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Legal and Judicial Reform

As of 2001, there were more than 300 World Bank–financed projects with legal and judicial reform components. In addition, a total of 17 freestanding projects have been approved in four regions and another 13 are in the pipeline. Typically, World Bank legal and judicial reform projects are implemented over two to five years through institution building, technical assistance, learning and innovation, or Adaptable Program Lending Loans, as well as grants from the Institutional Development Fund and advisory work by the Legal Department.¹²⁷ This section examines the empowerment impact of four innovative legal and judicial reform projects undertaken by the Bank in the Latin America and Caribbean Region, in Guatemala, Venezuela, Ecuador, and Peru.

Guatemala Judicial Reform Project

In October 1999, a \$33 million Adaptable Program Lending Loan was approved for the Guatemala Judicial Reform Project for five years, through June 2004. The project aims to create a more effective, accessible, and credible judicial system that will foster public trust and confidence and improve consistency and equity in the application of law.

Extensive input from a wide range of stakeholders, in the government as well as civil society, informed the project design. An innovative collaborative participatory assessment involved more than 1,000 individuals, including judges and representatives from government agencies, law schools, the private sector, and civil society. This unique process of citizen participation in judicial reform helped identify the problems to be targeted: poor performance of the court system, limited citizen access to justice, corruption, poor institutional management, and negative public perception of the judicial branch. Designed to address these problems, the project has mainstreamed the idea that citizens, as users of judicial services, have a right and obligation to contribute to the design and implementation of reforms. As a result, the project has brought the law closer to the people.

Impact

In the two years since its inception, the project has made significant strides toward strengthening the judicial system and improving public access to the law. The project supports a 50 percent increase in the budget for the judicial branch, enabling the hiring and training of 30 new judges, many of them women. In addition, the number of regional courts has been increased, allowing many more people than before to actually go to court. Court processes and plans have been simplified and made user-friendly. For example, before the reforms it used to take 5–6 months

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¹²⁷ For an overview of World Bank legal and judicial reform projects, see World Bank 2001b.

to register power of attorney or file for a divorce. Through court reengineering the same processes now take only 24 hours.

Several mechanisms enable better access to justice by indigenous Guatemalans, a widely underserved population who live mainly in rural and remote areas. Language training for judges and interpreters in indigenous languages has made the justice system more accessible and responsive to the indigenous population. With the demonstrated success of the initial language training, the demand for this training among judges and court personnel has increased tremendously.

In addition, the project has expanded Guatemala's justice of the peace program in locations where judges are absent. In 2001 justices of the peace made up 50 percent of all judges in Guatemala. They also have increased power to vet and mete out cases, expediting case management. This single reform has significantly increased productivity and efficiency throughout the judicial system.

In addition to process improvements, Guatemala passed a judicial ethics code in April 2001 that has helped generate some unprecedented rulings. For example, the Guatemala Supreme Court voted to send a military general to jail for killing a religious official. The Supreme Court also denied immunity to a senior Congressman (also a former general), stating unequivocally that he must face trial under international human rights law. Previously, the public believed that military and political officials were above the law. Such rulings hold great symbolic value and communicate to the public that judicial reform is serious and accountable.

Access to Information

The Guatemala Judicial Reform Project includes a comprehensive social communications component to promote public access to legal information as well as to improve information and communication within the judicial system. With project support, a Supreme Court Public Information Center was established in the capital city in 2001. Similarly, information centers are being established in other urban centers. In addition, public education campaigns spread the word about the "new" judiciary. A public website was created to provide the public with direct access to judicial procedures and rulings.¹²⁸ Through the website, members of the public can register a complaint or receive regular judicial updates by e-mail.

Several mechanisms are in place to improve information flow within the judiciary and help professionalize court personnel. A judicial systems Intranet has increased communication among judges and other court officials, and has been particularly useful for judges in rural and remote areas. A digital divide program is under development (pilot testing was carried out in 2001) to provide distance education to judges in remote areas and promote knowledge sharing across the judiciary.

Inclusion/Participation

¹²⁸ The Guatemala Judicial Extranet is at www.organismojudicial.gob.gt/index.html

An independent Public Defender's Office has been established to open up opportunities for poor people to have equal access to the law. Alternatives to courts, such as mediation and conciliation centers, have been successfully piloted and will be expanded throughout the country. Pilot mediation centers in indigenous areas have been very well received by the local population and public demand is high for the expansion of such centers to other underserved areas.

