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AFRICA BUREAU RULE OF LAW PROGRAM REVIEW

DOCUMENT REVIEW AND ANNOTATED BIBLIOGRAPHY

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INTRODUCTION

This document provides a list of selected reports reviewed and referenced in the research and writing of the Africa Regional Rule of Law Status Review (Contract DFD-I-18-04-00228-00). Management Systems International (MSI) submitted the status review in its final form to the United States Agency for International Development (USAID) on April 30, 2009.

The below bibliography is divided into two parts. First, document citations are organized by sub-Saharan African region or country. Second, documents are listed by implementing or supporting organization in a section titled, “Other Sources.” Reports and articles deemed particularly useful in the Africa ROL status review include a summary description. Depending on the influence of the document on the final report, or the complexity of the article described, document annotations vary in length. Where an article’s own language provided the most concise or informative, this text has been used and noted. The annotated bibliography includes US Government and other donor program documents, and spans topics such as court administration, technical assistance, access to justice, enhancing legislative efficiency and records management, etc.

The documents were largely collected through MSI’s independent research efforts, through searches on the USAID Development Experience Clearinghouse (the DEC), through interviews with US government department representatives, and by gracious contribution from key USAID technical contacts. We also note the absence of many program-related documents that should be on the USAID DEC, but are not (namely quarterly and annual reports, or texts that would likely provide information concerning specific programs, their accomplishments/results and their successes and encountered challenges). Such documents were regrettably unavailable to the public, and to our research team, as duly noted in the April 2009 status review.

BIBLIOGRAPHY

Africa – General or Regional

Amisi, Bertha and Duffy, Gavan. 2007. *New Rules for the Rule of Law? External Actors and Rule of Law Development in Post-Conflict African Societies*. Paper presented at the annual meeting of the International Studies Association 48th Annual Convention, February 28-March 3, in Chicago, IL, USA.

The document reviews donor-supported rule of law programs in Africa, focusing principally on post-conflict situations and efforts to transition back to stability. Discussing ethnic differences, extreme poverty, refugee and displacement issues, weak economies and relatively scant experience with democratic governance, the authors describe the broad nature of ROL programming (multi-institutional and topical). They note a failure to address adequately traditional and customary systems, and suggest that greater attention be paid to pre-conflict legal systems, long-standing local traditions, and societal needs.

ARD, MSI. 1996. *USAID/Africa Democracy and Governance Project: Final Evaluation*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PDABN380.pdf

As articulated in the document's introduction, under the core and requirements contracts held by ARD and MSI,

over 100 experts were invited to participate in various field teams, sector studies, and Washington- and field-based programs conducted for USAID/AFR Center. Approximately one-fourth of these were Africans, reflecting the project's responsiveness to the mandate to involve Africans extensively and promote the inclusion of African perspectives.

Among other DG topics, the report does touch on reforms and recommendations in the area of rule of law.

ARD and MSI. 1995. *Institutional analysis and the assessment of democratic governance in Africa*. Washington, DC: USAID.

Arma-Attoh, Daniel, E Gyimah-Boadi, and Annie Barbara Chikwanha. "Corruption and Institutional Trust in Africa: Implications for Democratic Development." *Afrobarometer Working Paper No. 81* (December 2007). http://pdf.usaid.gov/pdf_docs/PNADK735.pdf

Per the article's abstract,

This paper addresses the corruption-trust nexus with survey data and statistical methods. Data are drawn from the Afrobarometer, a comparative series of national public attitude surveys on democracy, markets and civil society in selected African countries. This paper confirms that corruption is a major, perhaps *the* major, obstacle to building popular trust in state institutions and electoral processes in Africa. The paper also shows that Africans clearly regard all forms of corruption as wrong and that low institutional trust inhibits the development of mass attitudes supportive of democracy. Indeed, the connection between corruption and distrust is so strong that, as well as running "forwards" (from corruption to trust), it may also run "backwards" (by which low trust in state institutions raises

popular suspicions that public officials are corrupt). This paper not only confirms the first hypothesis, but also tests the latter.

Ball, Nicole, Piet Biesheuvel, Tom Hamilton-Baillie and 'Funmi Olonisakin. "DFID Security and Justice Sector Reform Programming in Africa" Evaluation Working Paper #23 (April 2007). www.oecd.org/dataoecd/42/1/38635081.pdf

Per the paper's executive summary, "Security and Justice Sector Reform (SJSR) has assumed an increasingly prominent role on the international policy agenda over the last decade." The UK Government has played a crucial role in some 20 countries in sub-Saharan Africa since 2000. In an effort to identify lessons from past experience in three areas – coherence, effectiveness, and impact – a four-person review team was appointed to review available documentation and undertake field work in the Democratic Republic of the Congo, Nigeria and Sierra Leone.

Per the document,

The four key elements of that agenda are:

- Develop and implement an institutional framework;
- Establish and implement the principle of democratic control of the security sector through the practice of good governance, especially oversight, accountability, and transparency;
- Develop capable, professional and accountable security services and justice systems; and
- Foster a culture that is supportive of the above among the political, security, and justice leadership.

Major findings included:

- "A large number of the activities are stand alone projects and many of those do not appear to be related to broader programmes." Such programs are "less likely to reflect all the attributes of a coherent approach or have the impact" of longer-term programs.
- Resources are allocated primarily to defense-related projects.
- "Good international practice suggests that making choices about the most appropriate SJSR interventions and value for money in difficult political environments can be facilitated by the adoption of a coherent strategic approach ... to include a rigorous political analysis that is regularly updated and supplemented by a risk mitigation strategy" to guide programming decisions.

Authors suggest that based on their review, these elements are largely lacking from programming in Africa. Their recommendations include the need for increased *programmatic coherence*, consistency in objectives, coordination of efforts and cooperation among UK actors. They note that among the most serious problems emerging from discussions with UK officials is tension within DFID between the security and justice functions of policing. Secondly, they cite the need for increased *effectiveness* that entails "1) understanding the country context; 2) programme design and implementation; 3) contribution of UK interventions to achievement of objectives; 4) monitoring and evaluation; and 5) collaboration with other international actors."

The authors also note that experience has shown that harmonization of international efforts is often necessary to maximize programmatic effectiveness. Third, is the importance of assessing impact to gauge the positive or negative outcomes, which requires the passage of time and three other factors: “1) a strategic approach that reflects local priorities; 2) financial sustainability; and 3) application of appropriate and adequate human resources.”

Bittner, Gary. “Leadership and Advocacy for Women in Africa (LAWA) – final report.” *Women's Law and Public Policy Fellowship Program for USAID* (March 1999).
http://pdf.usaid.gov/pdf_docs/PDABR196.pdf

Per the work plan, the LAWA project aimed to “recruit, select and train 19 women lawyers from Ghana, Tanzania, and Uganda interested in advancing the cause of women's rights upon return to their countries.” Selected participants were invited to visit Washington, DC for a 16-month period “of advanced legal study and work assignment on legal and policy issues affecting the status of women.” They were to “participate in a Masters of Law degree program at Georgetown University Law Center” and complete a major graduate paper on African women's rights issues. The document includes a list of skills attained and related accomplishments of program participants.

Chemonics International. January 2004 *Regional Center for Southern Africa (RCSA) Assessment Report for the Women's Legal Rights Initiative*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PDACI662.pdf

Gambino, Anthony. “Program Summary: Great Lakes Justice Initiative.” (1999-2004).
www.usaid.gov/pubs/bj2001/afr/glji/glji_summtabs.html#pyt

Gervais, Raymond, Camille Tremblay, Anthony Kwaku Baste, Tabitha Mulyampiti, Franck Yelles. “SIDA Support to the Afrobarometer Network,” *Department for Democracy and Social Development* (2003). http://www.sida.se/shared/jsp/download.jsp?f=Utv06-03_SIDA26107en_low.pdf&a=21107

The Afrobarometer network has produced three survey rounds from 1999 to 2005, funded by numerous agencies, in 18 Sub-Saharan African countries. This paper addresses continued support for the survey instrument by donors, in this case SIDA. This evaluation was designed using: 1) an evaluation matrix; 2) visits to Cape Verde, Mali, Ghana, Uganda and South Africa; 3) key informant interviews and 4) an Internet survey (which “met with unexpected obstacles which time and budgetary limits could not be overcome”).

Among findings were that core partners recognized that they are at a crossroads about the future sustainability and viability of the Afrobarometer network. Structural reengineering of the network is needed, as is a business plan, consideration of costs-benefits of decentralization and centralization of functions. They recommend, with a view to strengthening ownership by local national communities, to “1) identify and develop strategic alliances with key players in the academic world, 2) maintain a critical mass of these allies by making data easily accessible for technically challenged environments...,” 3) monitor data use and 4) assist allies in enhancing their knowledge of analytical procedures. Finally, they emphasize that these big and small steps must lead to increased African ownership. The consolidation period would also serve as a period during which to test, by trial and error, the network's evolution.

