violence and familial disputation; land/natural resource related grievances; and those arising from the management of development projects at the community level.
- The majority of Solomon Islanders <u>do not have access to either effective state or traditional justice systems </u>to equitably and durably resolve the disputes they face:
  - Police and courts are considered ineffective, with a limited reach outside provincial centres, while lower level courts rarely sit due to a variety of structural problems.
  - While rural Solomon Islanders generally prefer to use non-state systems to settle disputes, local *kastom* systems (typically associated with 'traditional' authority exercised by chiefs) are under immense stress owing to larger processes of change and newer types of conflict stresses.
  - Dysfunctions in adjudicative institutions therefore cannot be seen in isolation, and must be seen in the context of the broader erosion in governance and the ways in which the state has over time both 'retreated' in its public order functions.
- <u>Community office pilot (of the Solomons Police)</u> involved lay community members acting in a quasi-policing and law enforcement role at the local level (based on colonial institutional form). We evaluated this pilot – found there was considerable potential for improving access to justice in rural communities (basic social order functions), if initial problems overcome.

Solomon Islands: Interventions/upscaling pilots

- <u>Community officers:</u> "Upscaling" project, with a clear understanding of limitations and concerns that emerged during the evaluation about the initial pilot.
- <u>Dialogue with judiciary and exploratory work around the lower tiers of the courts</u> – research has provided the basis of dialogue with the judiciary. Initial work will involve an institutional analysis and fiscal analysis .
- <u>Engagement with the World Bank's Rural Service Delivery Program:</u> This program has seen the introduction of local development grants – is there potential for the development committees created at community level for these purposes to become more systematically involved in local mediation and dispute resolution?
- <u>Land and Natural Resources:</u>
  - Dialogue around deal-making and benefit-sharing: tripartite relationship between governments, investors and affected communities.
  - Broader regulatory frameworks: transparency (EITI), centre-periphery fiscal relationships.

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A more sanguine approach to capacity building and institutional reform

- Lant Pritchett's work on "Capability Traps" also highlights that the process of institutional reform is very much a long term endeavour, taking many generations.
  - Uses a variety of empirical indicators of administrative capability to show that many countries remain in "state capability traps" in which the implementation capability of the state is both severely limited and improving (if at all) only very slowly. At their current pace of progress, countries like Haiti or Afghanistan or Liberia would take hundreds (if not thousands) of years to reach the capability of a country like Singapore and decades to reach even a moderate capability country like India.

- Why is this the case, despite the engagement with development actors?
  - 'big development' encourages progress through importing standard responses to predetermined problems;
  - an inadequate theory of developmental change reinforces a fundamental mismatch between expectations and the actual capacity of prevailing administrative systems to implement even the most routine administrative tasks.

So what about Performance?

- ## How do you measure this stuff?
  - Recognised that the results framework needs to capture the program's impacts in terms of the following questions:

  - ***Strategic and Policy Impact*** *– Are J4P activities resulting in the adoption of new strategies and policies on the part of policymakers and development practitioners?*
  - ***Operational Impact*** *– Is the program impacting on how resources are mobilized and deployed, and performance is assessed?*
  - ***End User Impact*** *– Can the activities of the program be plausibly tracked through strategy and operational activities to have demonstrable impacts on wealth/welfare, equity and conflict?*

Finally, the Realist Part!

- **Why this approach? Just the beginning!**
  - The approach resonates with my understanding of J4P
  - Different audiences for different evaluative approaches
  - One of the goals (in fact the raison d'être) of the evaluation cycle for J4P is learning about the program – the value is the contribution to development trajectories
  - A biting question is around issues of 'external validity'
  - There is a confusing pattern of outcomes
  - Little idea of why effective elements of the program work

First Steps in Realist application

- Getting the theory articulated and formalised
  - Context-Mechanism-Outcome configurations (CMOCs) have been a combination of drawing on previous work, establishing different performance conversations and developing hypotheses (challenge for J4P staff)
  - Developing a realist data culture – from research to evidence to evaluation – formalising performance information
  - Opening an analytical conversation within a Realist evaluation setting – Just getting there!

Meaning

- J4P seeks to use a Realist approach to get at the 'distinctive' viewpoint on how our interventions bring about change – this works at various levels – both the practitioner level (in understanding context and operational approach) and the recipient level (engaging in the social system, being active and making choices) in response to an intervention
- J4P offers an opportunity to work differently and some resources to do so – but the decision making of participants causes the outcomes – so what are they?

The tools and approach

- Various angles on data
    - RCT in West Africa on Justice Program Plus vs Justice Program Lite (service delivery) + stakeholder forums with justice service communities
    - Political economy analysis of Timor Leste investment tracking (quantitative) + interviews with infrastructure ministry and private sector investors (qualitative)
    - Community Officer tracking surveys in Solomon Islands as part of program pilot
    - J4P M&E workshops – interrogation of realist approach and core analysis of CMOC pattern configuration – What is the data telling us?