A4ID

PROMOTING SUSTAINABILITY IN RULE OF LAW PROGRAMMES:
STRATEGIC VALUE OF SINGULAR ASSIGNMENTS

ABOUT ADVOCATES FOR INTERNATIONAL DEVELOPMENT

Advocates for International Development (A4ID), founded in 2006, is a global charity that believes the law can and should be used more effectively to advance fair and sustainable development. A4ID aims to inspire and enable lawyers to join the global fight to eradicate poverty by advancing the UN Sustainable Development Goals (SDGs). Through A4ID, the world's top lawyers provide free legal support to organisations, working to advance human dignity, equality, and justice. Its work has so far impacted in over 130 countries.

A4ID's Rule of Law Expertise (ROLE UK) Programme is funded by the UK Government's Foreign, Commonwealth and Development Office (FCDO). It supports partnerships to provide pro bono legal and judicial expertise with the aim to strengthen the rule of law in overseas development assistance – eligible countries. As part of the ROLE UK Programme Knowledge Exchange, A4ID provides the pro bono legal sector with access to targeted and relevant information to inform and improve their technical assistance in development contexts.

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INTRODUCTION

This paper examines the value of singular pro bono assignments for rule of law assistance. Based on A4ID's ROLE UK Programme's work and literature (historical and emerging), the paper looks at the strategic relevance of the ad-hoc approach in providing rule of law assistance. This paper shares evidence of learning among practitioners and experts working on strengthening the rule of law, as well as among international development practitioners. The COVID-19 pandemic significantly impacted international development programmes and the realisation of their goals of supporting and providing technical assistance, aid, and development.[1] This period witnessed the decline of the rule of law across numerous countries, as governments used the pandemic and the need to curtail the spread of the virus to restrict basic rights of their citizens. By focusing on the ROLE UK Programme's rule of law assignments in Rwanda and Sri Lanka, this paper interrogates their sustainability, and their relevance in strengthening institutions, policies, and laws to mitigate rule of law abuse post-COVID-19.

METHODOLOGY

This paper is based on an evaluative study of Programme activities. The evaluator has used case studies to identify the effect of the activities and trace linkages between the activities and any resulting changes or actions. A case study is helpful in answering 'how' and 'why' questions, and understanding social phenomena. It can explain a complex system, and the impact and the outcome of programmes where limited evidence is available.[2]

The specific case studies that this paper draws from are:

- The ROLE UK Programme partnership with Rwanda Bridges for Justice to deliver training sessions on juvenile justice: capacity-building sessions for defence lawyers and juvenile justice administrators in Rwanda

- The Transparency International, International Lawyers Project, and ROLE UK Programme partnership in Sri Lanka: delivering anti-corruption training to lawyers on international best practice

This paper also adopted other qualitative research methods, including desk review of literature and online focus group discussions with selected participants as tools for data collection.

Further, an extensive desk review of relevant reports and thought leadership pieces was conducted. The documents reviewed include:

- The Programme proposal detailing value of strategic assignments

- Several other case studies and blog posts of A4ID partnerships

- Case study evaluation of the Programme's support to International Lawyer's Project

- United Nations Development Program (UNDP) (2013) Policy Brief on 'Rule of Law and Development'

- Department for International Development (DFID) (2013) Report on 'DFID Rule of Law Policy Approach'

- Organisation for Economic Co-operation and Development (OECD) (2020 – 2021) Policy Briefs on 'Building Back Better after COVID'

- UK Government's Policy paper (2021) 'Build Back Better: Our Plan for Growth'.

These documents were selected for review for two reasons. Firstly, they examine partnerships on the use of pro bono and provide insights, including benefits and challenges, into the Programme's pro bono legal services in deploying overseas

development assistance. Secondly, these documents include some of the key strategic documents (policy briefings and policy position) of the United Kingdom's Government which, to some extent, provide or influence the chosen activities.

