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## The Fragility of a Culture of Lawfulness

**Abstract:** The concept of a culture of lawfulness is appealing for its aspirational and open-ended nature. However, the concept still has to prove itself as a concrete basis for action. The article argues that the practical value of that concept lies in its promise to create a fresh common narrative to support a broad range of human-rights inspired and democratically derived justice reforms. The authors reflect on what makes a culture of lawfulness possible, how it always remains fragile, and how one might recognize signs that it is under attack. A culture of lawfulness is based on the genuine willingness of government officials and members of society to hold themselves and one another accountable to the law, which requires a certain level of trust and confidence in justice institutions and their ability to protect everyone from injustice and insecurity. The article emphasizes the role of justice reforms in sustaining such a culture. Law reform initiatives and the strengthening of justice institutions play a central role in fostering and shouldering a culture of lawfulness, particularly when such reforms are not limited to capacity building measures but also address the more fundamental need for greater fairness, accountability, transparency, and inclusiveness. What is a grave concern in many societies is the political failure to defend the rule of law and to proceed with the necessary justice reforms to ensure fairness, transparency, and accountability. One of the most important tasks today is to consolidate the culture of lawfulness wherever it has taken root.

**Keywords:** trust and confidence, rule of law, justice reform, cooperation, culture of lawfulness

## 1. Introduction

In the Doha Declaration of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (Qatar, 2015)<sup>1</sup>, Member States made a commitment to promote a culture of lawfulness based on the principles of the rule of law and the protection of human rights. What is meant exactly by a “culture of lawfulness” is left open to various interpretations and misinterpretations. For some, it refers to a culture based on trust and respect for justice institutions, the law, and law enforcement. For others, it may be equated to obedience to the law, whether out of habit, fear, or self-interest. A definition of that concept, like that of the rule of law itself, remains elusive. The concept is appealing, in part because of its aspirational and open-ended nature, and perhaps also because of its indeterminacy. So far, it has proved itself more useful as an expression of a vision than as a basis for action. The concept may yet have to prove its usefulness, but the discussion continues and will most likely advance during the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice (Kyoto, Japan, 2020)<sup>2</sup>.

The practical value of that concept, to the extent that there is one, lies in its promise to create a fresh common narrative to support a broad range of human-rights inspired and democratically derived justice reforms. The concept rests on several equally vague but important notions, such as access to justice, accountability and transparency of criminal justice institutions, security, public safety, and fairness in the administration and delivery of justice. Each one of these notions may, in its own right, stand as a pillar of a culture of lawfulness.

For Professor Godson, a culture of lawfulness is a “culture sympathetic to or supportive of the rule of law”:

“A culture of lawfulness means that the dominant or mainstream culture, ethos, and thought in a society are sympathetic to the rule of law. In a society governed by the rule of law, people have the ability to participate in the making and implementation of laws that bind all the people and institutions in society, including the government itself. It is not the same as rule by law in which the rulers – even if democratically elected – impose the law on others in society”<sup>3</sup>.

A culture of respect for the rule of law must rest on an open and fair government, where the law is perceived to be both fair and fairly enforced, and those governed

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1 A/RES/70/174, annex, para 10(c), Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, 8.01.2016, <https://undocs.org/A/RES/70/174> (15.06.2018).

2 See: E/CN.15/2018/CRP.1, Discussion Guide for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice.

3 R. Godson, Guide to Developing a Culture of Lawfulness, “Trends in Organized Crime” 2000, vol. 5, no. 3, p. 91.

have access to an impartial system of justice and to a check on government. People must somehow be persuaded to follow the rules for the greater good.

Not everyone needs to agree with the rule of law for a culture of lawfulness to subsist, but enough people must have adopted an internal narrative, or as H. L. A. Hart first suggested in *The Concept of Law*<sup>4</sup>, an “internal point of view”, that supports a belief that the law is legitimate and must be obeyed. People must believe that the law and its enforcement have legitimacy, whether this is because they believe in the divinity of the king, the need for a stable system, the values of parliamentary democracy, the importance of human rights, or the need to protect their self-interests. The fewer people there are who are willing to share such a narrative, the more probable lawlessness and conflict are and the more necessary the use of threat or force becomes in order to maintain the legal system.

