

Challenges of Forging Civil Society Partnerships for Judicial Reform

By
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“Without the protection of human and property rights, and a comprehensive framework of laws, no equitable development is possible.” James D. Wolfensohn, President, The World Bank

Introduction

All citizens have an interest in having a good quality justice system. In the first instance, this focuses on the courts, which are after all part of the larger governmental and legal framework for the administration of justice. But the police, the prosecutor, the trial bar, lawyers, and penal institutions, and the legislature figure equally important in the overall justice system. This concept of the importance of the justice system in a nation’s social and economic health has become a well regarded prerequisite for successful development in the 21st century.

Citizen groups and judiciaries around the globe increasingly confront the challenge of how to improve court performance and enhance citizen confidence, especially as popular expectations rise in today’s interconnected societies. How can ordinary citizens or civil society groups effectively make their voices heard in the courts and in the broader justice system, given the complexity, breadth, legal authority, and sheer power of the courts and related societal institutions? What have been some of the challenges, principles, and organizational models of involving civil society in judicial modernization efforts?

Linking strong “public support”, commitment, leadership and technical capacity can put in place some of the main “building blocks” for judicial change. As a prime example of this, Venezuela has made efforts and some advances in all these areas in the last few years seeking to overcome court delays, lack of access and transparency, weak institutional capacity, corruption and weak incentive systems and public information. Many of its advances mirror the combined effect of these blocks. Mechanisms that facilitated the active participation of civil society along with judges also contributed. This partnership blend in joint tasks for modernization have begun to show some valuable returns.

In the light of international experience, this note addresses broad contextual framework questions. It provides some insight into questions that judicial policy makers generally face on how best to involve civil society and in what areas of reform. In particular, it addresses the strategies, activities and lessons of the civil society focussed Venezuela

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Supreme Court Modernization project supported by the Bank. In the case of Venezuela, it generally refers to the umbrella NGO organization (Alianza Social para la Justicia), whose over forty member groups have been at the center of judicial reform activities.

The broad organizational outline of this note is as follows. Part one provides information for understanding the overall judicial reform framework, core function of the courts and resistance to change, issues confronting organization models used in forging civil society--justice sector partnerships. Part two describes some of the challenges of these partnerships in judicial modernization efforts in Venezuela and emerging lessons and activities. Part three states the conclusions.

Part One: Understanding the Judicial Development Framework, Change Culture and Relationships with Civil Society²

Based on international good practice, this section of the report provides information for understanding the overall judicial reform framework, core function of the courts and culture of resistance to change, issues confronting organization models used in forging civil society--justice sector partnerships

Who really “cares” how well the courts and justice system operate?

The courts and other public agencies comprising a community or a nation’s justice system directly affect the public safety, commerce, and overall quality of life of every citizen every day of the year (see box). Public confidence in and public respect for the rule of law are integrally linked to how well a community’s law enforcement and judicial departments dispense justice to ordinary citizens. Delay, inefficiency, bias, or corruption on the part of the police, the prosecutor, the judge, or any other justice sector official lower public respect and public confidence in government and in the justice system especially.

The judicial branch of government depends on broad public support to fulfill its core governmental mission. Organized civil society groups can play a critically important *independent role* in communicating the need for adequate court resources,

How Civil Society is Affected by the Justice System?

- *the citizens are affected* in terms of its continuing to place trust and public confidence in the rule of law and administration of justice.
- *Businesses are affected* because of concerns over enforcement of legally binding agreements and contracts, and needs to resolve civil disputes;
- *Lawyers and the organized Bar are affected* because their work takes place within the formal justice system, and because public confidence in the Bar is also dependent upon confidence in the administration of justice;
- *Crime victims and witnesses are affected* when they call judicial processes for fair societal recompense for their injuries;
- *minority groups, women and children are affected* when they petition the courts to recognize and adjudicate their claims;
- *civil advocacy groups are affected* when they petition the courts for righting wrongs;
- *individual citizens and families are affected* when they depend on the fundamental fairness and impartiality of decisions by the justice system in matters ranging from relief from domestic violence to resolving vehicular driving infractions.

² Adapted from *Civil Society and the Administration of Justice: Learning by Doing*, by Samuel Harahan and Waleed H. Malik, Discussion Booklet, World Bank Legal Institution Thematic Group Series, June 2000.

facilities and services to the community at large. At the same time, such groups may serve as important voices for change, and for needed improvements in the administration of justice.

Why the judiciary usually “resists change”?

A core function of the judicial branch of government is to resolve disputes which are brought before it. Law courts fulfill this role by applying the law and legal precedent in individual cases. In doing so, the courts have generally shown a resistance to change, with geopolitical and historic roots. Each judiciary assumes a national monopoly in matters of the administration of justice. As a monopoly, the judiciary is not subject--except perhaps to a limited extent- to competition in its functions. Also, the historical perspective of the judicial system suggests that judges are its only “resource” and the decisions its only “product.” Therefore, emphasis is placed upon responsibility and achievement of judges as individuals. However, a judicial system is the sum of all its judges, and administrative staff, and other actors including lawyers, police, forensic experts, sociologists, conciliators and users. This resistance to change is therefore inherent and visible in the operational culture of judiciaries subscribing to the past perspective.