Lucas, Sarah. "Lessons from Seven Countries: Reflections on the Millennium Challenge Account." *MCA Monitor Analysis*, Center for Global Development (June 2007). www.cgdev.org/content/publications/detail/13710

The author is an MCA Monitor and visited seven countries for the study: three compact status countries (Mozambique, Ghana, and Tanzania); three compact implementation (Honduras, Madagascar and Nicaragua); and two Threshold countries (Tanzania and Malawi). Lessons and observations from these countries fall into three categories: successes of the MCC approach, key challenges going forward and big-picture lessons on aid-effectiveness.

Operational Recommendations include, per the author, "[r]ecognizing that the greatest mission is only as strong as its operational effectiveness." Three pointed operational recommendations were made "to strengthen the MCC's capacity to meet its potential for innovation and transformation. These overarching recommendations emerge from observations in every country visited," and include:

1. "Do not rush entry into force of the compacts." The author asserts MCC needs to guard against political pressure to "rush" progress, saving it from the downstream political nightmare of not meeting compact targets within five years.

2. "Allow for concurrent and longer-term compacts." Per the author,

The current legislation governing the MCC does not allow it to hold multiple compacts at once with a single country, and it caps compact length at five years... It would be more manageable to have staggered, more focused compacts and the flexibility to have some be longer than five years (such as those with social investments that need more time to yield higher rates of return or major infrastructure investments that take longer to complete)."

3. "Make more of USAID/MCC relationship." The author wrote that despite progress and improvement, "MCC is still not coordinating closely enough with USAID to take advantage of potential complementarity between the programs."

MSI. June 2008. *Democracy and Governance Assessment – USAID/Southern Africa*. Washington, DC: USAID.

MSI completed an assessment of the state of democracy and governance (DG) in Southern Africa and, based on that assessment, recommended options for regional DG programming. The countries examined in the assessment include: Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe. Its priority recommendations call for support in the areas of media and judicial strengthening. Second-tier recommendations include support for parliamentary strengthening and assistance in security sector governance.

OECD. December 2002. *OECD Technical Assistance and Policy Dialog on Competition Law in the Southern Africa Development Community: Final Program Report to USAID/South Africa*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDABZ813.pdf

As written by the document's authors:

The program consisted of four seminars and ongoing informal competition policy advice. The four seminars were a 1) competition law enforcement case studies, February 2002; 2) competition policy and regulation: access issues in telecommunications, June 2002; 3) workshop for adjudicators in competition cases, June 2002; 4) competition policy and regulation in the electricity sector, November 2002. The main result of the program has been to build capacity within the South African Competition Commission and throughout the SADC region...

The program as a whole and each of the seminars were highly rated. The major effect of the program has been to build competition law enforcement capacity throughout the SADC region.

The program helped the staff members participating in the program to clarify their main concerns, learn about industry-specific and competition laws and investigatory strategies. It also worked to build participants' understanding of how to increase the capacity of the agency by reducing low-value activities. The Global Competition Review's rating of the agency increased in 2003 by 1.25 "stars" from its 2002 rating to 2.75 "stars," thus making it comparable to Israel, Austria, Brazil and Mexico.

Penal Reform International. *Access to Justice in Africa and Beyond: Making the Rule of Law a Reality* (Chicago: Northwestern University, 2007).

The article discusses issues arising from traditional and customary practices, principally in African nations, and the challenges these issues present for donor rule of law programs. The authors discuss GTZ's approaches to dealing with issues through their programming in Africa. They suggest donor programming should seek not to impose a particular model (normative order or technique), but rather to address issues of individual countries that encompass both formal sector practices and those used by most citizens, or the customary practices. GTZ has taken the approach of carefully training their executive representatives before placing them in-country. New initiatives or techniques are piloted in limited and controlled environments prior to broader expansion, and managers seek out creative and innovative approaches to bringing together formal and customary approaches. Several of their programs have specifically targeted women's issues.

Posner, Daniel and Daniel Young. "Institutionalization of Political Power in Africa." (2007). http://www.sscnet.ucla.edu/polisci/wgape/papers/11_PosnerYoung.pdf

This article highlights the fact that despite the very slow headway of justice sector reform in Africa, progress has been made particularly with respect to executive recognition of the growing importance and impact of public and donor opinions. Examples are provided by the authors of increasing rates of peaceful transition from one leader to the next, subsequent to elections. In particular, the example of Nigeria is highlighted where power was passed successfully from one "Big Man" leader to the newly elected president. Albeit not without challenge and difficulty, this is becoming more the norm – especially when compared to the turbulent 1960s and 1970s when the majority of leaders were replaced through violent coups or assassinations. The authors cite public education and awareness, and donor pressure as principal reasons for the gradual evolution.

Razafindrakoto, Mireille and Francois Roubaud. "Corruption, Institutional Discredit, and Exclusion of the Poor: A Poverty Trap." *Afrobarometer* Working Paper No. 86 (December 2007). http://pdf.usaid.gov/pdf_docs/PNADK739.pdf

As stated in the article's abstract,

The vast majority of empirical studies focus mainly on the indirect effects of corruption on poverty using cross-section analyses of macroeconomic aggregates (growth, investment, public expenditure, etc.). To date, relatively few studies have set out to explain the logic of individual behaviour in the face of corruption and the direct effects of this scourge on the poor. We use a rich collection of comparable household surveys conducted in 18 sub-Saharan African countries (*Afrobarometer Survey*) to shed light on a mechanism that links corruption with poverty such that they are locked in a self-reinforcing vicious cycle. Firstly, we show that the poor, who are as sensitive as the rest of the population to the reprehensible nature of corruption, are more often victims of corruption in their routine dealings with the administration and the public services. Secondly, the poorest groups affected by corruption tend to become discouraged and give in to it more easily. Consequently, they lose interest in politics and can even become politically disaffected altogether. This further diminishes their already limited capacity to make their voices heard in decision-making processes. This attitude of resignation in the absence of any prospect of contending with corruption hence contributes to the acceptance and perpetuation of corruption in poor countries.

USAID. February 2006. *Strategic Framework for Africa*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDACG573.pdf

Benin

Chemonics International. June 2004. *Women's Legal Rights Initiative of the Women in Development IQC: Benin Assessment and Analysis Report*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNACY654.pdf

Per the report,

The WLR assessment team identified a number of critical barriers to the empowerment of women in Benin, primarily customary law and practice that denies women and girls basic human rights and defines women by their relationships to and with men... There have been recent improvements in the legal framework of Benin to support women's legal rights, including a new Family Code which is on the brink of becoming law after 10 years of advocacy, education, review by the Constitutional Court, and revision to bring it into compliance with the constitutional guarantee of equality between women and men... The WLR team identified a number of areas for cooperation and assistance among WLR, USAID/Benin, grassroots NGOs, national government Ministries, the judiciary, and international donors to address gaps and constraints on women's rights. These general areas include education and training around family law issues, to be implemented through a public awareness campaign in areas or on topics not yet covered, paralegal training, support for impact litigation, the development of a bench book or practice manual on the new Family Code for legal professionals, and continuing education for judges.

Lemarchand, Rene. "Benin D/G [democracy/governance] assessment mission, January 10 - 21, 1993." Award No. 624-0542-S-00-2130-00.

McMahon, Edward. *The Impact of US Democracy and Governance Assistance in Africa: Benin Case Study*. SUNY/Binghamton Department of Political Science. Center for Democratic Performance. Working paper series, No. 118. Prepared for: American Political Science

Association Meeting (Aug. 29 - Sept. 1, 2002).
http://pdf.usaid.gov/pdf_docs/PCAAB068.pdf

Per the abstract,

This paper examines what effect, positive or negative, U.S. Agency for International Development (USAID) support has had on democratic development in Benin, a key country in the development of democracy in Africa. The paper also presents some thoughts on broader issues concerning the efficacy of democracy assistance. The paper examines USAID efforts to promote democracy in Benin in the rule of law, civil society, elections and political processes, and governance sub-sectors of democracy assistance. The rule of law section discusses the independence of the Constitutional Court of Benin and a few important cases in which the Court has ruled against the executive.

USAID's role in supporting the rule of law in Benin has been, however, very small.

