

Only the Law Can Restrain Trump

Populists keep winning because the system really is rigged. Reversing the global tide of authoritarian nativism requires making legal systems work for everyone.

BY [VIVEK MARU](#)

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When President Donald Trump and other populist leaders say the system is rigged, people know that it's true. Laws work well enough for the wealthy in developed and developing nations alike, but they provide few protections for the rights of poor people. Even "single-digit" millionaires in the United States, tech billionaire Peter Thiel recently [quipped](#), "have no effective access to a legal system."

Powerlessness brews alienation and anger. With billions of people around the world unable to fully exercise their rights, it is not surprising that some place their faith in demagogues who promise to turn the system upside down.

Thankfully, there is an alternative to authoritarian nativism: making institutions more equitable and accountable instead of abandoning them altogether. Last year, governments around the world committed to doing just that as part of the U.N.'s Sustainable Development Goals (SDGs) for 2030. Whereas the original Millennium Development Goals, set in 2000, totally ignored law and justice, this time the U.N. pledged to achieve "access to justice for all."

But the rhetoric of access to justice has not been backed up with action. On the day the SDGs were announced, most of them were accompanied by major financial commitments: \$956 million from the Bill & Melinda Gates Foundation and the British government for nutrition over the next six years; \$25 billion in public and private financing for a global strategy to improve health care for women and children. On access to justice, no one pledged a penny.

This is a universal quandary. Around the world, there is nominal acceptance of the idea that the law should be accessible to everyone, but very little money is put to that purpose. In the United States, legal aid spending grew during President Lyndon Johnson's War on Poverty in the late 1960s, but was crippled in the 1980s and early 1990s. Britain had one of the most robust legal aid systems in the world, but it was gutted during David Cameron's tenure as prime minister and is likely to be cut further under Theresa May's. Worldwide, the scale of legal support is dwarfed by the scale of the need. In 2008, the U.N. Commission on Legal Empowerment of the Poor [estimated](#) that 4 billion people live outside the protection of the law.

Legal aid differs from other basic services like health care and education in one key respect: It is about holding the powerful accountable. Unsurprisingly, the powerful are reluctant to pay for it. But there are ways to overcome this challenge.

First, making the law accessible requires creativity. Courts are slow, and lawyers are expensive. We know that it takes many layers of actors to deliver health care — not just doctors, but nurses, midwives, and community health workers. The same is true of justice. Well-trained, well-equipped “community paralegals” — sometimes known as barefoot lawyers — can show detainees how to file their own bail petitions or help farmers understand the terms proposed by a palm oil company that wants part of their land.

Lawyers are still essential — and litigation is a powerful tool when used sparingly and strategically — but an army of paralegals on the front lines is a nimble, cost-effective way to amplify the power of a small corps of public-interest lawyers.

Second, we need to look beyond the traditional justice sector to fund legal empowerment. Money dedicated to the justice sector goes almost entirely to state institutions: the police, the courts, and prosecutors. Only a tiny fraction is reserved for direct legal support to citizens — the vast majority of which goes to indigent criminal defense. (For Legal Aid South Africa, one of the finest legal aid systems in the world, criminal defense constitutes 93 percent of the case docket.)

Criminal defense is and should be a constitutional obligation in most countries, but it is far from the only one. Injustice touches every dimension of social and economic life — from employment to health care to housing. Most legal aid systems have little to offer slum dwellers who are illegally evicted or sick people who are asked for bribes in exchange for essential medicines.

Breaking the problem down by sector can open new sources of revenue. Take for example communities whose land is sought for mining or large-scale agriculture. Without legal support, these people often end up in unfair and environmentally irresponsible deals. In Sierra Leone, Namati, a legal empowerment organization I run, successfully argued that the mining and agricultural sectors should bear some of the cost of providing that legal support.

As a result, Sierra Leone’s new land policy requires mining and agriculture companies to contribute to a pooled fund that will pay for legal aid to land-dependent communities. The provision has not been implemented yet — and policy on paper doesn’t always translate into practice — but it will hopefully create a revenue stream for preventing exploitation.

We have had similar success with the cross-sector approach in Mozambique, where the legal aid budget is less than \$1 million a year but the health care budget is over \$1 billion, due in part to contributions from the Global Fund to Combat AIDS, Tuberculosis and Malaria and the U.S. PEPFAR program dedicated to HIV/AIDS. We run a **paralegal effort** there focused on helping people understand health policy and to seek remedies to breakdowns in health care delivery — when a health facility has no running water, say, or a nurse is chronically absent.

These paralegals receive no support from the national legal aid scheme, but major health care providers who partner with the government — like the U.S. Centers for Disease Control and Prevention and Doctors Without Borders — have begun to provide financing. Health care agencies see that when patients are better able to exercise their rights, investments in care are more likely to succeed. We estimate that paralegals focused on health care accountability could serve the entire country for less than 1 percent of the annual health budget.

This approach may not work in every sector. Environmental protection agencies are often as underfunded as those dedicated to legal aid, so they may not be able to invest in legal support for communities that experience environmental harm. And sectoral financing, like anything else, requires political will. But legal aid efforts aren't likely to reach scale if they don't secure at least some revenue from the specific institutions whose mandates they serve.

Third, it takes diverse revenue streams to make legal empowerment efforts resilient. Paralegals and lawyers need to be independent in order to hold government and the private sector accountable. Overreliance on any source of funding leaves legal aid groups vulnerable to interference or political whim. A healthy legal empowerment movement should draw on a combination of sources: multiple departments of the domestic government, international development agencies, foreign and domestic philanthropy, social enterprise (a paralegal office in Orange Farm, South Africa, for example, pays its paralegals out of revenue from a recycling business it runs), and contributions from clients and concerned citizens.

Finally, we should think bigger than serving one client at a time. Demystifying the law means enabling people to understand, use, and shape it themselves. The message shouldn't be, "I'll solve this for you," but rather, "We'll solve this together, and in the process we will both grow." Everywhere we work, we see clients applying what they learn from paralegals to solve new problems that arise and to help others do the same.

One of our clients is part of a group of coastal dwellers in Gujarat, India, who **persuaded the state government to take enforcement action against 53 factories** that were illegally dumping untreated effluent in the Kolak River. Later, he used what he'd learned from our paralegals to petition the Gujarat Pollution Control Board to address a pipeline leak he discovered in the same river. Today, he volunteers as a paralegal. If legal aid is construed narrowly as a retail service, we will miss these opportunities to create ripples of empowerment.

Moreover, data from the cases paralegals handle create a valuable map of how laws and systems work in practice — something that is not always evident. Paralegals and their clients can use that information to advocate for large-scale systemic changes. In Mozambique, we drew on data from over 1,000 cases to propose a policy for combating bribery in the health system. A systemic change like that affects the entire national population, not just the clients our paralegals are able to reach directly.

The gap between the powerful and the powerless is at the root of the trend toward authoritarian nativism around the world. In principle, the law has the potential to narrow that gap — by protecting against abuse and enabling people to shape their own lives. Legal empowerment groups have developed practical methods for making good on the promise of law. We will only play on the margins, though, unless we pull off another feat: securing durable revenue.

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