

APPLYING BAHA'I PRINCIPLES
TO THE
REFORM OF JUSTICE SYSTEMS

PRESENTATION BY

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INTRODUCTION

“IN LIGHT OF THE TEACHINGS...BAHA’IS SHOULD FEEL AN OBLIGATION TO BE ACTIVELY ENGAGED IN THE PROCESS OF THE TRANSFORMATION OF SOCIETY.”

The Universal House of Justice, 27 November 2001

I began my career in the administration of justice at the Judicial Council of California in 1973. For the next 20 years with two years out (79-81) for serving at the Baha’i World Center, I served as Director of the Administrative Offices of Courts for Kentucky and California, and as Chief Executive of the Federal Courts in the Ninth Circuit, consisting of 14 Western States and the Pacific Territories, which provided one fourth of the federal cases in the country. From 1992 to 2010, I formed a consulting firm, DPK Consulting, to focus on promoting the rule of law internationally.

Upon becoming a Baha’i in 1974, I found the Writings to be a treasure of guidance on how to address a myriad of challenging issues. Further, I discovered a coherence in how best to participate in the issues of the day. Applying the Teachings and principles of the Faith became my main focus over the course of the remainder of my career.

Today, I will draw on a few examples to illustrate this point.

CASE STUDY 1 PALESTINIAN TERRITORIES

“THE BEST BELOVED OF ALL THINGS IN MY SIGHT IS JUSTICE”

Baha'u'llah, “The Hidden Words”

The historic agreement called Oslo Accords (1993, 1995) signaled a major step towards a peace process between Israel and the Palestinian Territories. Israel had stipulated in the Accords that Palestine was to have a functioning justice system in place prior to its formal recognition as a state. My consulting firm, DPK Consulting, won the contract to build a justice system in Palestine (1999).

Over the course of the next 8 years much was accomplished even during a violent Intifada. The legal system in Palestinian territory consists of a mix of Egyptian, Iraqi, British Mandate, Jordanian, Israeli, and Israeli Military Court traditions and law. Prior to the elections in 2000, where Hamas won a majority in Gaza and had a major showing in the West Bank, the Palestinian Legislature was attempting to create a coherent statement of law considering these varied traditions. After the elections the Legislature ceased to operate.

Our mandate was to produce a functioning justice system and the institutions responsible for its functioning. Our approach was to first build a transparent statistical picture of the current state of affairs. We constructed a modern information system called Al Mizan, named after an Islamic philosopher. This system enabled us to have a clear picture of the current situation. It also enabled the trial courts to begin incorporating this IT system into their operations.

Simultaneously, we began a wide range of activities to strengthen institutions ranging from the Supreme Court to Notary offices and the Ministry of Justice. We established a judicial training Institute, began to reach out to tribal leaders, and developed new legal training methodologies and a curriculum on rule of law.

The chart below displays a broad range of activities that are relevant to the entire Palestinian community. How best to communicate/educate/inform the

community of these developments was a challenge. The quote from Baha'u'llah cited above came to mind. Creating visual imagery of concepts and activities became the focus of our efforts. We produced a movie that encapsulated these activities and accomplishments through a story where the audience could see all the values, practices and newly created institutions in action.

The movie was shown at all schools and repeatedly shown on national television. We learned from our follow-up that, indeed, the movie had been successful in communicating many of our achievements, and, more importantly, it helped create an image of a justice system the population could reasonably expect to serve the public.

Judicial Council	General	Ministry of Justice
Developed new departments, human resources, planning, media and public relations, court administration for Judicial Council, and trained 250 staff	Renovated 7 courthouses and 33 justice sector court facilities	Developed automated document management system in Ministry of Justice (MOJ)
Developed a national notification system, improving efficiency, reliability and speed	Designed and implemented a three-phase training program for all court staff	Established anticorruption department in Attorney General's offices
Developed automated Notary processes in Ramallah and Nablus	Established Palestinian Judicial Institute	Established uniform justice reporting system and Office of Justice Records in Ministry of Justice
Automated all court processes: Al Mizan	Rule of law summer camp for 1800 students	Established Gender rights unit in MOJ
Established first legal clinics in Palestinian Authority at Al Quds Law School in Jerusalem	Enabled citizens access to justice information; conducted nation-wide public opinion research on judicial system; distributed results throughout Palestinian Authority	Established Human rights unit in MOJ
Conducted national study on curriculum for civics education	Established rule of law awards program with Ministry of Education	Established forensics lab in MOJ and activated Institute of Forensic Medicine
	Established national creative writing program on rule of law	Activated use of alternative dispute resolution in MOJ