Smith, Zeric K. "Benin Democracy and Governance Assessment Report." (November 2004).
http://pdf.usaid.gov/pdf_docs/PNADC898.pdf

Burundi

IFES. 2006. Great Lakes Justice Initiative: Promoting the Rule of Law in Burundi (1999-2006).
In *International Human Rights Law Group ROL program*.
http://www.ifes.org/burundi.html?page=project_33

Cameroon

Fox, Leslie. "Balancing the State/Building a Nation: An Assessment of Democratic Governance in Cameroon." (January 1993). http://pdf.usaid.gov/pdf_docs/PNABQ221.pdf

As articulated in the article's executive summary:

This report reviews and assesses the climate and possibilities for an A.I.D. program to promote democratic governance (D/G) in Cameroon. The underlying notion of D/G is that of broadly shared responsibility in the management of public affairs. It implies that there is relative balance among state institutions and between them and civil society; and that an absence of such balance is likely to lead to nondemocratic practices and the lack of "good governance." In this regard, three sets of relationships are analyzed in order to determine the extent of balance or equilibrium that exists between and/or among Cameroonian institutions of the state and civil society. This assessment thus looks at the following sets of relationships: 1) among the state institutions of the Executive, National Assembly and Judiciary; 2) between central government and local government; and 3) between state institutions and civil society.

DRC

IFES. 2004. *Strengthening National and Local Judicial Systems and Promoting Reconciliation Processes* (1999-2004).
http://www.ifes.org/drc.html?page=project_36

Mahdesian, Michael and Anthony Gambino. "Transition in the Democratic Republic of the Congo [DRC]: opportunities and pitfalls – Congo assessment team report." (August 1997).

Ethiopia

Cohen, John M., William Hammink, and Emmy Simmons. "Ethiopia Democracy/Governance Support Project: Evaluation Report (draft report)." (May 1994).

http://pdf.usaid.gov/pdf_docs/PDABK181.pdf

World Bank, 2004. *Ethiopia: Legal and Judicial Sector Assessment*. Washington, DC: World Bank.

<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/EthiopiaSA.pdf>

As the article states, "Ethiopia ushered in a new era for the country's legal and judicial institutions with the adoption of a new constitution in 1995." The country recognized its differing ethnic and religious backgrounds, as well as systems throughout the country. However, justice institutions continue to be hampered by inconsistencies in the legal framework, resource constraints and overall governmental ineffectiveness. Reforms are needed in the areas of: quality of justice, dissemination of legal information, legal education, access to justice, commercial justice and staging of reforms. The report notes that capacity-building should be "staged or sequenced to reduce the potential for overburdening the sector's institutions" – all the more important since several large donors are implementing programs in Ethiopia.

Ghana

AfriMap, Open Society, and the Institute for Democratic Governance. 2007. *Ghana: Justice Sector and the Rule of Law*.

www.afriMAP.org/english/images/report/AfriMAP_Ghana_Justice.pdf

AfriMap is supported by the Soros Foundation and focuses on issues of human rights, rule of law and accountability through its four African branch foundations. They have developed a standardized and systematic reporting framework that links practices of good governance with human rights practices. Despite positive gains in Ghana over the past 15 years, the report finds a number of key challenges, which as listed in the article:

- Ratification and domestication of outstanding international and African human rights treaties;
- Action to speed law reform, including by strengthening the role of the Law Reform Commission and increasing Parliament's role in law-making;
- The need for a constitutional review to address a number of recommendations that have been made to reduce the role of the executive in judicial appointments, strengthen constitutional oversight institutions and remove the impunity from prosecution for human rights violations given to members of former military regimes;
- The challenge of expanding access to justice to the majority of Ghanaians by increasing support for legal aid and for extrajudicial dispute resolution mechanisms, while also providing the formal judicial system with adequate capacity to administer justice;
- The need to review the laws governing the police and prisons to provide a framework suitable for a democratic society;
- Work towards improved coordination among various development partners giving assistance to the justice sector.

Each of the seven sections of the report contains a series of recommendations for future rule of law programming in Ghana.

Lemarchand, Rene. "DG Assessment, Ghana." USAID Award No. 624-0542-S-00-2130-00 (June 1993).

Guinea

ARD. December 1994. *Democratic Governance in Guinea: an Assessment*.

Kenya

AED and Africa ICT Strategies, Inc. October 2007. *E-Legislation Policy Development Initiative for the East African Community – Kenya Cyber Law Model*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDAACL263.pdf

Per the Executive summary,

Under one of the key activities in the e-Legislation Policy Development Initiative project, conducted from December 2006 to March 2007 Afrika ICT Strategies, Inc. conducted research on digital laws for 13 countries – Malaysia, Singapore, South Africa, United Arab Emirates, Pakistan, India, New Zealand, Namibia, Botswana, Zambia, Egypt and Australia. The research indicated that the countries that have succeeded in utilizing e-commerce as an economic growth engine enacted stand alone e-Transactions laws.

In the current Kenya Communication Amendment Bill, 2007's inclusion of e-transactions has been called "a great step in the right direction as it demonstrates the Ministry of Information and Communication's commitment to e-transactions," and "by including e-Transactions in the converged Bill, the Ministry rightly recognizes the technology convergence that has occurred in the digital world."

Chopra, Tanya. "The Illusions of Inclusion – Women's Access to Rights in Northern Kenya." (2008).

This report focuses on access to justice by rural populations of Kenya. The main kin groups are defined through male lineages and they are responsible for decision-making and conflict resolution. Conflicts are also reported to the local chiefs, considered part of the Provincial Administration. The chiefs often assume the role of "gatekeeper" by deciding whether grievances or conflicts are dealt with through informal local mechanisms, or whether they should be reported to the police and a case filed with the official justice system. Women are thus subject to a male-dominated informal structure and have scarce access to the formal justice system.

Judicial institutions, such as Magistrate Courts, are located in most district capitals, and are geographically distant to most rural inhabitants. Besides matters of proximity, further hurdles to one's ability to seek redress from courts include a lack of legal awareness, lack of legal aid, high costs and difficult judicial procedures, not to mention differences between local, religious (e.g. Sharia) and "official" concepts of justice. Local conflict resolution is predominantly based on the understanding of communal rather than individual responsibility for misconduct. Women typically face additional obstacles under both the formal and the informal systems. If women do manage to file reports of domestic violence or other crimes with the police, they often encounter rejection since male police officers feel that such issues are domestic and better handled at the local level. Some women claim that conflict resolution inside the community produces results

that do not promote women's rights, as it is implemented by male community members. If women do file cases at court, community elders may attempt to withdraw them.

Some NGOs have done significant work in supporting women to claim their official rights in cases of domestic violence, or where a husband is imprisoned, leaving his wife and children in economically dire situations. More support is required. Equally challenging for women is the difficulty of assuming more decision-making powers in their communities. While involvement of women in local level development initiatives has been high on the agenda of donor organizations and government, in reality many women still struggle to be heard. Only in some areas has the integration of women been successful, such as in local committees that deal with food aid and water. As these issues are locally perceived as "women's issues," there is little male resistance when women make decisions. Women's organizations have been formed, but are still not very strong or respected on a large, male-dominated scale.

Although there is a variety of avenues through which women can seek redress in grievances, in reality their choices are limited. Approaches to addressing these shortcomings will need to focus on the whole community, and will need to increase access to the formal system, while also engaging informal systems in order to make them less biased. Only a gradual, simultaneous approach to both formal and informal systems, and a steady support for social change, can help overcome the hurdles for women to claim their rights.

Chopra, Tanya. "Building Informal Justice in Northern Kenya." (December 2008).

Under the rubric of peace-building efforts stemming from the December 2007 post election violence, The World Bank's Justice for the Poor program examines the role of informal justice systems in the northern part of the country. Principal conflicts arise over access to natural resources, water and land. Principal sources of crime include theft of livestock. Rural populations have little to no access to formal justice systems, based on both distance and cost. These are further complicated by differing ethnic groups with differing traditions and practices. Peace committees, comprised of elders and community leaders, have been formed in rural areas to resolve conflicts, using long-standing traditional systems and practices. In some areas, ground-rules to guide resolution of conflicts are being developed with the support of NGOs and some donors, including The World Bank. Since some practices are contrary to national laws, current efforts focus on bringing traditional practice and formal systems closer together. Under the final section, Operational Considerations, the author presents a series of recommendations to guide future donor interventions.

Chopra, Tanya. "Reconciling Society and the Judiciary in Northern Kenya." (2008).

In the Kenyan constitution, the judiciary is named the principal actor in resolving disputes, particularly those involving more serious crimes. However, there are serious shortcomings which hamper the impact of the judiciary in the region: distance, high cost of travel and filing cases are principal among them. Internal systemic flaws, such as long duration to process cases, non-conducive work environments for magistrates, poor physical conditions of court houses, the lack of public defense lawyers, the lack of official legal aid and the lack of private lawyers have rendered the role of the judiciary insignificant in the region.

