

INTERNATIONAL DEVELOPMENT LAW ORGANIZATION

STATEMENT BY THE DIRECTOR-GENERAL, MS JAN BEAGLE

INSTABILITY IN THE SAHEL: CLOSING THE JUSTICE GAP

9th Sahel Special Envoy Meeting

Tuesday, 17 November 2020

Excellencies,
Distinguished guests,
Colleagues and friends,

As the only global, inter-governmental organization exclusively devoted to advancing the rule of law and sustainable development, the International Development Law Organization welcomes this opportunity to contribute to the 9th Sahel Special Envoy Meeting.

I am grateful, particularly to the Italian Ministry of Foreign Affairs, to be able to share IDLO's perspective on how closing the justice gap and advancing the rule of law is essential for a comprehensive approach to addressing instability in the Sahel.

Access to justice and the rule of law lie at the heart of inclusive and sustainable development. They are also critical to building and sustaining peace.

Many root causes and drivers of conflict and instability, such as pervasive impunity, corruption, unequal access to justice, human rights violations, and lack of accountability, stem from, or are exacerbated by, an absence of the rule of law.

As has been highlighted by the various distinguished speakers today, the problem of instability in the Sahel is multi-dimensional in nature.

In this region, serious developmental challenges, including poverty, inequality, and lack of opportunities, intersect with a major governance deficit left by states unable to fully control their territories, offer security and protection, and provide basic services.

These problems are exacerbated by climatic, demographic, cultural and ethnic factors and, more recently, by the COVID-19 pandemic.

Justice systems struggle to provide an effective response to these multifaceted problems and to stem their spread, leaving populations highly vulnerable and insecure, with their livelihoods threatened and their sense of fairness violated. The resulting lack of justice has an impact on peoples' trust in the state and its institutions.

Countries in the region have experienced relatively low levels of COVID-19 infection. Still, the containment measures adopted in the first half of the year have further widened the justice gap in ways that continue to be felt today, by diminishing access to institutions, increasing the build-up of backlogs, and exacerbating problems relating to detention.

The rule of law is instrumental to mitigating both the underlying causes, and the wide-reaching impact, of violent crime and conflict. It serves not only as a guarantor of individual rights, but as a vital means to foster the trust of people in governments, to prevent conflict and fragility, to build and maintain peace, and to enable countries to unlock their development potential. It is the rule of law that, in the end, delivers justice.

IDLO has been active in the Sahel since 2015, working with local partners to strengthen justice services and to create conditions for people to live in dignity and under the rule of law.

Our programming in the region aims to strengthen criminal justice systems, making them more open to receiving problems and complaints from justice seekers, more respectful of human rights, faster and more transparent, more accountable, and more focused on people's legitimate expectations.

To this end, working together with the MINUSMA and other organisations, IDLO has developed a tailored, decentralized, and people-centred approach to enhance the administration of criminal justice. The programme builds on IDLO's experience in working to strengthen the criminal justice chain in Mali and is currently being implemented in the border area between Mali, Burkina Faso, and Niger.

At the core of our approach are local justice coordination mechanisms, referred to as *cadres de concertation*, which allow communities to engage with prosecutors, police, and judicial and corrections officials to jointly identify their priority justice problems and formulate ways to address them.

Putting justice institutions, civil society organizations, and community leaders together, and fostering joint action, contributes to trust building and local ownership. These platforms also offer insight into the causes and consequences of the justice gap, and possible approaches in seeking to close it.

IDLO and its partners on the ground then support the implementation of the solutions identified by communities. This can take the form of trainings or workshops, institutional capacity development, or advocacy initiatives.

For instance, the *cadre de concertation* in Ségou, Mali, identified a lack of respect for detainees' human rights as a key justice challenge and recommended greater sensitisation of local prison officials.

In response, IDLO and its partners organised capacity-building activities for staff of the prison administration on respect of human rights, prison intelligence, and prison-level crisis management. Control missions were also carried out at all prisons in Ségou. As a result of these interventions, the prisons instituted a number of changes, including the separation of men and women detainees.

In addition to tackling specific justice challenges at the grassroots level, IDLO's approach also includes broader institutional support to both justice institutions and civil society to improve the functioning of criminal justice systems, and their compliance with human rights standards.

This includes strengthening case-flow management and record-keeping systems, supporting civil society organizations to raise legal awareness, and providing assistance through paralegal networks.

We see in our work that many forms of crime are related to prior disputes about land, grazing rights, and access to water points. Violent forms of crime, such as banditry, cattle theft, and attacks on roads

and markets, are very common in the areas where we work, and deeply affect not only people's sense of security, but also their livelihoods.

