

“BRIDGING THE GAP”: BETWEEN THE RHETORIC ON “LOCAL OWNERSHIP AND ACCOUNTABILITY” AND ACTUAL PRACTICE

**Keynote Address by H E Dr Priscilla Schwartz**

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Excellencies, distinguished Ladies and Gentlemen good Morning. I bring you greetings from Sierra Leone.

I am delighted to deliver the keynote at this august session of the Knowledge Platform on Security and Rule of Law.

I must express my gratitude to the organisers for their thoughtfulness to invite me to share my reflection on the topic, but also, for their hospitality during our stay here.

I am to examine the rhetoric in the term and practice of ‘local ownership and accountability’ and “bridging the gap”. The topic is very timely and relevant especially in terms of the ambition of the 2030 Agenda and current trajectories.

I have just come back from the SDG Summit in New York. The Climate Summit received the most attention, but the SDG Summit was at least as relevant. Of course, we need a planet where we can live, but we also need societies where *we want to live*.

Permit me to note that, since the 2030 Agenda was adopted in 2015, this was the first time that the world has taken stock of where we are, how much progress has been made, and how much we have left to do. And we found that while we are making progress in many areas, we are backsliding in others. And we are not on track to achieve the goals we have set ourselves. That is why the declaration from the summit calls for a decade of action and delivery.

So, the discussion on the rhetoric of ‘local ownership and accountability’ in relation to actual practice and “Bridging the Gap” is inextricably linked to the question of how we can accelerate action and deliver on the SDGs, especially Goal 16. I hope my honest reflection on the subject will incite some sincere debate among the Security and Rule of Law community.

I have structured my address into four parts I will first introduce the issues of local or national ownership. This is set in context of the three gaps – data, financing and implementation, identified in the political declaration adopted at the SDG Summit; and as they relate to our field of interest - justice, security and the rule of law.

Next, I will expound on the importance and value of local ownership drawing from examples in my country Sierra Leone, to demonstrate how national leadership and national ownership are essential components of progress and transition toward stability, peace and development.

Then I will highlight the dilemmas and obstacles that impede 'local ownership'; and the final part will explain what mix of local and international ownership will produce sustainable gains in 'bridging the gap'

## 1. ISSUES OF 'LOCAL/NATIONAL OWNERSHIP'

Distinguished Ladies and Gentlemen,

The '*local ownership*' question derives from the criticisms of the international development practice that is dominated by western expertise and constructs of development; and it is driven by external actors to facilitate development and reform initiatives, which were rooted in the values and traditions of those actors, or do not adequately reflect local needs and dynamics.

It concerns an international legal system that categorises states by the extent of their economic wealth as developed and least developed; and institutions that certify the uneven relations by requiring the rich states to help develop the under-developed countries; the assumption being that the rich countries do not only have financial capabilities but also have all the answers.

It is further informed by the structure of research, commissioned usually to what I term "funded ownership", wherein the funders get the results they have paid for, and the research results and implementation are reflected through donor policy preferences. It is also as much about the divide between the international and the domestic on the one hand, and between the state and non-state actors on the other.

Joseph Stiglitz describes the problem of local ownership as "a vision of development in which all the answers and all the agency are seen to lie in the hands of foreigners".

'*Local ownership*' and accountability discourse therefore aims to address the inherent imbalance and uneven power relationship between international and local actors determined mainly by the financial strength of the rich countries who leverage the availability of funds to determine or influence reform priorities and strategies in especially the poor countries.

But pertinent to the '*local ownership*' discourse is the three gaps on data, financing and implementation, identified in the SDG Summit declaration, which I wish to invite you to consider. The data gap undermines our ability to understand the problem and evidence on what works to address prevailing injustices. According to the *Justice for All* Report, the global justice gap affects over 5 billion people who do not have meaningful access to justice. These include people who live in situations of extreme injustice such as war, modern slavery or statelessness; those who do not have their papers in order - no birth certificate, no ownership of their land or house, or no contract for their work. Based on this data, we can safely say that there is a huge gap between the justice that people want and need and the justice they receive.

The financing gap calls for serious investments to increase justice, because of its cross-cutting nature. For example, according to the OECD calculation, unresolved justice problems can cost countries between 1 and 3% of their GDP. In low-income countries like my own, it costs around 20 USD per person per year to provide those basic justice services. The predictions also estimate that low-income countries cannot reasonably bear those costs. This means that we will for the foreseeable future depend on our international partners for the investments we need to create a just society. So much for *'local ownership'*!

The implementation gap concerns solving people's justice problems and preventing them. It starts by empowering people and communities to act to tackle justice problems when they arise, to make services available to them that are responsive to their needs, and to find non-traditional approaches to solving justice problems.