One of the gravest challenges to the role of the judiciary in the rural areas (arid lands) is the difference between concepts of justice underlying the formal system and the local perceptions of what constitutes misconduct and who is responsible for a crime. While some acts defined as criminal under the formal law (gambling, illegal possession of firearms, brewing of alcoholic beverages), they are not necessarily perceived as a crime or source of conflict among the local communities, and the pursuit of such cases through the formal legal system does not instill the population's trust in official institutions. However, at times, for example in cases that seriously violate social order at the local level (disputes over natural resources, killings, or cattle rustling), the services of police and formal executive authorities are *recruited*. Only with their involvement do communities feel such cases can be solved "justly," and solutions negotiated that truly re-establish peace among communities.

Local organizations fostered the establishment of "peace and development committees," which became involved in inter-communal or inter-ethnic conflicts. Based on local concepts of justice, hybrid systems were developed out of common denominators between different cultural systems. They led to successful interventions in conflicts at that level. As a next step, different ethnic communities of one area met and negotiated common terms of how to solve frequently occurring types of conflicts. The results became known as "declarations" or "agreements." The declarations have been embraced by the Office of the President and their implementation involved executive authorities at the local, district and provincial levels in the arid lands. What emerged is a quasi-legal regime that is parallel to the official legal system. While the official law is the basis for law and order in the whole country, the declarations can guarantee peace in a specific region.

Strengthening the role of the judiciary in the arid lands of Kenya can be initiated in a twofold way. First, understanding of official legal norms needs to be increased among local populations. Second, the judiciary needs to adopt measures which allow it to be more responsive to the different societies' socio-cultural systems. The article discusses a variety of practices which have been piloted in Kenya or have been adopted in other countries that can inform a judicial reform process in this regard.

International Commission of Jurists – Kenya. 2002. *The Judiciary in Review: 2000-2002*. Nairobi. http://pdf.usaid.gov/pdf_docs/PNACW012.pdf

The article states,

This publication seeks to examine the judicial performance in the last two years with reference to the quality of decisions made especially at the High Court and Court of Appeal levels; adherence to the doctrine of *stare decisis* at all levels and the use of information technology in day to day judicial functions. The publication also looks at the fight against chronic case backlog and efficiency in delivery of judgments.

In addition to this, this publication also addresses judicial corruption in the last two years with specific reference to common corrupt practices in the judiciary; measures undertaken within and outside the judiciary to curb corruption in the judiciary; the judiciary's role in the fight (or lack of) against corruption and the establishment of the Corruption Court and its functions.

This publication also examines judicial administrative reforms, judicial accountability over this period, and particularly in relation to judicial responsiveness to external examination; awareness among interest groups of judicial reform and whether they

perceive any reform as satisfactory; the role the judiciary has played in this period in relation to broader legal sector reforms; and the role of the judiciary in this period in relation to constitutional reform.

International Commission of Jurists – Kenya. 2003. *Strengthening judicial reforms in Kenya: volume VIII – progress assessment from 2000 to 2003*. Nairobi.
http://pdf.usaid.gov/pdf_docs/PNACW011.pdf

As stated by the articles authors,

Since 2000, ICJ Kenya has conducted surveys on the Judiciary with the objective of gathering information that would enable effective public interest in and demand for judicial reform. Under this project, ICJ Kenya continued to conduct internal analysis of the Judiciary as well as content analysis of its reform proposals and their implementation vis-à-vis ICJ Kenya's and other stakeholders' demands. This is done by seeking public perceptions to interpret reform needs and leverage reform demand.

...For a long time, the Kenyan Judiciary was [impenetrable] and information on this important institution was difficult to come by, making its accountability to the public minimal if any at all. Save for the 1999 report by a Committee on the Administration of Justice popularly referred to as the Kwach Committee, there was lack of information in the public domain on the Judiciary that would facilitate objective assessment of its performance. ICJ Kenya identified this vacuum and sought to open up this institution by sourcing information from the judiciary itself and from the general public. This it did through joint activities with the Judiciary and also through surveys whose findings are widely disseminated with a view of demanding certain reforms that would guarantee efficiency, accountability, transparency and foster integrity in the Judiciary.

Liberia

The Carter Center. January 2001. *Liberia: Promoting and Protecting Human Rights. Final Narrative Report*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PDABT031.pdf

The document provides a summary and analysis of the development work led by the Carter Center in Liberia from 1998 to 2000. Sponsored by USAID, The Carter Center provides logistical and financial support to local NGOs, communities and non-profit organizations advocating for the rights of Liberian citizens by promoting the rule of law and human rights. Partnering with organizations such as the Catholic Justice and Peace Commission and development projects including Liberia Prison Watch, the Center applied new legal research methods, provided human rights education and advanced professional legal practices. Through the support of the progressive media and journalist groups, the Center supported the empowerment of free speech. Finally, the report argues that training and education of local partners is a critical aspect of insuring further development of the rule of law in Liberia.

Shattuck, Gary. "Assessment of the Prosecution, Judicial and Court Administration Needs for DOJ RLAs Assigned to the Republic of Liberia." (2005).

A follow-up to the earlier OPDAT assessment, carried out in September 2005, the document focuses on activities required to establish a working criminal justice system in Liberia, based on the US common law model. The main goal is to support orderly and timely progression of a criminal case through the entire criminal chain, based principally

on effective case management practices and training. The report focuses on identification of possible obstacles to implementation – among them, pre-trial detention, lack of qualified and trained personnel, poor facilities and resources and few and inadequate law schools. The assessment recommends emplacement of an OPDAT Regional Legal Advisor to oversee implementation of the program. The report also covers potential activities with the National Police, among them the need for increased training and management of firearms throughout the country.

US Department of Justice. 2005. *Diagnostic Assessment and Proposed Implementation Strategy: The Liberian Justice System*. Washington, DC: DOJ.

The assessment was conducted in early 2005 by OPDAT, who teamed with USAID, DOS/INL, the federal judiciary and state judiciary. It was conducted as a diagnostic assessment, providing a range of recommendations related to restoring and re-invigorating the Liberian justice sector. Recommendations range from creating a National Justice Reform Commission, with sub-working groups, to establish a special criminal court to prosecute known war criminals. The report identifies specific types of needed improvements. They are organized under rubrics of responsible implementing parties, and details of activities to be carried out. Among other tasks, recommendations include the development of a train-the-trainer program for judges and prosecutors, support for a victim and witness protection program, as well as establishment of standard fees for services and accountability mechanisms governing financial management.

Madagascar

Chemonics International. June 2004. *Women's Legal Rights Initiative of the Women in Development IQC: Madagascar Assessment and Analysis Report*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNACY656.pdf

The article's text explains,

[t]he WLR team worked closely with USAID/Madagascar to identify and organize activities for the assessment and analysis phase conducted in Madagascar USAID/Madagascar provided assistance in identifying current programs, constraints to women's legal rights, gaps in knowledge and practice, and the current social, political, and economic context. . . . Results of the assessment and analysis [were to be] used to design a country action plan that meets the needs of women's organizations, government, civil society . . . to achieve goals and objectives that strengthen women's legal rights, reinforce USAID/Madagascar's objectives, and dovetail with ongoing activities.

Malawi

Mukonda, Ricardo. "Assessment of Malawi CARER's [Centre for Advice, Research and Education on Rights] paralegal programme from 1996 to 2000." Windhoek, Namibia: Legal Assistance Center (April 2001). http://pdf.usaid.gov/pdf_docs/PNACU825.pdf

The CARER paralegal training program was designed to contribute to the protection and promotion of human rights. Secondly, it aimed to ensure access to justice for rural or peripheral communities. The program employs alternate dispute resolution processes, such as mediation, and promotes human rights through monitoring and bolsters these efforts with civic education on the topic. To accomplish widespread impact, however, it

is recognized that the program would have to be expanded beyond service provision and move toward actual capacity-building in the communities where it is active.

Mali

ARD and MSI. *Governance in Democratic Mali: An Assessment of Transition and Consolidation and Guidelines for Near-Term Action*. (Extracts from the final report, July 1994). Presented a workshop hosted by the U.S. Agency for International Development, Washington, DC. February 1995. http://pdf.usaid.gov/pdf_docs/PNABU032.pdf

The assessment reviews the status of Mali in the standard democracy evaluation areas. This includes brief descriptions of the rule of law situation, which is characterized by continued issues regarding human and civil rights, inequalities in access to justice and corruption. The courts are woefully underfunded and are plagued with backlogged cases. Weak rule of law is considered to be a significant gap in Mali (from the paper: "...the greatest threat to the consolidation and maintenance of Malian democracy lies in the system of justice."), as it is wrought with archaic codes, inept courts and arbitrary and corrupt decisions. The role of the Legislature is portrayed to be an ineffective counterbalance to the Executive. Much of the document – and the USAID program in Mali – centers on decentralization and the evolving institutional framework for sub-national government. The principal focus is the very significant rural population of the country, with its growing local associations and the potential importance of these. However, civil society has yet to develop a civic orientation that can be used effectively to counterbalance the central government – and advocate for improvements. The report calls for the extension of the donor activities including USAID, USIS and GTZ.