CASE STUDY 2 JORDAN

“THE HAPPINESS OF MANKIND WILL BE REALIZED WHEN WOMEN AND MEN COORDINATE AND ADVANCE EQUALLY”

‘Abdu’l-Baha, The Promulgation of Universal Peace (part1), p. 135

In 2004, my consulting firm, DPK Consulting, won a contract to modernize the Jordanian judicial system. Our approach was to consult with Jordanian justice officials about how best to modernize this process. The King had made numerous statements about his desire to see the state modernize. While his words and especially those of his wife were highly focused on making profound changes in the country, they did not specifically call for women to be named as judges. At that time, the Jordanian judicial system was largely male (97%); familial, cultural and political affiliations were the dominant factors in the Judicial Council’s selection of judges.

We approached the matter of inequality indirectly. After presenting a paper detailing how many countries around the world approached the appointment of judges based on merit, the judicial officers agreed for us to develop a merit-based approach.

In the background of this discussion was the virtual impossibility for women and persons of Palestinian descent to gain access to judicial positions. We did refrain from discussing this situation, because we wanted to avoid conflict and knew implicitly that developing a merit-based process would most likely open heretofore closed doors.

Working with a committee of judges our team developed an exam for graduating secondary students. Graduates from secondary school go directly to a Judicial College prior to being considered for appointment to a judgeship. So, we developed another exam for graduates of the Judicial College to be considered for appointment to a judgeship.

We had understood from consulting with women educators in Jordan that women were far and away the best students in secondary school and university. The first exam results proved this claim correct as over 65% of the successful applicants for entering the Judicial College were women. In addition, 30 plus percent of the successful applicants came from a Palestinian background.

Our first major challenge came when a member of the family of a Supreme Court Justice failed to pass the exam and could not gain a judgeship, a controversial result. A few justices made demands to reverse the course of this reform. The King and Queen both intervened to show support for the reform. Today women make up 28% of the judiciary! Although specific figures for the number of judges of Palestinian descent are not available, we were advised there has been a dramatic increase in their number. In addition, more judges of Kurdish and Turkish descent have been appointed.

The entrenchment of historic and cultural bias is very difficult to overcome. Our approach has been to look for those individuals who are risk takers to make the changes. The rule of one third comes into play here. One third of every group tends to be open to making change while fully one third opposes.

An interesting side note is that we transferred the same software system, Al Mizan, developed in Palestine, to the Jordanian justice system. It was a novelty for something created in Palestine to make its way to Jordan and not the other way around.

In addition, we created several NGO's to represent women in legal matters. They are still thriving.

CASE STUDY 3 DOMINICAN REPUBLIC

“NOBLE HAVE I CREATED THEE, YET THOU HAST ABASED THYSELF”

Baha’u’llah, “The Hidden Words”

In the early 2000’s the Dominican Republic, like all other countries in Latin America except Brazil, was engaged in implementing the most significant justice reform effort in the history of the entire region. The centerpiece of the reform was the adoption of a new criminal code of procedure that incorporated oral procedures, the right to confront accusers, and a presumption of innocence, to name the most salient aspects of the reform.

Chief Justice Subero Isa found himself virtually alone in leading the reform effort. He requested we aid him to build a coalition of supporters to carry on the enormous effort required to implement the reform. After some consultation our team decided to conduct a public opinion survey to gain more insight into the current public view on justice.

The findings of the survey were damning and contained a deep sense of frustration and rejection of the people working in the justice sector. We asked the organization that conducted the survey to find a way to communicate the findings using the arts, rather than writing the usual report. It has been my experience in working with justice officials in reform efforts that they are quick to put up walls to information that does not comply with their own views. We had to find a way to circumvent this kind of response. We had to get to “their hearts, not their heads”.

The NGO decided to write a “rap” using the very words they heard from the public opinion survey. We told them not to change any of the words, concepts or emotions they heard, but rather communicate fully what they found.

When the findings were presented, the entire Supreme Court was in attendance, as was the Attorney General, the public defender, and other high-ranking court

officials. The presenters said these are the views of your neighbors, teachers of your children and family members. With tears streaming down his face, the Chief Justice heard words of condemnation and disgust about the justice system he led.

He turned to me and asked if we could immediately take steps to rectify this situation. We asked him to appoint a high-ranking commission to work with us. I proposed the Commission come to California, where we could investigate other justice systems to gain some insight about the steps that could be taken in the Dominican Republic.

During a visit to a trial court, members of the Commission noticed how each employee they interviewed had a sense of ownership and commitment to their duties as officials of the justice system. We shared with them the emphasis placed on personal integrity for all those who serve in the system, whether judge or clerk.