Given the localised nature of the issues of *'local ownership'* and the data, financing and implementation gaps, the principle of *'local ownership'* emphasises the need for development policies, institutions and activities for reform of any sector in a given country to be designed, managed and implemented by domestic actors rather than external actors.

## 2. THE IMPORTANCE AND VALUE OF 'LOCAL OWNERSHIP'

Ladies and Gentlemen,

Today the principle of *'local ownership'* is viewed increasingly as a precondition for effective development assistance although the jury is still out on the case on practice. Albeit, reforms that are not shaped and driven by local actors are likely to face implementation challenges.

In my country for example, we experienced local ownership and leadership in the setting up of the UN Special Court for Sierra Leone. We were keen to have a special court designed for our local needs of justice. I was involved in the drafting of the statutes and agreement with the UN Office of Legal Affairs. We ensured that the court was situate in Sierra Leone as a hybrid system to run concurrently with our domestic courts which tried offences like rape and sexual and gender-based violence which was not taken up in international criminal tribunals at the time. The approach ensured judicial accountability to address impunity.

Also, in Sierra Leone, we realise the importance of the use of data to understand the problem of Justice at the national level. For example, we have commissioned a justice needs survey of the poor the vulnerable and marginalised communities. This will help us to allocate resources efficiently to address their needs and use evidence of what works to make programs. One such programme is to empower local community women to mediate over petty justice problems in their communities. And we have also commissioned studies on verification and harmonisation of customary law principles to make better use of our informal justice system.

Further, we are using web-based tools to track access to the local courts. The system revealed weakness in accessing justice, in that people had to walk over 18 kilometres to go to the nearest courts in the villages. This is unjust!

The gathering of this local data is relevant to people's lives; it is also crucial for accountability. The technology tells us whether what we're doing is working, and promotes accountability of both national and international actors, for the interventions and the investments they make.

Also, our government has recently concluded a broad-based consultation on the establishment of *the Independent Commission for Peace and National Cohesion*, whose mandate, "is to prevent future conflict and promote justice by addressing societal grievances as they arise." This will help to foster a culture of tolerance and inclusion in political discourse.

More importantly, we have developed our Medium-term National Development Plan -2019-2023 entitled "education for development". It was widely consulted on across the country and therefore has value for legitimacy and local ownership. The Plan incorporates the SDGs and the African Union Agender 2063. We have translated our commitment to improve human capital by providing Free Quality Education in schools and have allocated 21% of our budget to support it.

In relation to justice, the objective in the plan is to enhance human rights, the rule of law and access to justice for all. To implement this, we have opened a new directorate for access to justice within the Ministry of Justice as part of the institutional reform measures that will ensure collaboration and coordination with our partners, stakeholders and communities on access to justice issues and the justice needs of our people.

We are also planning on opening Justice Innovation Centre, which will enable the Ministry of Justice to use technology and data to inform policy-making on access to justice and to help us understand how people access and deliver justice.

### 3. DILEMMAS AND OBSTACLES THAT IMPEDE LOCAL OWNERSHIP.

Distinguished ladies and gentlemen,

I see it as my responsibility to understand what is necessary in my country and to identify the strategies and investments that are needed. But there are dilemmas and obstacles that can beset the trajectory of '*local ownership*' which I will now examine.

The first obstacle relates to agenda-conflict and difference in emphasis on priorities of donors and partners as against domestically constructed ones. For instance, we recently took measures to address the imbalance in service delivery of donor supported programmes through NGOs and CSOs and to monitor implementation of the National Development Plan.

After consultation with the relevant groups, we launched the development policy, which now requires NGOs or CSOs to register to a limited no of sectors based on competence and expertise in the sector. And we reserved the right to direct their intervention to areas away from the urban cities, to remote areas where data support the need. Interestingly, we received a backlash not from the NGO or CSO community, but quite surprisingly from the donors and partners. This reaction is undoubtedly connected with donor's alignment with their local partners' preference for whom they design specific framework to fit those preferences. Ladies and Gentlemen, this is skewed localisation of ownership, and accountability by-pass!

But the other side of this coin in the 'local ownership' and accountability rhetoric, is the dilemma of regime-ownership, where power politics influence decision-making to reform the formal institutions of government without engagement of other interest groups - individuals, communities and organisations to reflect national ownership. These reforms sometimes are triggered so that party supporters and local elites can be given positions and employment as rewards, at the expense often of professionalism, expertise and competence, and thereby to undermine institutional stability.

What shall I say about the breed of institutions that wholly support donor projects? These are donor-driven project implementation units that are in some government ministries. Domestic ownership could be justified in the sense that locals manage these reforms on behalf of the country. However, they are guided by donor 'no objection' policies and reporting procedures, and I dare say, their managerial commitment is not usually to deliver on the project for the country; but to serve the donor faithfully so they could obtain additional funding.