International Development Law Institute. April 1992. *Mission report on the Commercial Court in Mali: February 23 – March 7, 1992*. http://pdf.usaid.gov/pdf_docs/PNABL621.pdf

Mozambique

Checchi and Company. 1992. *Legal sector consultancy report for USAID/Mozambique [executive summary]*. USAID Award No. AOT-0542-I-00-2006-00. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNABM947.pdf

Danish Ministry of Foreign Affairs. 2008. *Evaluation of Development Cooperation between Mozambique and Denmark, 1992 – 2006*. Copenhagen: Danida. <http://www.um.dk/NR/ronlyres/A1C3137A-FC01-40FA-BF73-D0DBCC10E7A1/0/200805EvalMozambique.pdf>

The paper provides an overview of donor activities in Mozambique with a specific review of Danida's support since the early 1990s. It is one of a series of Working Papers prepared as part of an evaluation of Danish development cooperation with Mozambique from 1992 to 2006. The evaluation draws upon extensive documentation of the Danish aid program and on further research and interviews performed by the evaluation team. The paper deals in detail with the legal and justice sector and attempts to examine the extent to which the donor assistance process in general – and Denmark's contribution in particular – has strengthened the rule of law and improved access to justice, especially for the poor and vulnerable.

The evaluation attempts to contextualize support to the legal sector within the overall picture of other governance and democratization interventions. It covers interventions related to elections, the strengthening of parliamentary oversight, elements of support for public sector reform and decentralization and support for civil society. The evaluation underlines the fact that Danida has been at the forefront of donor support to the justice sector, often operating where other donors have feared to venture. Danida has gained respect for its support and persistence in efforts to reform politically fraught processes of reform and sector coordination. Evaluation findings suggest that project goals appear to be under increasing threat. Some of the democratic gains made by Mozambique in the period since the end of the armed conflict are now being rolled back before they have had a chance to become truly embedded within society. This evaluation notes that some practices relating to the provision of budget support can serve to undermine accountability. The donor community needs to accept that they have co-responsibility for ensuring coherence between government reporting to parliament and donors, and for encouraging a much more substantial involvement of the parliament and the public in the setting of national priorities and associated indicators.

The paper concludes that Danish support to the justice sector in Mozambique has exhibited some weaknesses and has faced many challenges. Progress is often uneven and suffers various setbacks and delays in achieving stated goals. The paper notes the extreme difficulties involved in operating in this sector, especially during this particular period of Mozambique's development as a newly emerging democratic nation with weakly developed institutions and a history of close state control over the instruments of justice.

Fitzgerald, Hunter. "Legal education action plan." USAID Award No. AOT-0542-I-00-2006-00 (October 1992). http://pdf.usaid.gov/pdf_docs/XNABM947B.pdf

Fox, Leslie and Carolyn Somerville. "Democratic initiatives project (656-0227): mid-term evaluation." (June 1995). http://pdf.usaid.gov/pdf_docs/PDABL598.pdf

Oleson, John. "Legal sector survey report." USAID Award No. AOT-0542-I-00-2006-00 (October 1992). http://pdf.usaid.gov/pdf_docs/XNABM947A.pdf

Stack, Beatriz de Greiff. "Legal reform action plan." USAID Award No. AOT-0542-I-00-2006-00 (October 1992). http://pdf.usaid.gov/pdf_docs/XNABM947C.pdf

Namibia

ARD and MSI. July 1994. *Consolidation of democracy in Namibia: assessment and recommendations*. Award No. AFR-0542-Q-00-1109-00. Washington, DC: USAID.

Niger

Lemarchand, Rene. "Assessment of the Niger Mission DG Activities." (1993). http://pdf.usaid.gov/pdf_docs/PNABQ099.pdf

The report argues that despite the significant political transformation that followed the National Conference, the constitutional order and judiciary system is undeveloped. Loss of governmental control over the armed forces caused a new wave of violence and human rights violations. USAID identifies "extrajudicial killings of civilians in non-combat situations" as the biggest threat to the development of civil society. In addition to

sponsoring a number of research programs, USAID established the multimedia democracy project, the village law project. Finally, the need for the foreign sponsorship of the civil society and the judiciary system is a result of the limited domestic resources, the majority of which are invested into the military.

Nigeria

ARD. December 2006. *Democracy and Governance Assessment of Nigeria*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNADI079.pdf

The report provides critical analyses of the judiciary system of Nigeria, connecting the issues of political corruption, economic oil dependency and poor legal education of the general population. While arguing that political oligarchy is a primary challenge that suppresses establishment of the democracy, the author brings attention to the progressive change brought about after the 2007 presidential elections. However, the formal democratic system and the rule of law continue to be ineffective. The concluding part of recommended programmatic interventions suggests a structural reform at both federal and national levels of the Nigerian judiciary system. Lack of basic legal knowledge and limited access to educational materials undermine citizen and human rights. In addition, strong historically embedded religious traditions – particularly Islamic Sharia law – often overpower modern legal practices. In conclusion, the report identifies improvement of the operational system and professional capacities as well as empowerment of the Civil Society Organization as top priorities of the USAID development plan.

Hewitt, William. “Nigeria rule of law assistance program – Report on alternatives to the written note in the high courts of the Republic of Nigeria.” (February 2001). http://pdf.usaid.gov/pdf_docs/PNACT933.pdf

International Human Rights Law Group. December 2002. *Final Report on cooperative agreement no. 620-A-00-99-00304*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDABX444.pdf

Since October 1, 1999, The International Human Rights Law Group (IHRG) planned a legislative study tour, developed a programmatic framework for the new initiatives, established relationships with civil society partner organization and organized education workshops focusing on NGO media strategies. The IHRG argues that Civil Society organizations have an important role in the electoral process that insures institutionalized economic and civil equity, rule of law and transparency. Furthermore, the IHRG provided grants to the League for Human Rights (\$5,730), Transparency in Nigeria (\$15,000), Community Action for the Popular Participation (\$51,010), Media Rights Agenda (\$57,578) and other local Civil Society groups.

Lewis, Peter and Etannibi Alemika. “Seeking the Democratic Dividend: Public Attitudes and Attempted Reform in Nigeria.” *Afrobarometer* Working Paper No. 52 (October 2005). http://pdf.usaid.gov/pdf_docs/PNADF401.pdf

This study of the three Afrobarometer surveys that took place in 1999, 2000 and 2003 tracks the gradual improvement of the rule of law and popular opinion on the quality of the Nigerian legal system. Corruption and weak government were identified as major challenges to the establishment of a democratic and strong government. An increasing percentage of the population supports the legislation of private property rights (89% in 2003), gender equality under law and the separation and balance of power. An

overwhelming number of those surveyed recognized the need for the empowerment of the legal and governmental institutions. Key findings indicate that while both support for and satisfaction with democracy in Nigeria have been slipping, the percentage of citizens who continue to believe in democracy as an ideal system for their country remains high. Government performance, however, has eroded seriously in recent years.

NCSC. January 2005. *Nigeria rule of law assistance program (Phase II): Quarterly Report No. 10: first quarter FY 2005 (October-December 2004)*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PDACD124.pdf

Conducted by the National Center for State Courts from November 2004 to March 2005, the Nigeria Rule of Law Assistance Project, Phase II, provides technical education to the High Courts of Lagos, Kaduna and Rivers States and the Federal Capital Territory. In addition to USAID, the project was sponsored by the Department for the International Development, Nigerian institutions and stakeholders. The report notes that the project was not fully developed as a result of limited financial resources. For example, the court monitoring was conducted by volunteer groups and did not take place in the Rivers State and the FCT. Despite several labor strikes, all planned programs were successfully conducted in time.

NCSC. October 2004. *Nigeria rule of law assistance program (Phase II) – Quarterly Report No. 9: First quarter FY 2005 (July - September 2004)*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PDACA713.pdf

While providing technical support to the Nigerian State High Courts of Lagos, Kaduna and the Federal Territory of Abuja, the project focuses on four major areas. They are: Budget Preparation, Court Performance, Judicial Ethics and Public Access and Reporting. The main goal of the project is creating a consensus and determining priorities for the development of Nigerian judiciary system. In addition to the installation of the Case Tracking System, the project team trained the staff of the High Court in Ikeja, a division of Lagos State.