The promotion of a culture of lawfulness is not just about a belief in a working legal system, but also a belief in a legal system that incorporates, at a basic level, such normative concepts as justice and access to justice, fairness, human rights, and judicial neutrality and independence. This sounds great and appears to be a big step up from tribal culture, the world of the strongman despot, or the chaos of many a third-world country, but as H. A. Bassford<sup>5</sup> observed, we are still dealing in popular beliefs and these can be easily thwarted or manipulated, particularly in the “post-truth” world.

A culture of lawfulness is a culture of confidence or trust in the law, the political order it reflects, and the social order it supports. As a result, observers have emphasized the role of political discourse, education, and the media in shaping the myths, attitudes, and beliefs that enable such a culture. This short article reflects on what makes a culture of lawfulness possible, how it always remains fragile, and how one might recognize signs that it is under attack. It also emphasizes the role of justice reforms in sustaining such a culture.

## 2. A foundation for cooperation

The idea of a culture of lawfulness, which to some of us is perhaps a little more than a feeble expression of a political aspiration, may in fact have a much greater heuristic value than anticipated. It may provide a conceptual window into the study of human cooperation and an understanding of successful societies, political organization, and effective governance. We should not lose sight of the fact that a culture of lawfulness is indeed a “culture of cooperation” based on beliefs that people hold, construals they share, and assumptions they are willing to make about the social order, authority, the rule of law, and their own relationship to self, others,

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4 H. L. A. Hart, *The Concept of Law*, Oxford University Press, Oxford 1961, p. 56.

5 H. Bassford, *Advancing a Culture of Lawfulness*, Unpublished 2017.

and the world. As Harari explains, beliefs and fictions are the essential foundations of social order. Myths are what gives humans the unprecedented ability to cooperate flexibly in large numbers<sup>6</sup>.

To the extent that one can assume that “intersubjective myths”<sup>7</sup> (or shared narratives) provide the foundation of human society and undergird the social order, one can also assume that a culture of lawfulness is founded on shared narratives (or myths) about the usefulness, fairness, impartiality, and ultimate legitimacy of the law and the justice system. It is the expression of how we collectively conspire to build and maintain the social fabric, to legitimize our own and each other’s action, and to make cooperation possible on a large scale.

A question that constantly confronts us, however, is whether these narratives are strong enough to tame the lawless pursuit of personal and tribal interests and resilient enough to resist the shock of events or the appeal of counter-narratives that undermine the legitimacy of the legal order? A culture of lawfulness always remains vulnerable precisely because it relies on shared narratives that maintain their compelling value for only as long as people believe in them. We may then ask: what are the main threats today to these key narratives?

### 3. Assaults on the rule of law

Much is being written these days about the renewed perils to which democracies are exposed, including autocracy’s global ascendance and the rising support for authoritarian and xenophobic populist movements that are openly contemptuous of the rule of law<sup>8</sup>. It may not be an exaggeration to refer to some current trends around the world as an impending crisis of legitimacy and a serious threat to our institutions. A deconsolidation of the rule of law and a gradual suffocation of a culture of lawfulness is more than a theoretical possibility. In the kind of “illiberal democracies” described by Fareed Zakaria<sup>9</sup>, the culture of lawfulness quickly runs out of oxygen as

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6 Y. N. Harari, *Homo Sapiens*, Signal Books, Toronto 2015, p. 25.

7 Y. N. Harari (supra note) explains that our modern institutions function on the basis of the “common myths” shared by most of us. The “common myths” are what makes cooperation on a large scale possible.

8 For example, S. Levitsky, D. Ziblatt, *How Democracies Die*, Crown, New York 2018; R. Inglehart, *The Age of Insecurity: Can Democracy Save Itself?*, “Foreign Affairs” 2018, vol. 97, no. 3, pp. 20-28; Y. Mounk, R. S. Foa, *The End of the Democratic Century: Autocracy’s Global Ascendance*, *Foreign Affairs*, 2018, vol. 97, no. 3, pp. 29-38; Y. Mounk, *The Undemocratic Dilemma*, “Journal of Democracy” 2018, vol. 29, no. 2, pp. 98-112; R. S. Foa, Y. Mounk, *The Democratic Disconnect*, “Journal of Democracy” 2016, vol. 27, no. 3, pp. 5-17; D. Frum, *Trumpocracy: The Corruption of the American Republic*, Harper, New York 2018.