I shared the above quote from the “Hidden Words” of Baha’u’llah about nobility. We discussed how we could incorporate these words into a strategy in the Dominican Republic going forward. At this point the Commission members reflected that participants in their justice system did not seem to have the same kind of “ownership” or “commitment” as they had witnessed in California.

Returning to Santo Domingo, the members of the Commission concluded that in their new approach to reducing corruption they would emphasize the positive aspects of human development, not the negative. We indicated the antidote to corruption is integrity. We suggested focusing on a strategy that cultivates integrity.

In 2008 DPK helped the Dominican Republic develop and implement a comprehensive strategy based on DPK’s “Integrity Model”. Viewing the great impact this model had on the personal and organizational behavior of the entire judicial system, the public changed its opinion.

Institutional integrity shifts the paradigm for anticorruption and good governance from a negative one – prevention, control and punishment – to a positive one – commitment to excellence in performance and public service, where leadership

and staff are guided by a common purpose, high performance standards and shared ethical values.

Today this same model is being used in governmental entities in the Dominican Republic, El Salvador, Mexico, and Peru.

“Only if you perceive honor and nobility in every human being, independent of wealth or poverty, will you be able to champion the cause of justice”

The Universal House of Justice, Ridvan 2008

CASE STUDY 4 RACE AND ETHNIC BIAS

“CLOSE YOUR EYES TO RACIAL DIFFERENCES, AND WELCOME ALL WITH THE LIGHT OF ONENESS”

Baha'u'llah, as quoted by Shoghi Effendi in the “The Advent of Divine Justice”

In 1974-75 I was responsible for conducting a study on behalf of the Judicial Council of California on the language needs of the non-English speaking populations in the justice system in California. In California school age children speak over 250 different languages. We held public hearings across the state in six different cities and regions. The study documented the many and varied difficulties faced by this disparate and diverse population in every phase of the justice system and led to the adoption of a comprehensive interpreter program for all justice agencies. The U.S. Congress adopted much of the same California law for federal courts.

The Judicial Council of California also conducted the largest study in the history of the U.S. justice system on gender bias. The success of that effort enabled us to propose a comparable study on race and ethnic bias in the justice system.

The traditional focus of such a study would be to look for all the inadequacies and injustices in the system. We tried to instill in the Commission appointed to conduct the study the need to also look for those examples where people of diverse ethnic and racial backgrounds were actually cooperating and working together. This approach of looking for the positive, we have found, has the beneficial effect of reaffirming those examples that demonstrate the effectiveness and qualitative difference in human interactions.

In my experience change comes more from the discovery of new patterns of interaction than from citing the negative. I learned this from a study carried out by the National Spiritual Assembly of the Baha'is in the United States.

The distinctive nature of the Baha'i approach is to avoid conflict and the contest for power. By focusing on the moral and spiritual principles established by the founders of the Baha'i Faith, new patterns of human interaction are encouraged.

The approach of this pioneering study was to investigate and identify patterns of collaboration and collective effort between and among individuals and groups of different races and religion. This strategy was stimulated by the research that found many thousands of articles on racism but very few on race amity.

We applied the principle enunciated by 'Abdu'l Baha: "If a person has 10 bad qualities and one good one, look at the good one." Rather than focusing on the evidence of racism, we looked for examples that could show a pathway to the future. The effort was titled "Models of Race Unity".

The results were overwhelming. Working with the Human Rights Commission of Chicago, we were able to document hundreds of examples of communities of vastly different backgrounds joining together to work for a better community. Over 50 Baha'i communities across the U.S. conducted similar efforts, placing the Baha'i community in the forefront of promoting race amity in the country. This effort was met with intense skepticism from university scholars and others who were and are heavily invested in the other approach, namely, a focus on racism.

Coming out of this effort was the creation of the National Center for Race Amity, an initiative sponsored by a Baha'i.

Using the experience of Models of Race Unity, I proposed to the Judicial Council of California the creation of the State Committee on Race and Ethnic Bias. The Committee operated for 10 years and made enormous contributions to judicial and staff education, modifications in laws, and awareness training for all levels of the justice system. In the words of retired Justice of the California Supreme Court Ming Chinn, who served for all those years on the Committee, "It was the most rewarding experience of my career".

CONCLUSION

I offer you these experiences to illustrate how the Teachings have been applied across a wide spectrum of circumstances. My highest hope is that these experiences serve as a stimulation for more individual and organizational initiatives applying Baha'i teachings in the justice systems of the world.