A first workshop on cultural sensitivity training for judges in indigenous areas was held in January 2001 in Santa Cruz del Quiché. Sixty-one judges and auxiliary staff from five of the 21 Quiché municipalities took part in the participatory program that included interactive and practical activities, role playing, presentations, and group discussion. The major concerns voiced by participants had to do with language and cultural barriers to justice as Guatemalan formal courts operate exclusively in Spanish. Participants recommended training in the Quiché language for local judges and their staff. At the end of the workshop, participants felt better equipped to integrate cultural sensitivity into their work.

Accountability

A new anti-corruption program has been instituted to promote public oversight over the judiciary. The program includes preventive and control measures that streamline procedures for discipline of judges, require information disclosure on judges and judiciary personnel, and promote community participation in identifying concerns with the judicial system and correcting wrongdoing. In addition, groups involved in the initial broad stakeholder consultation continue to be involved in various aspects of project implementation, monitoring, and evaluation.

Lessons Learned

This project demonstrates how broad stakeholder consultation can help identify critical areas for judicial reform and start a process to regain public confidence in the judicial system. The experience also demonstrates that projects designed using participatory methods are more likely to have participatory practices mainstreamed during implementation and evaluation. In part, reaching poor people requires using local languages and establishing branches and services in closer proximity to poor people themselves. Transparency and information dissemination, in combination with technical improvements, are important for legal and judicial reform to be sustainable.

Venezuela Supreme Court Modernization

Prepared in 1997 through a participatory methodology, the Venezuela Supreme Court Modernization Learning and Innovation Project was supported by a \$4.7 million loan through June 2001. The project was designed to strengthen the judiciary and make it more accessible to the public. The design incorporates the results of extensive stakeholder assessments, carried out through one- and two-day workshops with judges, judges' assistants, administrative staff, and civil society organizations.

Impact

The project has improved the functioning of the judiciary and has increased public access to the judicial system. Constitutional changes facilitated by the project ensure that the judiciary receives at least 2 percent of the annual federal budget, has financial and political independence, and is open to scrutiny by the public. The project promotes coordination among formerly adversarial judicial sector agencies to foster mutual understanding, identify policy gaps, and capitalize on opportunities for collaboration.

Access to Information

Both judges and the public have better access to information because of reforms espoused by the modernization project. A criminal procedure code instituted in July 1999 eliminated secret trials and introduced less complicated and oral procedures to promote transparent processes and use of resources. A CD-ROM on the new code was prepared to facilitate training of judicial sector employees and dissemination of the new regulations. Venezuelan judges now participate in an international virtual network of knowledge sharing for judges called IUDICIS. Participation has meant that Venezuelan judges are better informed about the law and, as a result, feel more ownership of and pride in their work.

For public benefit, the Supreme Tribunal has launched a public website and has begun publishing its decisions online.¹²⁹ Public information windows have been set up in renovated courts to enable the public to track their cases and obtain information about the judicial system. Some information locations are fully automated, providing the community with instant access to the judiciary. The Venezuelan public can also watch a new television show that discusses how people can obtain greater access to justice and raise their awareness of the law.

Accountability

While Venezuelan judges themselves have taken the lead in implementing the modernization project, a Supreme Court Civil Society Unit was also created and provided with adequate staff, training, and resources as a forum for public dialogue and partnership. One unique form of civil society participation is that as new supreme court justices are appointed, they are subject to citizen scrutiny through direct review and press coverage. In a 2000 appointment process, the names of short-listed candidates for judgeships were published in Venezuelan newspapers and over the Internet with the purpose of soliciting citizen feedback before final selections were made. A similar process is being developed to carry out public evaluation of all judges throughout the country.

Local Organizational Capacity

As a result of civil society consultations, in the first year of the project a group of 45 NGOs formed the umbrella organization Alianza Social para la Justicia, whose members are active participants in judicial reform activities. The World Bank helped coalesce the NGOs into this umbrella group, which became more unified in its priorities and concerns and began to present joint plans for reform and implementation. The Internet was a useful tool in helping the NGOs

¹²⁹ The Venezuela Supreme Court website is at www.tsj.gov.ve

come closer together, share information, and work as an alliance. Alianza has introduced new ideas and has shown a commitment to public pressure for change. The umbrella structure has also enabled alliance members to share and compile information, strengthen their organizational capacity, and improve their outreach and communication skills.

Lessons Learned

This project demonstrates the importance of linking strong public support with government commitment, leadership, and technical capacity to create building blocks for judicial change. Modernization through partnership between civil society and judges has begun to show some valuable returns, benefiting courts and communities alike with high-quality justice.