9 F. Zakaria, *The Rise of Illiberal Democracies*, “Foreign Affairs” 1997, vol. 76, no. 6, pp. 22-43.

the populist ruling factions display a contemptuous readiness to attack independent institutions, undermine the rule of law, and violate the rights of minorities<sup>10</sup>.

People can have an abstract allegiance to the rule of law, while simultaneously rejecting many key norms and institutions that have traditionally been regarded as necessary elements of that principle of governance. People who once accepted the rule of law as an essential pillar of democratic governance can become more open to authoritarian alternatives. In many countries, a growing proportion of the population doubts that justice institutions governed by the rule of law and guided by a commitment to human rights can deliver on their most pressing needs and preferences. Norms and rules that were once binding on the political process are slowly losing their power to compel compliance. Therefore, if we are to understand any fluctuations in the relative strength of a culture of lawfulness, we must try to understand the ways in which people's conception of the rule of law and confidence in justice institutions are changing.

As former president Barack Obama wrote, we all have an interest in "intrusting our liberty to a justice system that remains true to our highest ideals"<sup>11</sup>. But, all of us need to be reassured about the trustworthiness of that system, particularly when it deviates from these ideals.

#### **4. Credible and trustworthy justice institutions**

A culture of lawfulness is based on the genuine willingness of government officials and members of society to hold themselves and one another accountable to the law. That obviously requires a certain level of trust and confidence in justice institutions and their ability to protect everyone from injustice and insecurity<sup>12</sup>. Public trust helps to lower the transaction costs in a society, for instance, by improving compliance with laws, rules, and regulations. Public confidence in institutions, including justice institutions, is a most important foundation upon which the legitimacy, credibility, and sustainability of governance is built. What happens when public trust is shaken, eroded, or otherwise lost?

Public trust is always hard earned, but it can be very quickly undermined (sometimes even by a single event). Many observers have become increasingly conscious of the fact that public trust in institutions is particularly at risk in a post-truth world in which objective facts are less influential in shaping public opinion than emotional appeals and personal beliefs. Some have argued that we are witnessing

10 Y. Mounk, The Undemocratic Dilemma, "Journal of Democracy" 2018, vol. 29, no. 2, pp. 98-112.

11 B. Obama, The President's Role in Advancing Criminal Justice Reform, "Harvard Law Review" 2017, vol. 130, no. 3, p. 815.

12 See: L. McKay, Toward a Rule of Law Culture – Exploring Effective Responses to Justice and Security Challenges, U.S. Institute for Peace, Washington, D.C. 2015.

a transfer of public trust from institutions to other social entities that sprout rumours, untruth, and misinformation, and validate our fears instead of challenging them<sup>13</sup>.

This is reflected, for instance, in Edelman's Trust Barometer<sup>14</sup>, which monitors changes to what it refers to as the "ecosystem of trust". In its most recent report, Edelman Intelligence observed that the world is in a new phase of lost trust associated with people's unwillingness to believe information and propensity to live in their own self-curated information bubbles where they only pay attention to that with which they agree<sup>15</sup>. The Barometer identifies the media as the least trusted institution<sup>16</sup>.

"The consequences of a loss of belief in reliable information are volatility, societal polarization, and an ebbing of faith in society's governing structures, slowing economic growth and tempting leaders to make short-sighted policy choices"<sup>17</sup>.

The credibility of experts which essentially lies on a foundation of respect and trust is also in jeopardy. As Nichols reminds us, "when that foundation erodes, experts and laypeople become warring factions"<sup>18</sup> and democracy and the rule of law become casualties. This loss of trust is dangerously undermining the moorings of justice institutions and the rule of law.