In addition, online focus group discussions were held with stakeholders and partners who collaborated with the Programme in Rwanda and Sri Lanka.

THE CASE: ANALYSING THE BENEFITS AND CHALLENGES OF SINGULAR ASSIGNMENTS

Interviews with the Programme stakeholders indicate that the singular activities in Rwanda and Sri Lanka were strategic and led to both immediate and longer-term outcomes. For instance, workshop participants from the Rwanda Bridges for Justice activity indicated that capacity-building and experience-sharing led to immediate outputs such as new formal and informal skills acquisition, and then to longer-term institutional change of producing an *Administration of Juvenile Justice Checklist.*

Similar immediate and long-term outcomes are evident in another ROLE UK Programme case study examined, which trained 400 Paraguayan judicial and senior government counterparts on child protection in 2019. As a result of that training, the trainees received 'new' (formal and informal) knowledge that was relevant to their local contexts (output), and this led to a set of longer-term institutional changes driven and produced by the trainees themselves.[3] The longer term impact of the activity led to the *'Declaration of Commitment to Best Practices in the Judicial Process of Protection and Care for the Child'* being signed

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by Paraguay's Supreme Court Justice, the Office of the Public Prosecutor, the Ministry of Defence, and the Ministry of Children and Adolescents in April 2019. Following this, the Paraguay Ministry of

Children decided to carry out a national review of the child protection and care system from August to December 2019.

Based on feedback provided by the Programme stakeholders, some of the specific benefits and challenges of these standalone assignments are discussed below.

THE BENEFITS OF SINGULAR ASSIGNMENTS

Demand-driven, targeted, and responsive

Feedback from both the Rwanda and Sri Lanka case studies, as well as the other documents examined, indicates that a key strength of singular assignments is that they are demand-driven – which, in turn, means they can be targeted and responsive.

For example, the Sri Lanka project focused on a specific issue of anti-corruption, building on existing momentum in-country around tackling corruption. The partners acknowledged that the targeted focus was complemented by a degree of responsiveness that allowed them to adjust to emerging national timelines and realities.

Similarly, participants at the Rwanda juvenile justice workshop suggested that the semi-formal and targeted structure of the workshop sessions enabled focused discussions. Such singular assignments allow for partners to be flexible and structure the activities in-line with the socio-economic, political, and cultural realties, being sensitive and responsive to the realities on ground.

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Promote local ownership and mobilise local change champions to take next steps

A key benefit highlighted in this evaluation is how the nature of the singular assignments in both Rwanda and Sri Lanka promoted local ownership of change, by better equipping local actors, **already involved in change**, to grow and

increase their toolkit to instigate change. Such an approach gives the Programme and its partners an added advantage as the work is built around an identified rule of law problem (e.g., corruption), and, therefore, the programme is able to quickly mobilise local change champions. Moreover, this ensures that activities are context-specific and relevant to addressing the problem, instead of having to start from scratch, thus losing valuable time. Studies have shown that such an approach is effective in striking a balance between the needs of communities and deploying available resources in responding to those needs.[4]

Rule of law practitioners have drawn attention to the need to leverage already evolving reforms and mobilise in-country reformers to scale up ongoing activities. This is based on the idea that successful rule of law assistance requires partners to think less like development professionals, and more like an advocacy organisation - mobilising in-country reformers and finding pressure points to change the policy, politics, or culture of countries.[5] Such change is enabled through the emphasis on stakeholder learning and the upskilling of local changemakers, which is not typically a top-priority of medium- or longer-term rule of law assistance.[6]

Further, the case studies indicate that the limited nature of a singular assignment pushed the emphasis back onto the local change champions to continue the momentum of change.