Ecuador Judicial Reform Project: Legal Aid for Poor Women

In April 1995, the World Bank approved a \$10.7 million loan for the Ecuador Judicial Reform Project to support case administration, mediation centers, an education program on legal rights and procedures, and remodeling and development of court infrastructure. A subproject on Legal Aid for Poor Women, funded with \$256,780 over two years, supported the creation of five legal aid clinics in the cities of Quito, Guayaquil, and Cuenca to help poor women and their children exercise their legal rights and improve their socioeconomic condition. By design, each of the five legal aid clinics was established and operated by one of the following local and national Ecuadorian NGOs: Centro Ecuatoriano de Promoción y Acción de la Mujer, Fundación Maria Guare, and Corporación Mujer a Mujer.

Impact

Over two years, from April 1998 to March 2000, the pilot program provided legal consultation and representation, counseling, and dispute resolution services to almost 17,000 poor women for a project cost of about \$15 per client. The majority of women in Quito and Guayaquil who used legal services used them either to obtain child support, to stop domestic violence, or to file a case. The project also assisted another 50,000 indirect beneficiaries, most of whom were the children or other relatives of the women clients.

An evaluation of the legal aid subproject revealed that women did better when they used NGO legal services than when they used private lawyers to litigate their claims. For example, women using NGO legal services obtained child support awards that were on average 20–50 percent higher than awards obtained by women who adjudicated traditionally. In addition, legal aid clients obtained restraining orders in a shorter period of time: two or three days rather than the weeks typically needed by private lawyers. The public reputation of the NGO centers is so positive that demand has outstripped supply. Even middle- and upper-class women would like to be able to use the services.

The work and outreach of the legal aid clinics has helped build community awareness of domestic violence as a human rights violation. It has also strengthened NGO relationships with the media, increased the judiciary's respect for the NGOs, and initiated policy change processes.

For example, the Municipality of Santa Elena is vetting a proposal for a new family code and a strategic development plan that includes a gender perspective.

Access to Information

The legal aid clinics facilitate women's concerns by educating them about their rights. They use an extensive outreach methodology employing radio programs, brochures, flyers, information tables at community events, meetings with women's groups, and other public activities to reach out to the general public and, more specifically, to poor women. Mobile brigades on Saturdays and Sundays bring services directly to distant areas where no lawyers or legal offices are usually available.

Local Organizational Capacity

The pilot program promoted local organizational capacity by improving staffing, technology, and training of local NGOs delivering legal services. These NGOs are the critical partners in the implementation of the legal aid clinics. Early on, service teams from each clinic participated in workshops on mediation, litigation in crisis situations, child support, defense of women's and children's rights, coordination of community resources, gender and justice, abuse prevention, and education and training.

The expanded organizational capacity of these NGOs is reflected in the remarkable improvements in the quality, range, and geographic scope of services to poor women. For example, high demand for services has resulted in extended hours so that the centers can assist many more clients. Participating NGOs have also developed a database of cases which now produces a wealth of information on the needs and characteristics of the beneficiary population. This information will be useful for future initiatives supporting women's access to law and justice as well as their public health needs.

Lessons Learned

This project demonstrates that legal aid clinics are an important complement to the formal court system that help underserved populations obtain fair access to justice. By providing legal, psychological, and medical assistance, the clinics demonstrate the importance of using an integrated approach to help poor women find lasting solutions to their problems. The sustainability of providing legal aid services to poor populations remains a critical challenge. In this instance, there is no long-term financing mechanism for Ecuador legal aid clinics for women despite their undeniable success. Because poor women do not have the resources to pay for transportation or court fees even when legal services are free, alternative financing mechanisms must be identified. As the project comes to a close (June 2002), project staff are seeking a private partner to help finance the clinics and are considering the possibility of providing services on a sliding payment scale.

Peru Urban Property Rights Project

Most of Peru's urban poor live as squatters on publicly owned lands and have no formal rights as citizens or property holders. Recognizing this problem, Peru began to initiate legal reforms to support property rights in the late 1980s and early 1990s. In 1996 then President Fujimori announced a public commitment to formalize 1.6 million urban properties by 2001. Formalizing property rights involves issuing and registering land titles to squatters through legal and institutional improvements in the legal and bureaucratic system. Without secure property rights, the urban poor are not able to claim the social and economic benefits of land ownership. For example, they are unable to use their homes or lands as collateral for loans or pass their property on to their children. In addition, credit providers have no incentive to provide financial services to this population.