NCSC. September 2001. *Nigeria rule of law assistance program: Report on library development assistance – draft*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PNACT947.pdf

To a large extent, the author uses the Wisconsin State Law Library as a model against which to judge the conditions of the Nigerian libraries. The assessment examines physical facilities, the types of research materials available and possibilities for automating at least some of the current library functions. In general, materials were out-of-date, poorly organized and maintained, and the facilities were poorly kept and lacked proper lighting. Some libraries had limited computer equipment, but automation was not commonly used for research purposes (owing principally to poor connections and limited availability of Nigeria-specific information). The report includes questionnaires of librarians and makes recommendations for how to improve both the physical facilities and the availability of informational resources.

NCSC. March 2001. *Nigeria rule of law assistance program: Report on case flow management and court administration*. Washington, DC: USAID.

NCSC. February 2001. *Nigeria rule of law assistance program. – Consultants report: rule of law assistance project – judicial branch budgeting*. Washington, DC: USAID.

ARD. September 2005. *Rwanda: Assistance with Land Law and Implementing Laws and Regulations*. Under RAISE IQC Task Order: Lessons Learned, Property Rights and Natural Resource Management. http://pdf.usaid.gov/pdf_docs/PNADE599.pdf

The report provides an analysis of the impact of property rights on economic growth and democratization. The paper's focus is on lessons learned, geographic implications, impacts of privatization, testing measurement of progress tools, developing programmatic guidance tools and how to complement other USAID-supported, land-related programs. A part of the report includes a summary desk review of land-related policies and laws. Among the principal findings were: lack of local resources to deal with issues of compensation, potential utility of using applicable laws and provisions from other countries and drafting and consultations of an expropriations law. The assistance phase was to take place from September 2005 to September 2006.

Insofar as ROL issues are concerned, a part of the report deals with the need to train MOJ staff in land-related laws and policies, as well as Land Committee members in planning, administration and ADR.

Chemonics International. May 2005. *Women's Legal Rights Initiative of the Women in Development IQC: Rwanda Assessment and Analysis Report, October 11-24, 2004*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDACL661.pdf

The purpose of the assessment was to identify obstacles to the enforcement and enjoyment of women's legal rights in Rwanda (to include critical barriers and customary practices that deny women basic human rights). The new Constitution has contributed positively, as have other legal framework documents, and the percentage of women elected in recent elections has risen sharply. However, considerably more public education is needed, as is governmental and societal follow-through of constitutional and legal framework documents.

Frohardt, Mark. "Justice after genocide, October 2001-May 2004: report on SO1 achievements." [Final Report for 623-G-00-00174-07] (May 2004). http://pdf.usaid.gov/pdf_docs/PDACA642.pdf

Funded under the USAID SO of Increased Rule of Law and Transparency of Governance, the project goal was to improve the quality and quantity of information to the Rwandan public through daily coverage of the International Criminal Tribunal proceedings. The principal target areas were remote villages, and the project produced *The Arusha Tapes*, a one-hour documentary concerning efforts to prosecute the genocide that had occurred in Rwanda. Three media were used: print, video and training and technical assistance. The film was presented to approximately 85,000 people per year, including prisoners (in an effort to encourage them to come forward with information).

During August 2003, USAID provided additional funding to Internews to follow the build-up to elections. Other video productions include *Justice in Rwanda I - 19*, which highlight the trials and debates over use of Gacaca. Some of the individual newsreels feature testimony of some of the more prominent (well-known) defendants and trials. Documentaries about presidential elections and parliamentary elections were also prepared.

Gabisirege, S. and S. Babalola. "Perceptions About the Gacaca Law in Rwanda: Evidence from a Multi-Method Study." Special Publication No. 19. Baltimore, Johns Hopkins University School of Public Health, Center for Communication Programs (April 2001).
http://pdf.usaid.gov/pdf_docs/PNACN606.pdf

The report provides background to the Gacaca law/legal system, as originating from a judicial system that ensures active participation of the community in the process of investigation of accusations and sentencing of culprits as a viable option to the classical judicial system. It was found that awareness of the Gacaca process was high (82%), with men more likely than women to understand the process (90% versus 75%). Numbers were lower amongst those understanding exactly what types of cases were tried – or not – by the Gacaca process. Likewise, most were not aware of details of the plea and sentencing stipulations, or the specific responsibilities of the community. Despite these low numbers, most Rwandans attached a high level of importance and support to Gacaca, and a correspondingly high willingness to participate if necessary.

Haguruka. 2001. *Final Report: Legal Assistance and Human Rights Awareness Programme*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDABX369.pdf

Per the article, "Haguruka was established in 1991 to provide free and independent legal assistance to women and children who could otherwise not afford it with a view to improving their socio-economic and legal rights." Trocaire has funded and supported Haguruka since 1995, and garnered USAID assistance in 2000 and 2001. USAID funding in particular "enabled Haguruka to complete their training and awareness raising programme in Gikongoro province and went on to support 50% of the training given in Cyangugu province. The same grant also funded nearly half the costs associated with the training of the new intake of paralegals."

Internews and PACT. May 2001. *Expert opinion and translation of draft law on the press of the Republic of Rwanda*. Global Civil Society Strengthening Leader with Associates Cooperative Agreement (GEG-A-00-01-00005-00). Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PNADD284.pdf

The report is highly targeted on a specific draft law related to the role and functions of the press in Rwanda. It contains an article-by-article translation and analysis of the law and a list of additions to existing legislation. The draft law contains some important provisions designed to enhance the exercise of mass media freedoms. However, it also contains some potential risks to the exercise of press freedoms. The report is written – with authors' acknowledgement – from the perspective of US lawyers familiar with civil law system media regulatory models. Of note is the absence of specificity in the provisions of the law, especially insofar as implementing or enforcing the legal provisions. The law also lacks provisions regarding imposition of sanctions for abuses of news media freedoms. The law creates a High Press Commission to oversee equal access by the media, and provides for protection of youth and children.

Kampire, Marie Therese, Stany Kisangani Endanda, Déo Mbonyinkebe, René Abandi, and Tracy Bach. "Assessment of the judicial sector in Rwanda." (November 2002).
http://pdf.usaid.gov/pdf_docs/PNACR573.pdf

The report provides a comprehensive analysis of the Rwandan judicial system intended to contribute to USAID plans to assist the sector. The assessment begins by providing an overview of the judicial system and its infrastructure, including the functions of the

judiciary and the system's main components. The report additionally addresses the perception of the judiciary's efficacy among various players and stakeholders, including the public, NGOs and donors. Finally, the report provides recommendations strengthening the judicial system overall.

Management Sciences for Development (MSD). June 2002. *Final Project Report: Institutional Development to the Rwandan Ministry of Justice Strategic Objective #01: Increased Rule of Law and Transparency in Government*. Washington, DC: USAID.

http://pdf.usaid.gov/pdf_docs/PDABY574.pdf

The report tracks a seven-month project during which support was provided to the Rwandan MOJ for performing administrative tasks, particularly in the areas of procedural practices, and comparing them with written MOJ procedures. Specific areas of focus include the role of the Planning and Evaluation Department, drafting planning and evaluation documents, developing performance indicators, drafting human resources procedures (job descriptions, procedures for transfers, overtime policies, evaluations, HR management), financial and inventory and data collection procedures. Training in needs assessment procedures, as well as that related to procurement and recruitment, was also provided. Many of the deliverables submitted to the MOJ (and related to the above-listed categories) are included within the report.

Manikas, Peter M. "Rwanda Evaluation: Promoting Human Rights and Building a Fair Judicial System." (May 1995). http://pdf.usaid.gov/pdf_docs/PDABN967.pdf

Ministry of Health National Population Office, The Johns Hopkins University, Population Communication Services (JHU/PCS). 2003. *Evaluation of the Gacaca promotional campaign in Rwanda: report of main findings*. Washington, DC: USAID.

http://pdf.usaid.gov/pdf_docs/PNACT554.pdf

MSI. November 2002. *Rwanda Democracy and Governance Assessment*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNACR569.pdf

NCSC. 2006. *Final Project Report: Rwanda Decentralization of Judicial Administration and Financial Management*. Washington, DC: USAID.

http://pdf.usaid.gov/pdf_docs/PDACH657.pdf

As stated in the article's executive summary,

In February 2005, the United States Agency for International Development (USAID) contracted the National Center for State Courts (NCSC) to implement a program to enhance the capacity of judicial structures and assist Rwanda's judiciary with the process of decentralizing judicial management—the Administration and Financial Training for Decentralized Courts program. The 7-month program—conducted from February 22, 2005 through September 30, 2005—was awarded to NCSC under USAID's Indefinite Quantity Contract (IQC) III and later extended through January 31, 2006.

