

"If a society is to be governed by law, rather than just sheer power, then it needs an institution capable of applying law fairly and effectively in the face of power."
— Hiram Chodosh

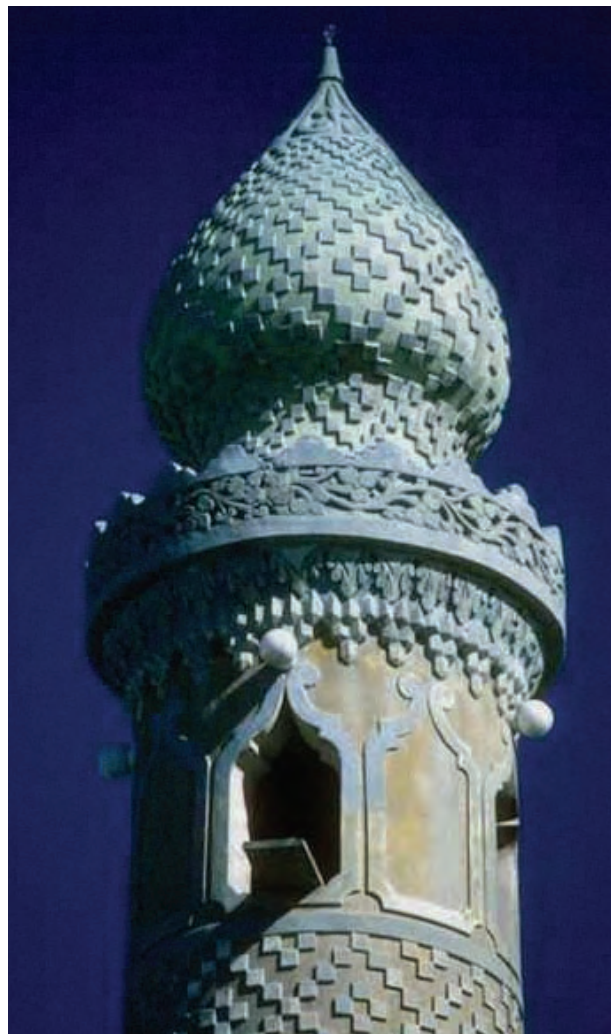


JUDICIAL REFORM AND A JUST SOCIETY

Imagine living in a place where the courts don't work. A place where you have to wait for years for the trial to end, wonder whether the judge has taken a bribe, or risk being detained by the government without a trial for longer than a full sentence if convicted.

Most of the world's population lives under these conditions. Increasingly, however, leaders of these countries seek to make justice a reality for their citizens, meet international human rights standards, and attract investment. When they do, they often turn for help to Case law professor Hiram Chodosh.

Chodosh, the Joseph C. Hostetler-Baker & Hostetler Professor of Law, has earned world-wide recognition for his expertise in legal reform. In the last decade he has advised more than a dozen countries, ranging from Egypt to India to Indonesia. A Fulbright Senior Scholar, and author of *Global Justice Reform* (2005, NYU Press), Chodosh also



advises the World Bank and International Monetary Fund as they promote judicial reform in nations to which they lend money.

He describes his work as the "study, assessment, and improvement of the judicial process." In practice, that means holding workshops with judges and lawyers to exchange and publish ideas on legal reform, assessing how a country's legal system performs, and helping countries develop strategies for reforming their judicial system.

Chodosh is acutely aware of the dangers of being perceived as the typical foreign adviser who parachutes into a country, makes a lot of nice-sounding recommendations, and leaves without knowing whether his recommendations are implemented, or the consequences if they are. For

that reason, he says, he insists on intense collaboration with leaders and actors within the country's judicial system.



But even collaboration has its pitfalls. “The typical partners in these interactions are high-level officials, such as chief justices, ministers of justice, or members of a supreme court. That too has its limitations, because their awareness of what is happening on the ground is limited by virtue of their position,” he says.

To get around that, Chodosh goes into the field to observe the courts in action and talk to the people who run them. “I like to talk to people who are working in the system day in day out, the litigants, the judge, the lawyer, the registrar, the person who moves the files around. What do they do minute to minute? How are they compensated and evaluated? We can learn a great deal through those interactions, lessons that many people in charge of the system don’t necessarily hear.”

The next step, he says, is to take the information gleaned from his observations and interviews and compare it with what he reads in official documents or hears from government officials. That starts a dialogue which further improves the collective understanding of the system. “The basic awareness of how things work, the critiques of that, the available strategies for fixing the problems, all becomes a work in progress that is more than just my contribution. Most importantly, it becomes what that community begins to see as their own.”

Chodosh has had a deep influence on several national reform efforts, including the development of mediation in India and the creation of a judicial council in Indonesia, yet Chodosh is modest about the impact of his work. “The work I do can’t really be called reform, because reform is the work of leaders in society, not foreign consultants,” he adds. “Only they can decide on how to work through the value choices, trade-offs,

political constraints, and resource limitations. I can only help to inform the reform process.”

For example, in the summer of 2004, Chodosh was invited to help a high-level group of Iraqi academics and jurists to design the process of drafting a new constitution for that country. “I’d been led to believe that the Iraqis would not be very sophisticated about fundamental constitutional questions,” he recalls. “However, the discussions were as sophisticated as any I’ve had about fundamental issues of constitutional design, the allocation of power, and most importantly, the challenges of implementation and enforcement.”

Chodosh joined Case’s law school in 1993 as an assistant professor and has advanced quickly through the faculty’s ranks. In 1998 he became director of the school’s prestigious Cox International Law Center and the following year became a full professor. In 2003 he was made associate dean for academic affairs and in 2004 was named to his current chaired professorship.

The administrative responsibilities of being an associate dean have led Chodosh to cut back on his travels, and instead look for opportunities he can pursue from home. Currently, he is working on a project for the World Bank, a Web-based research tool which will help justice reformers understand the sources of problems in their judicial systems and develop and implement effective strategies for fixing them.

Chodosh’s passion for his work is driven by his belief in the relationship between political freedom and an independent, impartial, and effective judicial system. “If a society is to be governed by law, rather than just sheer power, then it needs an institution capable of applying law fairly and effectively in the face of power.” 