It appeared that the participants of the singular assignments tend to think in terms of *'what do we need to do next after this training session?'.*

For example, in Sri Lanka, the activity feedback indicated that lawyers who attended the anti-corruption training that delved into international best practices, were enabled to build on the momentum of the ongoing national anti-corruption campaign. This training process was described as consultative and client-focused. The strategic approach made it possible to sustain activity results, as national advocates and activists were mobilised to carry on with the advocacy for change around an already identified area of national interest.

Further, this element of upskilling local changemakers was evident in the Rwanda activities. In 2019, Rwanda Bridges for Justice organised a Juvenile Defence Skills Workshop, facilitating knowledge exchange between legal practitioners from the United Kingdom and 40 criminal defence lawyers and administrators of juvenile justice in Rwanda.[7] Participants emphasised the usefulness of the learning structure of the workshop, and how useful the mix of experience and knowledge sharing was.

Some of the participants' feedback suggests that the one-off event inspired a sense of local ownership and responsibility around the need for national level improvements in the rule of law.

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Knowing that the training was a one-off session, participants saw it as an opportunity to identify what else they (the participants) needed to do next. In other words, their awareness that the support was only for a single event, rather than a multi-year support programme, made them feel more responsible for post-workshop next steps and action. This was evidenced during the interactions the evaluator had with the Rwanda partners and participants, as they often referred to after-workshop-next-steps using personal pronouns, rather than in the third person plural.

In other words, the reflections came across as what 'we' (training session participants) needed to do next, as opposed to what 'they' (the ROLE UK Programme) needed to do 'for us' after the workshop. Such thinking highlights the fact that stakeholders are considering the next line of action in addressing rule of law problems and the wider applicability of the knowledge gained, instead of the next planned activity.

Strategic importance in a time of COVID-19 budget cuts in development assistance

The pandemic introduced fiscal constraints which impacted every sector, which in turn restricted how overseas development assistance was deployed. One of the consequences of the pandemic is that the *'how much'* of development funding was thrown into sharper focus than the *'how'* and *'why'*.[8]

The demand for longer-term assistance around rule of law strengthening has previously raised value-for-money questions. Practitioners have suggested the need to ensure reduced transaction costs and efficiency savings.[9] Proponents of this view have argued for *"more modest, specific and locally relevant goals, and to avoid the promotion of idealised institutional forms and standardised packages of support"* (DFID:2013:11). The value-for-money question became even more pertinent given the impact

of COVID-19 on development financing due to government budget cuts.

Due to the impacts of the pandemic, there is more emphasis on sustainability in the delivery of development assistance and how this could be measured. Potential sustainability indicators include the extent to which an assignment makes it possible for behaviour change to happen, thereby reducing the likelihood of future shocks and increased resilience to such shocks.[10] The level to which an assignment contributes to wellbeing and inclusiveness have also been highlighted as critical components of sustainability.[11]

The post-COVID development funding context potentially raises the bar for programmes that are not directly linked to economic recovery, like rule of law support initiatives. It also reduces funding access for activities that do not quite link to the post-pandemic recovery narrative. Such programmes will need to become more innovative, because of the diversion of overseas development assistance to infrastructure, skills, and innovation in a bid to *"build back better".*[12] Therefore, in specific circumstances, the Programme's singular assignment approach is an effective and sustainable way of addressing rule of law challenges because of its targeted, modest, and specific focus on goals that are locally relevant.

"Such programmes will need to become more innovative, because of the diversion of overseas development assistance to infrastructure, skills, and innovation in a bid to *"build back better".*