With the creation of an autonomous national agency responsible for formalizing existing property in poor urban settlements, 200,000 such properties were registered by early 1998. As a result of simplified and more transparent procedures, the cost of registering and titling property was reduced overnight from \$2,000 to \$50, and the length of time necessary for the process dropped from 15 years to six weeks or less. In August 1998 the Bank approved the \$38 million Urban Property Rights Project to support the creation of a low-cost, user-friendly system of formal and sustainable property rights in selected predominantly poor settlements in Peruvian cities. The project builds upon Peru's national program with an additional commitment to register about 1 million properties in eight urban areas by 2001.

Impact

Through regulatory reforms, the Peru Urban Property Rights Project has dramatically reduced the cost and time required for registering property. The urban poor can more easily and affordably register their property and become "legitimate" citizens. The institutional reforms have been very effective – by August 2000 the project had helped almost 7 million Peruvians secure land titles collectively worth more than \$4 billion. By introducing the newly formalized urban properties into the organized capital markets, the property values increased by more than \$1.7 billion since the start of the project.¹³⁰

A social assessment involving repeated consultations with key stakeholders and beneficiaries at all levels was used as an iterative process to devise, test, and adapt land titling strategies at the neighborhood level. With the introduction of formal property rights, communities are being affected in different ways. For the first time, Peruvian women have equal rights to property under the law. In some areas neighborhood organizations have been weakened with individual ownership while in other cases communities are better organized to provide social services to residents. The project has earned a high political profile in Peru because of its widespread success in providing tangible assets to poor people.

Access to Information

The project supports regular and multidirectional informational flows. For example, regular stakeholder consultations and weekly visits to participating communities are scheduled in order

¹³⁰ Panaritis 2001.

to solicit public feedback about the project. The outreach process is also active with the two relevant public agencies, the Commission for Formalizing Informal Property (COFOPRI) and the Urban Lands Registry (RPU),¹³¹ visiting beneficiaries in their communities rather than waiting for citizens to visit them. Community leaders facilitate the formalization program by organizing community meetings, which precede COFOPRI's door-to-door collection of ownership information.

The advantages of registering property are being widely publicized, as is the process for formalizing ownership. People are encouraged to provide information about their property to the government agencies charged with titling and registration, and residents are organizing themselves to obtain registration certificates and to produce evidence of ownership. Registration is conducted house by house to verify that applicants are the true owners of each property.

Accountability

Through social and economic monitoring, the project is able to track the impact of property formalization on local communities. The general director of the project (who is also the national coordinator of formalization) is accountable for outcomes. A project management committee, with equal representation from COFOPRI and RPU, oversees implementation and the attainment of project goals, and makes any strategic decisions needed. Conflicts among community members are resolved in an assembly. Problems of leadership, land ownership, and conditions of occupancy are among the issues discussed. The establishment of a property arbitration system eliminates the incentive to turn to the courts to challenge or block the granting of a title. A mediation and conciliation system is being developed for settling disputes between squatters and private owners.

The project concept was developed a decade ago by Hernando de Soto at the Instituto Libertad y Democracia (ILD), a Peruvian research institute. The World Bank and the ILD worked together to expand the concept nationally and encourage the development of local organizations and institutions that could undertake the project. The \$13.07 million institutional strengthening component finances efforts to bolster the administrative and institutional capabilities of RPU and COFOPRI so that they can be sustainable and viable.

Local Organizational Capacity

A continuous participatory process has involved a wide range of stakeholders from all sectors. Neighborhood organizations in new informal urban communities, which have been responsible for acquisition and distribution of land, have been impacted by the reforms. In some cases, the property formalization process has weakened neighborhood organizations; in other cases, the organizations have evolved in function and now provide social services to the community.

¹³¹ Established in 1996, the Commission for Formalizing Informal Property (Comision de Formalizacion de la Propiedad Informal, COFOPRI) is a decentralized public institution responsible for promoting access to formal ownership and registered title, in order to guarantee the right of individuals to privately hold property. The Urban Lands Registry (Registro Predial Urbano, RPU) was formed in 1996 to register properties located in squatter settlements and low-income neighborhoods, and has technical, administrative, economic and financial autonomy. Since 1996, RPU has registered a total of 683,000 titles.

Urban settlements have also seen the growth of voluntary functional organizations (community kitchens, mothers clubs, parents associations, sports clubs) normally run by women and providing a safety net to poorer people. This has strengthened the role of women in these communities.

Lessons Learned

A key to the urban property project's success is the careful analysis of citizen needs through studying and listening to poor people's concerns. The iterative process of devising, testing, and adapting land titling strategies at the neighborhood level has led to the development of a streamlined and responsive land registration process. The project helps integrate low-income families into the wider urban landscape and creates rights and obligations that enable small property owners to develop a greater sense of partnership with the government and private sector.

Resources

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