In Canada, a recent public opinion survey highlighted the considerable value that most Canadians place on accuracy, reducing the chances of erroneous convictions, along with clear and transparent rules and guidelines, and the promotion of trust and confidence in the system<sup>19</sup>. A system that is timely and promotes respect for the law is also seen as important by about three out of four Canadians. The survey also identified factors that hamper trust in the system, including perceived targeting of vulnerable segments of the population, delays in the system, and inconsistent sentencing, among others.

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13 Y. N. Harari, *Homo Deus*, Signal Books, Toronto 2016.

14 R. Edelman, 2018 Edelman Trust Barometer – Annual Global Survey, 2018, [http://cms.edelman.com/sites/default/files/2018-02/2018\\_Edelman\\_Trust\\_Barometer\\_Global\\_Report\\_FEB.pdf](http://cms.edelman.com/sites/default/files/2018-02/2018_Edelman_Trust_Barometer_Global_Report_FEB.pdf) (1.05.2018).

15 In a similar sense, in *The Closing of the American Mind*, Allan Bloom (1987) referred to this as "facile relativism", meaning that everyone holds their own values— often based on where they derive a sense of belonging and worthiness— yet we often perceive it as socially unacceptable if/ when others challenge our values.

16 *Ibidem*, p. 40. According to this report, globally, nearly seven in ten respondents of the global survey worry about fake news or false information being used as a weapon.

17 R. Edelman, *The Battle for Truth*, in Executive Summary – 2018 Edelman Trust Barometer, London 2018, [http://cms.edelman.com/sites/default/files/2018-02/2018\\_Edelman\\_TrustBarometer\\_Executive\\_Summary\\_Jan.pdf](http://cms.edelman.com/sites/default/files/2018-02/2018_Edelman_TrustBarometer_Executive_Summary_Jan.pdf) (1.05.2018).

18 T. Nichols, *How America Lost Faith in Expertise and Why That's a Giant Problem*, Foreign Affairs, vol. 96, no. 2, March/April 2017, p. 71.

19 EKOS, *National Justice Survey: Canada's Criminal Justice System*, A Report Submitted to the Department of Justice Canada, EKOS Research Associates., Ottawa 2017.

Social science research has found that people's trust in the justice system and the law, including their willingness to be bound by the law, is related to their perception of the fairness of these institutions, in particular the police. Under this conception, it follows that perceptions of police fairness are associated with a citizen's willingness to report crimes, share details about criminal activity, and voluntarily comply with the law. But fostering confidence in the police and justice institutions is a complex matter. It involves taking steps to ensure that the police forces are committed to serving and protecting the community without discrimination, that they reflect the community they serve, and that they are transparent and effectively accountable for their actions.

Perceptions of police use of procedural justice are connected to processes of social identity and collective belonging, which coalesce around a sense of community that is implicated in the wider national context<sup>20</sup>. In general, studies have shown that expressive concerns of neighbourhood disorder, social cohesion, and instability are regarded as more influential in shaping public perceptions of the police, compared to instrumental judgements, such as police performance, fear of crime, and victimization<sup>21</sup>. Trust-building processes can be strengthened by fostering community ownership and engagement with local police, ensuring all voices are heard in decision-making processes, and developing partnerships with local agencies<sup>22</sup>.

## 5. Challenges ahead

One of the most important tasks today is to consolidate the culture of lawfulness wherever it has taken root. Beliefs in the rule of law and in justice institutions wax and wane. But sometimes these fluctuations must be taken seriously as they reveal a crack in the very foundation of that culture. Political leadership and action are required but are not always forthcoming.

What is a grave concern in many societies is the political failure to defend the rule of law and to proceed with the necessary justice reforms to ensure fairness, transparency, and accountability. A second political failure consists of

20 B. Bradford, Policing and Social Identity: Procedural Justice, Inclusion and Cooperation between Police and Public, "Policing and Society" 2014, vol. 24, no. 1, p. 4.