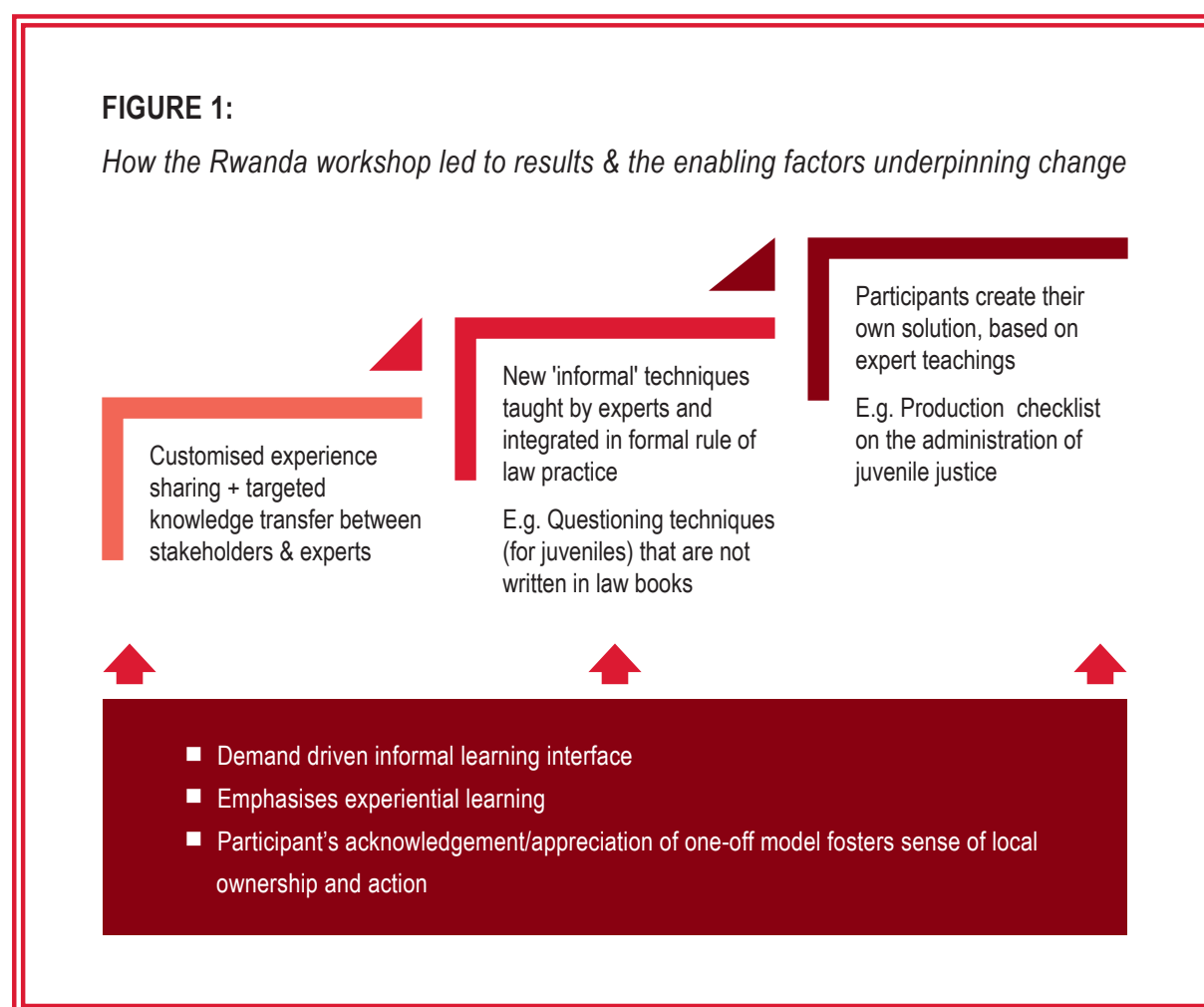### *Direct knowledge exchange between stakeholders and legal experts*

The singular assignments examined benefited stakeholders in encouraging direct knowledge exchange between in-country stakeholders and UK legal and technical experts.