Roumestan, Denis. "Institutional Development to the Rwandan Ministry of Justice Strategic Objective #01: Increased Rule of Law and Transparency in Government - MINIJUST SCAJE/DLSC/DAJ." (April 2003). http://pdf.usaid.gov/pdf_docs/PNACT847.pdf

(See entry below next item)

Roumestan, Denis. "Institutional Development to the Rwandan Ministry of Justice Strategic Objective #01: Increased Rule of Law and Transparency in Government - OFFICE OF

LEGAL COUNSEL TO MINIJUST.” (April 2003).
http://pdf.usaid.gov/pdf_docs/PNACT532.pdf

These are two papers that relate to different segments of the same project. The first project involved research into the US office of legal counsel, review of pertinent Rwandan laws and customs and the comparison of the two. The first report covers the US Constitutional framework, the US DOJ and its Office of Legal Counsel in terms of history, descriptions, functions, strength and influence. It compares the US and Rwandan legal systems, then summarizes how the local MOJ could train their staff to assume the duties and functions of an OLC – and its tasks of preparing legal opinions and legal counsel to all administrative agencies falling under the Executive Branch. The OLC has no direct authority and its decisions are neither binding nor executory. The second paper pertains to the MINIJUST project, and summarizes discussions of advantages and disadvantages of implementing a US model in Rwanda. It was developed for the purpose of providing training relevant agency staff to serve as an office of legal counsel to the MINIJUST effort, especially insofar as interpretation of decrees, laws and legal revisions, the Constitution, domestic customs and traditions.

Senegal

Konold, Carrie. “Perceived Corruption, Public Opinion, and Social Influence in Senegal.”
Afrobarometer Working Paper No. 85 (December 2007).
http://pdf.usaid.gov/pdf_docs/PNADK738.pdf

MSI. 1997. *Democracy Assessment of Senegal*. Washington, DC: USAID.

Sierra Leone

Kane, Minneh, et. al. “Sierra Leone: Legal and Judicial Sector Assessment.” (May 2004)

Devastated by the effects of a decade of civil war, Sierra Leone is one of the world’s poorest countries. With the end of protracted periods of violence, notes the report, the country’s national government and the international community have shifted focus from combating instability and emergency relief to rebuilding institutions of justice. Much of the justice sector has been completely devastated – its physical infrastructure destroyed, credibility undermined and accountability nearly absent. It serves only a small urban elite. Resources are abysmal and the system is exceedingly expensive for users. Most of the population regards the formal system as irrelevant to their daily lives. Customary Law and English common law operate in tandem, but local courts administer approximately 85% of the population and do not fall under the jurisdiction of the Ministry of Justice, but rather that of Interior Affairs.

The state of the judiciary is seen as a major impediment to improvement of the sector as a whole. It lacks authority over its budget. The Bar is relatively small, with only about 150 legal practitioners for a population of approximately 6 million.

With donor assistance, a number of institutions have been created, to include a Truth and Reconciliation Commission and the Office of the Ombudsman to break the cycle of violence. An Anti-Corruption commission has been created. However, despite some progress, much remains to be done. The regulatory and legal framework are not

transparent. There is little confidence in the justice system and multiple barriers of access to justice still confront the majority of the population.

South Africa

Decipher Consulting, Goals and Performance Analysts (GAP), and Linkages Development Agency (LDA). *Evaluation, impact & effectiveness assessment of the CJSP (Criminal Justice Strengthening Program)*.
http://pdf.usaid.gov/pdf_docs/PDACD727.pdf

The Criminal Justice Strengthening Program was launched by the DOJDC, USAID and BAC SA for the strengthening of the Department of Justice and Constitutional Development. Both DOJDC and National Prosecuting Authority responsible to the program leadership heavily rely on USAID sponsorship. In 2004, for example, USAID created a strict financial management system of the R 27,511,000 budget. One of the major focuses of the project was the improvement of human rights, particularly of gender equality and employment rights. The project was successfully completed with the establishment of the Interim Advisory Council/Board, training of 24 Aspirant Judges and effective results of other programs.

Schonteich, Martin. "Making Courts Work: A Review of the IJS Court Centre in Port Elizabeth." ISS Monograph No. 75. Pretoria: Institute for Security Studies (October 2002).
http://pdf.usaid.gov/pdf_docs/PNACR574.pdf

Funded by the Business Trust through the Business Against Crime (BAC), the goal of the Integrated Justice System (IJS) Court Centre is the advancement of the rule of law and democratization of the legal system in the Eastern Cape. In addition to implementing an electronic case management system, IJS developed the Awaiting Trial Prisoner Project and the Pre-Trial Service Centre Project. As a result, in 2001 the duration of trials decreased by almost 50%. However, the report summarizes that despite the governmental and foreign investments into the criminal justice system, the crime rate is a second major issue of South Africa. The inability to manage modern legal implementations and innovations creates a gap between planned and realized changes. Finally, there is a need for policymakers, who will not prevent crime, but more importantly "be 'law enforcers'" in changing everyday functioning of the criminal justice system.

Schonteich, Martin. "Unshackling the crime fighters: increasing private sector involvement in South Africa's criminal justice system." Johannesburg: South African Institute on Race Relations (1999) http://pdf.usaid.gov/pdf_docs/PNACK643.pdf

One of the greatest problems of the South African legal system is its inability to provide necessary services to satisfy high demand for a strong system of justice. Sponsored by USAID, the publication suggests increasing participation of private legal institutions and practices in the national system of justice. State spending on the criminal justice system increased simultaneously with the crime rates. Research suggests expansion of arbitration and mediation programs practices for both cost and time savings. Moreover, referring to prisoner work programs led by the National Center for Policy Analysis, the research stresses the need to improve not only police and court systems, but also conditions in South African prisons. Realization of these programs requires large financial and human resources, which could be attracted through partnership between the government and the private sector.

Sudan

Faundez, Julio. "Capacity Building of the Sudan Judiciary (Sudan Multi-Donor Trust Fund) Mid-Term Review." (2008).

The purpose of the assessment is to determine the progress of the different components of the capacity building of the Sudan Judiciary Project. Among other tasks, the author looks to ascertain the prospects and options for sustaining, consolidating, or scaling up project activities; assess the project's challenges; evaluate the project's institutional arrangements; assess its sustainability and provide recommendations on key actions for the remaining period of the project. Findings include sharply critical comments about certain aspects of donor programs, including a lack of progress in construction projects and training that had not been tailored to the local environment.

Recommendations cite that donors attempted to implement some programs that could be regarded either as disrespectful or as undesirable forms of external intervention. He stresses the importance of ensuring that those in charge of designing the new project are familiar with the complex institutional evolution of Sudan. They should also be fully aware of the range of informal mechanisms that influence the behavior of Sudan's formal institutions. Secondly, the author recommends dividing future programming into two stages, and proceeding with the second stage only if the first is successful. Finally, the author urges the need to link training directly to the situation of trainees and institutional needs.

USAID. 2005. *Interagency Police/Criminal Justice Assessment, Southern Sudan*. Washington, DC: USAID.

The team comprised members from US/DOS, the Coordinator for Reconstruction and Stabilization, and USAID. The principal objectives of the assessment were to:

- Identify means of providing local security over the short-term while developing longer term programs;
- Identify a team of Sudanese counterparts to serve as long-term partners, and design a single-year program to strengthen their skills;
- Prepare for a comprehensive program of assistance designed to build the capacity of the criminal justice system in Southern Sudan, in areas of police, prosecution and correctional systems; and
- Gather information regarding other donor programs in the security sector.

Recommendations in the report include focusing on working with identified and trained police counterparts to strengthen security in the south, developing a paralegal program and fostering close donor coordination with the UN and DFID – the two leading institutions in Sudan.

Tanzania

ARD. November 2003. *Democracy and Governance Assessment of Tanzania: Transitions from the Single Party State*. Washington, DC: USAID.
http://pdf.usaid.gov/pdf_docs/PNACW638.pdf

ARD and MSI. 1994. *Transition to democratic governance in Tanzania : an assessment and guidelines for near-term action – final report*. Award No. AFR-0542-Q-00-1109-00, delivery order 13. Washington, DC: USAID.

Development Associates. December 1998. *Evaluation report: Tanzania Democracy and Governance Initiatives*. Washington, DC: USAID.

http://pdf.usaid.gov/pdf_docs/PDABR019.pdf

On August 9, 1995, USAID/Tanzania authorized the Tanzania Democratic Governance Initiatives (TDGI) project (621-0182) as a pilot activity to strengthen basic institutions of democratic governance. The report notes that the intermediate results of the program include: improved administration of the national court system; improved quality of print and broadcast media reporting and strengthened legal rights and civic education organizations. Major activities were undertaken in the areas of Alternate Dispute Resolution as a means to lessen the case backlog, and Automated Case Management.

Uganda

Dartmouth College. 1996. *Democracy and governance assessment: USAID/Kampala*.