21 For example, B. Bradford, A. Myhill, Triggers of Change to Public Confidence in the Police and Criminal Justice System: Finding from the Crime Survey for England and Wales Panel Experiment, "Criminology and Criminal Justice" 2015, vol. 15, no. 1; J. Jackson, B. Bradford, M. Hough, P. Quinton, T. R. Tyler, Why Do People Comply with the Law?: Legitimacy and the Influence of Legal Institutions, "The British Journal of Criminology" 2012, vol. 52, no. 1; J. Jackson, B. Bradford, Crime, Policing and Social Order: On the Expressive Nature of Public Confidence in Policing, "British Journal of Sociology" 2009, vol. 60, no. 3.

22 K. Hohl, B. Bradford, E. Stanko, Influencing Trust and Confidence in the Metropolitan Police: Results from an Experiment in Testing the Effects of Leaflet-Drops on Public Opinion, "British Journal of Criminology" 2010, vol. 50, no. 3.



misrepresenting the nature of rule of law. As Brown and Quilter observed, a common mistake or misrepresentation “is to frame rule of law principles as individual interests, to be balanced against public and social interest”<sup>23</sup>. A third and all too common mistake is to ignore the growing public disenchantment with law enforcement and justice institutions and to allow it to degenerate into a full-blown institutional crisis of legitimacy.

We must also consider the relative failure of societies to deal with corruption, nepotism, conflicts of interests, and impunity. We must understand what a culture of lawfulness entails in terms of addressing these grave failures of governance. The 2030 Agenda for Sustainable Development presents the fight against corruption and the creation of effective, transparent, and accountable institutions as essential elements to achieve sustainable development. The agenda’s authority is derived from the claim that it reflects a “world commitment”. In the words of the Executive Director of the United Nations Office on Drugs and Crime: “We believe that the best way to achieve the peaceful, corruption-free and inclusive societies the world needs for sustainable development is to ultimately promote a culture of lawfulness”<sup>24</sup>.

In post-conflict situations especially, a culture of lawfulness based on credible, fair, and effective justice institutions is a pre-requisite to peace-building. Similarly, access to justice helps to consolidate peace by creating the necessary conditions for people to resolve grievances which might otherwise lead to broader social conflicts. To break the cycles of insecurity, legitimate institutions are needed in order to provide a level of citizen security and access to justice, punish infractions fairly and capably, and offer a stake in society to groups that may otherwise receive more recognition from engaging in armed violence than in lawful activities<sup>25</sup>. In these and in other contexts, justice institutions are easily discredited by incidents of corruption, evidence of impunity, or the experience of failed reforms.

Finally, there is the political and institutional failure to address legitimate grievances and collective claims of victimhood. Effective responses to various grievances and often competing claims of victimhood play a role in maintaining social cohesion. Would anyone bother to affirm a grievance or ask for redress (even if only symbolically), if one did not subscribe at some level to the culture of lawfulness? The study of intergroup transgression and group claims to victimhood is interesting. Collective victimization is the infliction of harm on one group by another, a frequent enough social occurrence. Collective victimhood, the psychological experience and

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23 D. Brown, J. Quilter, *Speaking Too Soon: The Sabotage of Bail Reform in New South Wales*, “International Journal of Crime, Justice and Social Democracy” 2014, vol. 3, no. 3, p. 85.

24 Y. Fedotov, *If We’re to Truly Beat Corruption, We Need to Instill a Culture of Lawfulness Today* – Opinion Editorial by the Executive Director of the United Nations Office on Drugs and Crime, 9.12.2016, <https://www.unodc.org/dohadecclaration/news/2016/12/if-were-to-truly-beat-corruption--we-need-to-instil-a-culture-of-lawfulness-today.html> (1.05.2018).

25 World Bank, *World Development Report 2011*, Washington (D.C.) 2011, p. 8.



consequences of the experience of being targeted as members of a group, can have powerful effects on the group identity, cohesion, and acceptance of the prevailing social and legal order. The aggrieved group's need to have their victimization acknowledged. A social acknowledgment of the claim increases conciliatory attitudes, trust, and willingness to make concessions within that group<sup>26</sup>.

## 6. Recognizing the signs

There are behavioural warnings that a culture of lawfulness is under threat or is about to run out of oxygen. The following list is not exhaustive, but it identifies signs that are both nearly infallible and easily recognizable.