The Programme stakeholders from Rwanda welcomed the opportunity to have robust, formal and informal interactions with rule of law experts from other parts of the world. They found it

very helpful to hear from countries that had successfully handled some of the challenges which they were experiencing. In some cases, it took not just formal rules but also informal skills to address some of these challenges. This is very important as it addresses one of the gaps in traditional rule of law support - the recurring absence of technical legal expertise as part of core programme implementation teams.[13]

The direct exchange between stakeholders and technical experts was key to enabling change in the Rwanda case study, by focusing on experiential learning exchange between peers from different jurisdictions. By promoting an informal learning environment during the workshops, participants benefited from a more targeted and demand-driven learning experience, as experts were guided by their questions and experiences to impart knowledge. This is explored in the below figure.

FIGURE 1:

How the Rwanda workshop led to results & the enabling factors underpinning change

Customised experience sharing + targeted knowledge transfer between stakeholders & experts

New 'informal' techniques taught by experts and integrated in formal rule of law practice

E.g. Questioning techniques (for juveniles) that are not written in law books

Participants create their own solution, based on expert teachings

E.g. Production checklist on the administration of juvenile justice

- Demand driven informal learning interface
- Emphasises experiential learning
- Participant's acknowledgement/appreciation of one-off model fosters sense of local ownership and action

THE CHALLENGES

The singular assistance model is, however, not without its limitations and challenges. These were highlighted during interactions with participants of the Programme activities. Below are some of the identified challenges.

Limited opportunity for follow-up

Feedback from the case studies highlighted that the singular nature of the assignments meant there was limited opportunity for follow up. It has been suggested that once a development support activity has been completed, continuous and targeted follow-up support should be conducted to strengthen the knowledge and skills of participants.[14] This will strengthen the transfer of learned strategies or skills so they will be retained and applied effectively.

Consistent with this, a few of the Rwanda workshop participants noted that it would have been useful to have the opportunity for post-workshop follow-up sessions, featuring an assessment of their progress and discussion on the next steps. This lack of follow-up sessions was due to the limited nature of the singular assignment.

Some rule of law issues require medium- to longer-term support for change to happen

Some rule of law issues cannot be addressed through singular activities but require ongoing support over an extended period. For instance, institutional reforms like the writing and passage of new laws, the establishment of law clinics, or the establishment of thematic databanks will take time to implement. For such assignments, it is more strategic to structure assistance over the medium or long-term.

Access to justice programmes with medium- to longer-term objectives cover issues ranging from pro bono and legal aid support, restorative justice initiatives for survivors of sexual and gender based violence, anti-corruption training and support, law reforms, reforming institutions which administer justice, research, and data gathering.

Some of the gaps, which the above examples try to address, are caused by deep-rooted structural problems, which have built up over the years and cannot be addressed through singular activities.

CONCLUSION

At the time of global financial distress following the COVID-19 pandemic which effected the development sector due to budget cuts, singular assignments proved to be important in addressing rule of law issues in a sustainable way. These assignments are strategic, demand-driven, responsive to the needs of communities, and specifically tailored to address a local problem. Further, by identifying and building on an existing rule of law need within the chosen jurisdiction, such singular activities provide effective support to upskill changemakers to equip them with tools to continue to advocate for progress.

In the context of this paper, the Programme assignments in Rwanda and Sri Lanka were targeted to address identified rule of law issues, which allowed the Programme to deploy the right resources and activities by recognising the contextual cultural, socio-economic, and political issues.

Having said that, singular assignments are limited in scope due to their concise nature, meaning that there is limited opportunity for stakeholders to follow up or continue collaboration after the activity. For this reason, some rule of law issues which require institutional change are better suited to medium- to long-term assignments, or a series of activities.

On balance, an effective rule of law programme can obtain sustainable change in relevant areas by involving both singular and longer term assignments. A mixed methods approach to support in programmes ensures that existing change champions are supported to continue their promotion of positive rule of law outcomes, while institutional change is progressed over a longer period of time. A4ID recognises this in its longer term vision of the ROLE UK Programme, now seeking to support multi-activity assignments, as well as continuing to provide demand-driven technical and legal expertise to partners.

ENDNOTES

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