But what is more threatening is the link between 'local ownership', project implementation and corruption. The lack of transparency and by passing of national procurement rules and procedures by these institutions has meant that accountability at the domestic level is questionable. We have instituted three separate commissions of inquiry into corrupt practices and abuse of office of government officials and our Anti-corruption campaign is drastic. But accountability is a *hard sell* where government finds itself between 'the rock and a hard place', with donor threats of stopping funding if investigations are launched.

It may also seem that between donor funding and project implementation through these unit's in Ministries, a kind of '*reverse-ownership psychology*' exists. That is, where officials perceive that the project moneys, though disbursed to fund government projects do not belong to the people of Sierra Leone; and therefore, become target of corruption and mismanagement. Researchers may wish to investigate, this '*reverse local ownership psychology*'.

Another evidence of “local ownership capture” I could refer to existed in the administration of the UN Special Court. ‘*Local ownership*’ or interest in the institution was submerged to international actors and donor countries when funding became available to operationalise the Special Court. The result was that, the focus on the court remained mainly at the international level and the lack of ‘*local ownership*’ in decision-making on budgetary and operational matters of the court, the discontinuity in operations and the lack of adequate transition strategy meant that when the court was handed down to the country, it was vandalised by locals; and the 50 million dollar worth courthouses now stands an eye-saw in ruins.

The above -mentioned examples are not criticisms but are obstacles which are not suggestive of a dead end; but rather to throw a challenge to inspire vigilance and determination to assess whether our practices are within the Rule of Law and whether they are Just!

#### 4. “BRIDGING THE GAP”: MIXED LOCAL AND INTERNATIONAL OWNERSHIP FOR SUSTAINABLE GAINS

Distinguished ladies and gentlemen

My message is not all gloom. We can turn the rhetoric and gaps around. The question is, what mix of local and international ownership mechanisms or approaches will produce sustainable gains in bridging the data, financing and implementation gaps to promote the rule of law, security and access to justice for all?

First is through genuine local commitment, partnership and collaborative ownership: This requires working collaboratively on collective initiatives on access to Justice, including, in decision making, consultation, information sharing and with international actors, and governments, with civil society, the media, business, and the communities themselves, to avert human rights abuses and promote equal access to justice for all. An example of such effort is the work we have been doing as Co-Chairs with the governments of the Netherlands, and Argentina, and with the Elders, Pathfinders and the taskforce on justice to prepare the Report on Justice for all; and raise awareness on the justice gap, investment needs and preventative approaches to deliver justice that is people-centred.

Another method is ‘consensus-building ownership’: Here, we need to move beyond deep seated suspicions of donors and import some objectivity to proposals and methods of reform geared toward addressing common interest. In July this year, I chaired a conference of G7+ Justice Ministers from Conflict affected countries here in the Hague using this ‘consensus-building ownership’ approach. With the support of other partners, we were able to reflect on our common interest as conflict affected states, and take local ownership through commitments in a declaration and Joint action plan to address injustice and human rights issues in our respective countries.

Again, we should have a mixed local and international ownership through capacity building initiatives that go beyond technical training and resource transfer. We should avoid what I call “match-fixing capacity building”; that is, where a paradigm or model from one country’s reform is expected to work in the other or is transplanted without more. Instead the decision making should involve the political process on the kind of capacity that should be built, and what *capacity*-building needs should be prioritised.

Ladies and gentlemen,

A final consideration for ensuring a ‘mixed local ownership’, is the inclusion of informal systems of justice. There must be a willingness to distinguish harmful cultural practices from locally recognised customary principles in furtherance of the SDG 16 principle of inclusion. We should explore ways to reconcile formal and bureaucratic-institutional capacity with more local, community traditional sources of capacity, that are cost effective and efficient to address justice issues. We should avoid culture clashes, by using dialogue to solve problems instead of debates to win positions.

**In conclusion** Ladies and gentlemen,

The clock is ticking towards 2030, and we need to show, as a sector, that justice is just as critical a part of sustainable development as health and education.

I’ve spoken to you about the things we are doing in Sierra Leone and what we still have in store and the strengths and weaknesses of the local ownership.

There is more work to do internationally on data, on gathering evidence of what works and on making the case and mobilizing the investments that are necessary for success. These are the three areas where we must focus our efforts and where we must work together internationally over the coming years.

We must work together as partners, be willing to learn and we must live up to our ambitions. Our commitments, and our actions must be aligned with the truth in our hearts, with the question, why are we here? And each, answer your own question from the heart and let the purpose inspire your actions and commitments. Countries do not have hearts, but they have brave people who carry their hearts to defend the rights of the poor, the vulnerable, the disadvantaged and the oppressed in societies across the world. This is local ownership; this is accountability; and this is bridging the gap!

I thank you for your attention. May God bless your deliberations.

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