MSI. 2005. *Community policing assessment in Northern Uganda*. Washington, DC: USAID.

http://pdf.usaid.gov/pdf_docs/PNADC983.pdf

Zambia

ARD. January 2003. *Democracy and Governance Assessment of Zambia: Transition Resumed?* Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNACS264.pdf

ARD. June 1992. *Democracy and governance in Zambia : an assessment and proposed strategy*. Award No. AFR-0542-C-00-1108-00. Washington, DC: USAID.

Chemonics International. May 2007. *Framework & Draft Legislation to Combat Human Trafficking in Zambia Development of an Effective National Policy*. Washington, DC: USAID.

Trafficking human beings is a relatively new, but serious issue emerging across Southern Africa. At present, none of the countries in the Southern African Development Community region have in place a legal or policy framework adequate to deal with this complex phenomenon. A number of recent cases involving trafficking in the region have exposed gaps in the existing legal framework, and have spurred lawmakers to review their domestic legislation to strengthen that framework.

The Government of Zambia has directed a National Technical Committee on Trafficking in Persons. This was done under the direction of the Ministry of Home Affairs and in partnership with all relevant stakeholders with the aim of developing a national counter-trafficking policy and recommendations for a comprehensive trafficking Bill. Toward this end, the National Technical Committee has initiated a project to assess and strengthen the legal and policy framework available in Zambia to combat trafficking. The National Technical Committee starts from the premise that an effective strategy requires a multi-dimensional, multi-sectoral response organized around the “3 Ps” of counter-trafficking: prevention, protection and prosecution. It recognizes that Zambia’s response should be consistent with its international obligations and recognized human rights standards.

However, care must also be taken to ensure that the recommended approach is realistic and effective in the specific Zambian context.

It is clear to reviewers that the proposed legislation must be harmonized with other existing legislation (particularly immigration, penal code and child labor provisions) to resolve potential conflicts and achieve consistency in terms of scope, definitions and penalties. To ensure the legislation can be implemented, certain details also need to be further researched, debated with relevant stakeholders and incorporated into the proposed legislation. In addition, other key issues, such as the definition of exploitation, the need for victim-friendly courts, the rights of trafficked persons to access services or seek compensation, and the appropriate government structure to implement the national policy and oversee the legislation are not fully resolved, and require further consultation and refinement.

Chemonics International. May 2007. *Framework & Draft Legislation to Combat Human Trafficking in Zambia: Development of an Effective National Policy*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PNADI909.pdf

As outlined by the report author(s), the report includes

...the documents prepared for the ZLDC in support of this legislation: Deliverable 1, the issue paper; Deliverable 2, the National Policy (policy framework); and Deliverable 3, the annotated draft legislation. Attached as annexes are the scope of work for this assignment (Annex A), the meeting agenda for stakeholder consultations (Annex B), and an outline for additional provisions for consideration by the sub-committee drafting the legislation (Annex C). Of the issues contained in the outline, only the "essential" protection provisions (along with the criminal offenses and general criminal law provisions) have been incorporated into the draft legislation to date. These provisions are based on the recommendations coming out of the stakeholder consultations, the requirements of the UN Trafficking Protocol and to the extent possible, international best practice.

Chemonics International. October 2000. *Implementation of Court-Annexed Mediation in Zambia: Final Report*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDABS643.pdf

As identified as an objective in the project's original work plan,

The overall goal of the project was to establish the foundation for a sustainable Zambian court-annexed mediation program. Based on a participatory dialogue with key members of the Zambian Judiciary and Law Association, the project established an initial mediation model in February. In April, court-annexed mediation was piloted in Lusaka. Building on lessons learned from the Lusaka experience, in August, a pilot program was held in Ndola. The established model proved successful and is ready to be replicated throughout Zambia. Once fully replicated, the model offers every possibility of institutionalizing court-annexed mediation as a viable complement to adjudication and a sustainable mechanism to reduce case backlog.

Michigan State University. July 1995. *Zambia Democratic Governance Project: Monitoring & Evaluation Studies Mid Term Review*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDABL806.pdf

USAID/Zambia. 2006. *Strategic Objective (SO4) close out report: Expanded opportunity for effective participation in democratic governance*. Washington, DC: USAID. http://pdf.usaid.gov/pdf_docs/PDACG442.pdf

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www.soros.org/initiatives/health/focus/law/articles_publications/publications/kenya_20070416/kenya_20070416.pdf
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www.soros.org/resources/articles_publications/publications/malawi_20060912/malawi_20060912.pdf

The report focuses on various donor efforts in the areas of justice delivery and rule of law, and seeks to enable Malawi to meet its commitments under the Constitutive Act of the African Union, the New Partnership for Africa's Development (NEPAD) and related African governance instruments. It identifies a number of key challenges, including:

- The need to ensure that all statutory and customary laws of Malawi are aligned to the Constitution and to international law;
- The urgent need to practically address the various challenges relating to the management of the justice sector that have been identified by the judiciary in its strategic plan, and affirmed through other initiatives;
- The need to ensure that judicial appointments are seen to be totally free of political manipulation at all levels;
- The reality that, while significant and commendable progress has been made in criminal justice reform, crime has been steadily increasing and that therefore strengthening of the prosecution service is of urgent concern and
- The need for various further reforms in the criminal justice system, including regard to legal guarantees of fair trial, and in terms of prison conditions.

Maru, Vivek. *Between Law and Society: Paralegals and the Provision of Primary Justice Services in Sierra Leone*. New York: Open Society Institute (October 2006).

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Sada, Ibrahim Naiya, Fatima L. Adamu, and Ali Ahmad. *Promoting Women’s Rights through Shari’a in northern Nigeria*. Centre for Islamic Studies, Ahmadu Bello University, Zaria. Written with the support of DFID Nigeria’s Security, Justice, and Growth Programme implemented by the British Council. Abuja.
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UN

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www.un.org/peace/peacebuilding/Country-Specific%20Configurations/Burundi/29May07%20-%20Chair's%20Summary.pdf

US Government Accounting Office

Ford, Jess T. “Report to the Committee on International Relations, U.S. House of Representatives: Foreign Assistance - U.S. Response to Transnational Crime Involving Sub-Saharan Africa.” Report No. B-285082. Washington, DC: GAO (April 2000).
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As stated by the article’s author:

One key effort of the U.S. response to transnational crime involving sub-Saharan Africa is to provide training and technical assistance to sub-Saharan African governments and law enforcement organizations. U.S. agencies focus their training and technical assistance on strengthening the "rule of law" in sub-Saharan Africa, which includes supporting legal, judicial, and law enforcement reform efforts. A total of \$146 million was spent on these activities during the period 1993 through 1998, primarily by USAID and the Departments of Justice and State.

...

U.S. Agency for International Development The agency provides training and technical assistance to improve the capabilities of judges, prosecutors, and public defenders. In conjunction with the Department of Justice and with the State Department's Bureau for

International Narcotics and Law Enforcement Affairs, USAID is currently planning a major new criminal justice initiative in South Africa. This program would work to strengthen the country's capability to prosecute and adjudicate cases.

GOA. April 2004. *Report to the Subcommittee on African Affairs, Committee on Foreign Relations, U.S. Senate: Foreign Assistance – U.S. Anticorruption Programs in Sub-Saharan Africa Will Require Time and Commitment*. Report No. GAO-04-506. Washington, DC: GAO. www.gao.gov/new.items/d04506.pdf

The study indicates that corruption in sub-Saharan Africa is pervasive, but assessing it is inherently difficult. According to country-level surveys and other information, households view corruption as rooted in the police, judicial system and health services, although perceptions of the most and least corrupt institutions vary by country.

Sub-Saharan African countries share some fundamental challenges that can give rise to corruption... [C]hallenges include low civil service salaries, a lack of transparency and accountability in government operations, ineffective legal frameworks and law enforcement, weak judicial systems, and tolerant public attitudes.

US anticorruption programs cover a spectrum of issues. In FYs 2001–2002, programs “focused on supporting civil society; encouraging legal, judicial, and regulatory reform; privatizing government functions; enhancing government accountability; supporting elections; establishing anticorruption agencies; and providing law enforcement assistance,” albeit limited due to “legislative restrictions on foreign law enforcement assistance.” Prospects for sustainability are unclear.

Lessons learned from anticorruption efforts include the importance of (1) political will from public and private leaders; (2) widespread public support; (3) programs tailored to country conditions; (4) multipronged efforts that incorporate prevention, education, and law enforcement; (5) access to government information; and (6) time and commitment to address the difficult nature of these problems.

Testimony before the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, House of Representatives. *Force Structure: Preliminary Observations on the Progress and Challenges Associated with Establishing the U.S. Africa Command*. Report No. GAO-08-947T. Washington, DC: General Accounting Office, July 15, 2008. www.gao.gov/new.items/d08947t.pdf