- The rejection of, open contempt for, or weak commitment to the rule of law by the elite and political leaders;
- The public denial of the legitimacy and authority of justice institutions;
- An abdication by leaders of political responsibility for the weaknesses of justice institutions;
- Exceptions to the principles of the rule of law are normalized;
- Support is expressed publicly and in the media about repressive practices, abuses or authority, and discrimination;
- Evidence is fabricated to justify unlawful police intervention;
- Praise is commonly offered to law enforcement and justice officials who justify their disrespect for the law based on public security or expediency arguments;
- Political leaders refuse to publicly condemn incidents of abuse of power by law enforcement and other authorities;
- The media play on and reinforce public impatience with due process of law;
- Law enforcement and justice institutions disregard the need for public support;
- Evidence of diminishing public support for, and confidence in, justice institutions;
- Willingness to use the criminal justice system against political rivals;
- Abortion of major law reform initiatives or failure to implement them;
- Tolerance of corruption of public officials as something inevitable;
- Lack of transparency with respect to the functioning of justice institutions;
- Dubious or suspicious appointments (nepotism, corruption, traffic of influence, etc.) to key positions in the justice system;
- Widespread tolerance of impunity and use of amnesty and pardons in cases of abuses of power or obstruction of justice;

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26 M. Noor, J. R. Vollgardt, A. Mari, A. Nadler, *The Social Psychology of Collective Victimhood*, "European Journal of Social Psychology" 2017, vol. 47, pp. 121-134.

- Retaliations against whistleblowers;
- Prosecution or imprisonment of political opponents.

Any society that neglects to take seriously any combination of a few of these signs may have already given up on building a culture of lawfulness.

## **7. The promises of justice reform**

How do we make sure that the law remains relevant to people, true to their aspirations, and aligns with their values? Law reform initiatives and the strengthening of justice institutions usually play a role in fostering and shouldering a culture of lawfulness, particularly when such reforms are not limited to capacity building measures but are also addressing the more fundamental need for greater fairness, accountability, transparency, and inclusiveness.

It is time for a reflection on the process and challenges of justice reform and its frequent failures, particularly in an age of disruption, rapid changes, and competing claims to legitimacy. Law reform most often serves to restore the authority and legitimacy of the justice system. The law reform process, however, by making the justice system appear responsive and procedurally fair, can side-line and distract from the need to redress systemic problems<sup>27</sup>. A wider vision for justice reform is required.

Public expectations of law enforcement and the criminal justice system are steadily increasing and not totally realistic. Public safety is a commodity in high demand and the criminal justice system is struggling to define its own responsibilities and its limits in that regard. In this context, justice reforms are always problematic, and their success often remains uncertain. Most people do not have direct experience with the justice system. The only information they have about that system comes from information media and, increasingly, social media. The media representations are obviously subject to various forms of manipulation, but they nonetheless shape public attitudes and beliefs about the justice system and the impact of justice reforms.

Reforms often become embroiled in what is too easily dismissed as “law and order politics”, where the facts matter less than opinions, where opinions are shaped by sensationalized and often disingenuous accounts of flash-point events. In a post-truth society, where knowledge and understanding are generated by unaccountable sources and when pseudo-facts are repeated with little regard for their veracity, it is very difficult for law reformers to manage the debates that are so essential to effective reforms.

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27 T. Anthony, P. Crofts, Limits and Prospects of Criminal Law Reform, “International Journal for Crime, Justice and Social Democracy” 2017, vol. 6, no. 3, p. 4.

All in all, law reform is a fairly weak instrument of cultural change (either within the system or in society more generally). The law can never move too far ahead of social values, culture, and shared popular beliefs. Fundamental reforms that seek to redress social inequalities and promote greater fairness require broader social as well as legal change. Many reforms “fail because they are imposed on an unreceptive audience”<sup>28</sup>. Understanding public views and the nuances of public sentiment toward crime and justice makes it possible to develop and undertake communication strategies to clarify misunderstandings and potentially overcome resistance. It is difficult enough to achieve sufficient consensus to provide the impetus for reforms, but that consensus is not always strong enough to support the legal reforms through the long and complex process of implementation.