Such conflicts, which are on the increase throughout the region due to resource scarcity and climatic adversity, are prone to escalate into violence when left unresolved. Jihadist groups fuel and seek to profit from the resulting tensions within and between communities.

The problem, however, is not just one of absent justice services. Arbitrary or unlawful arrests or detention, as well as violence, corruption, and other forms of abuse of power by justice sector officials, are unfortunately not uncommon, and can lead to a profound sense of injustice, alienating those who suffer from it from state and society.

Persistent impunity for human rights violations, including those committed by security and defence forces, which have sadly also grown in number and gravity, are clearly another important part of the problem, known to drive victims or witnesses into the arms of extremists.

The justice gap is widest for women and girls, as they face not only restrictive norms and practices and discriminatory laws, but also a lack of resources and legal awareness. Women and girls must overcome steep hurdles in seeking to obtain effective remedies including, for example, they fall victim to gender-based violence.

Not surprisingly then, we see that justice seekers in the three countries where we work are looking for mechanisms that are faster, more transparent, produce fairer outcomes, and are more effective in providing durable results and preventing escalation.

Given the magnitude of this 'justice gap', our collective response must be equally comprehensive. When it comes to strengthening justice systems in the Sahel, much attention is given to the capacities of agencies specialised in the fight against terrorism and organized crime.

Yet frequently, attention and funding are directed towards hard security solutions and counter-terrorism approaches without addressing broader justice challenges, such as deficiencies in the administration of justice. This leaves the root causes of instability untouched.

To illustrate this point, I would like to share with you a story that was reported to me by members of our team in Mali, following a prison visit.

A man charged with petty theft, who had spent months in preventive detention, complained to them about the treatment given to detainees suspected of terrorism. Unlike him, they received a lot of attention and support from international organizations and NGOs.

He himself did not have a lawyer and had not seen a prosecutor or judge in all the time he had spent in prison. The man asked: 'Do I have to become a terrorist to receive attention for my case?'

So, while investments – to ensure respect for victims' human rights, and to target perpetrators of terrorism and organized crime, are of utmost importance for improving stability, so are investments in the wider justice system.

Concretely, improving the effectiveness and accountability of justice institutions and making them more accessible and responsive to justice seekers' needs and legitimate expectations, in line with SDG 16, are key conditions for restoring the legitimacy of the state, and for building and sustaining peaceful and inclusive societies in the Sahel.

In conclusion, turn to the question of 'how'. How, practically speaking, can the justice gap be closed?

Based on IDLO's experience in Mali, Burkina Faso, and Niger, I would like to suggest four priorities for action.

1. Firstly, greater decentralisation and focus on the local level. In a context where justice sector strengthening tends to focus on central institutions, there is an urgent need to ensure that support to the delivery of justice is provided closer to justice seekers and their communities, and is made more responsive to their needs. This requires implementing organisations, such as IDLO, and their partners, to be active outside national capitals and to promote local ownership. To understand local contexts and needs and be able to respond to them effectively, community-based approaches like the *cadres de concertation* should be strengthened.
2. Secondly, early resolution of disputes and preventing escalation depends on an inclusive approach that involves engagement with informal justice actors and civil society.

Engagement with such systems can be challenging as they often do not recognise the rights of women and girls, youth, and other marginalized groups. However, they offer real scope for improving access to justice.

3. Thirdly, for the administration of justice to be truly effective, there need to be stronger checks and balances to ensure respect for human rights and due process.

IDLO works with justice institutions to strengthen internal control mechanisms in the justice system, and supports National Human Rights Institutions and civil society organizations to monitor the administration of criminal justice.

4. And, fourthly, given the multi-dimensionality of the problem, any wide-reaching and impactful response to instability in the Sahel will require effective coordination. Yesterday when briefing the Security Council, Under-Secretary-General for Peace Operations Jean-Pierre Lacroix welcomed increased coordination of security efforts, but said that it will take a variety of different actors to confront and deal with the daunting challenges of the Sahel. IDLO believes that efforts to strengthen security, development, and human rights must continue to be deepened and further integrated, within and across sectors, and among local, national, regional, and international actors.

IDLO is pleased to be part of this collective effort and looks forward to collaborating with all our partners to help close the justice gap and contribute to greater stability in the Sahel.

The International Development Law Organization (IDLO) enables governments and empowers people to reform laws and strengthen institutions to promote peace, justice, sustainable development and economic opportunity.