Indeed, justice reforms frequently fail as a result of a lack of attention to predictable implementation issues<sup>29</sup>. Pierce Parker and Upin summarized the problem as follows:

“Implementation is what makes or breaks reforms, and the challenges associated with implementation are many: the human, fiscal or technical resources may be inadequate for the task at hand; training and support may be lacking; the strategy or selected program’s goal is not a good fit for the need that exists; or the strategy or program is not implemented as it was designed and fails to achieve the anticipated outcomes. If there is no way to monitor implementation progress and measure outcomes, there is no way to know if the implementation is effective”<sup>30</sup>.

It is important to create feedback on the impact of reforms for all those involved in the implementation process, including those who may still be reluctant to accept the reforms. It is vital that reforms are monitored and evaluated<sup>31</sup>. All systems depend to varying extents on feedback among their various components. Good monitoring systems have the potential to create virtuous feedback loops, as opposed to resistance loops. Robust justice indicators are capable of generating a virtuous feedback loop to support organizational change and reforms in systems as complex as the criminal justice system<sup>32</sup>. Reliable and valid data are also important to determine whether the reforms are having an impact, including unintended and unforeseen impacts.

28 B. Naylor, D. Tyson, Reforming Defences to Homicide in Victoria: Another Attempt to Address the Gender Question, “International Journal for Crime, Justice and Social Democracy” 2017, vol. 6, no. 3.

29 G. Berman, A. Fox, Trial and Error in Criminal Justice Reform: Learning from Failure (Revised Edition), Rowman & Littlefield Publishers, Lanham 2016.

30 B. Pierce Parker, T. Upin, So the Juvenile Justice Reform Legislation has Passed – Now What?, Corrections Today, 05-06.2016, pp. 15-18.

31 B. Naylor, D. Tyson, Reforming Defences to Homicide in Victoria: Another Attempt to Address the Gender Question, “International Journal for Crime, Justice and Social Democracy” 2017, vol. 6, no. 3, pp. 72-87.

32 Y. Dandurand, K. Kittayarak, A. MacPhail, Justice Indicators and Criminal Justice Reform, International Centre for Criminal Law Reform and Criminal Justice Policy & the Thailand

Most societies are in great need of better and more meaningful information about the justice system and how it operates. Transparent and widely accessible databases must be developed so that they may become the foundation for public discourse and policy development<sup>33</sup>.

## 8. Conclusion

The building blocks of a culture of lawfulness rest on public trust and confidence in justice institutions, internal and shared narratives that support the belief that the law is legitimate, and access to an impartial system of justice to check on a government. By virtue of the fact that public beliefs constantly waver and are influenced by education, the media, and political discourse, a culture of lawfulness will always remain fragile. To identify the cues that signal such fragility, a non-exhaustive list of behavioural warnings has been proposed. For a culture of lawfulness to subsist, political will and courage, local ownership, and a steady momentum are required. In particular, societies must be transparent and accountable while dealing with corruption and impunity, ensure reforms are implemented successfully and involve good monitoring systems with reliable data, and foster a public perception of procedural and substantive fairness through positive engagement and partnerships.

## 9. Questions

To advance the discussion on different ways that a culture of lawfulness can be strengthened, the following are some short questions that may be considered:

- Where a culture of lawfulness has taken root, how can it be fostered?
- What are the main threats to the internal and shared narratives that support a culture of lawfulness?
- How and why are people's conceptions of the rule of law and confidence in justice institutions changing? What happens when public confidence is shaken, eroded, or otherwise lost?
- If one witnesses behavioural warnings that may signal that a culture of lawfulness is under threat or is about to run out of oxygen, what difference can be made towards strengthening such a culture?
- To ensure justice reforms are effectively implemented, what conditions ought to be met?

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Institute of Justice, 2015 Vancouver & Bangkok.

33 G. Cowper, *A Criminal Justice System for the 21<sup>st</sup> Century*, Ministry of Justice of British Columbia, Victoria 2012, p. 85.

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