In a civil society, citizens expect their courts and justice system to function with a very high degree of stability, predictability, and integrity. Stability may be expressed in terms of the daily law enforcement practices of the police; in terms of fair and impartial legal codes and regulations; and in terms of judges impartially deciding individual cases by following the law. The predictability and integrity of the justice system (whether under common, civil, Islamic or other laws) are expressed through the legal codes, practices, and precedents which evolves over extended periods, and by the conduct of the police, prosecutor, judges, and courts in individual cases.

For courts and judicial officers to embrace change may require tacit acknowledgment that existing practices are somehow lacking or deficient. Further, the cherished and highly valued principle of judicial independence may in turn contribute to isolation of the judiciary from civil society. The judiciary may not be in a position to “hear” the views and experiences of ordinary citizens and business owners. In turn, judicial isolation may leave the courts believing all is well when the community believes that reasonable change is long overdue. Finally, most courts and judicial sectors are very busy. There is constant pressure on the judges from all quarters to resolve disputes and to move cases to disposition. In such an environment, there may be too little time and energy left over to ponder and explore new and better ways of doing justice. However, where proper trust and rapport have developed between the civil society NGO and the judiciary, the judicial and civil society leaders have initiated useful partnerships (e.g. Singapore) of direct benefit to courts and community alike.

What motivates a civil society to become involved?

Based on personal survey and interviews, direct personal experience and/or self interest at an individual or institutional level, are the two most frequent reasons why citizens, businesses, and other segments of society become involved in law-related civil society initiatives. Victims rights organizations, bar associations, prisoners rights groups, and judges associations illustrate civil society institutions based on the direct or indirect interests of their members.

More generalized missions for advancing individual or societal educational objectives motivate some civil society institutions and groups' involvement with the administration of justice. Universities, law school clinical programs, environmental programs, think-tanks and academic research centers are examples of institutional models which may intersect with the formal justice system through student, faculty, consultant or researcher involvement. Similarly, partisan and non partisan civil society public policy research and advocacy institutions may concentrate on administration of justice issues as one of many policy objectives.

What are some civil society partnering “issues” and organizational “models”?

There are a large number of different considerations and issues—mosaic of organizational models, interests, finance and options--involved in forming and developing an effective civil society organization where its core goal or mission involves monitoring, reforming, and/or supporting a city or nation's judicial branch of government. In turn, there are also identifiable ingredients—trust, integrity, quality of work and people, opportunity and patience--which facilitate successful NGO-judicial sector partnerships. These two separate but interrelated sets of issues and themes are critical to forging partnerships.

In general terms there are a number of principles and strategies which civil society organizations of all types have applied with success in working partnerships with the judicial sector. Among other things, an NGO leader (or judicial policy maker) should keep in mind the following *principles* in approaching any judicial sector related partnership or reform proposal:

- operating with the judiciary on a basis of trust;
- possessing personal and project-related integrity at all times;
- being opportunistic in working with the courts— i.e. being ready to respond to the courts' problems and needs rather than the NGO's agenda;
- evidencing patience as the judicial sector changes very gradually; and
- having an awareness and appreciation of time. (Some laudatory NGO proposed “reforms” may not be possible until a key official within the judicial sector, legislative branch, or other elected representative leaves office.)

In general, six types of organizations best respond to citizen concerns. These models are, namely, direct individual citizen action model, single issue cluster civil society organization, judicial branch focused civil society organization, university-affiliated civil society organization, business or legal sector hosted civil society organization, and civil

society umbrella organization (the focus of efforts in Venezuela, see ahead). A number of potential strengths and weaknesses of all these models is provided in the annex. It is important however, to note that self interest and direct personal experience are what most often motivate citizens to get involved with their courts, their community, and their government.

With the above discussion of context, broader principles and issues of civil society and judicial sector partnerships, I now turn to describe what are some of the practical approaches and learning activities that have been initiated by the Venezuela Supreme Court which are beginning to demonstrate positive results.

Part Two: Challenges of Forging Civil Society Partnership for Judicial Reform in Venezuela and Emerging Lessons and Activities

Background and Strategy

As noted before, linking strong citizen support, judicial leadership and commitment, and institutional capacity serve as the “building blocks” for judicial change. In the last few years, Venezuela has made efforts to improve these blocks and enhance their linkages that have begun to show some valuable results in the judicial system.

Generally, there are two main sources of impetus for judicial reform. These forces seeking improvement in the judicial system usually consist of a combination of push (e.g. reform pressures from within the system) and pull (e.g. demand from market and social forces for accommodating changes). In the case of Venezuela, demand for judicial reform has always been articulated by the civil society and others, usually through newspaper appeals, reports on human rights violations and other single issue demands and declarations. Many have called for law reform, changing the constitution, abolition of court fees, and eliminating political appointment of judges and staff etc. Usually these came from individual NGOs or very small groups of NGOs with minimal impact. There had been only a fragmented cadre of NGOs working on justice sector issues from the over 2000 groups³. This showed the need for an “umbrella” NGO group to provide a unifying force.

The combination of these civil society’s call for changes married with the judiciaries renewed interest with promoting change constitutes a mix of push and pull force. These dispersed measures was replaced by a new dimension of collaboration when the Bank and other agencies agreed to support judicial modernization efforts at the Supreme Court level. Incorporated in this new dimension was a recognition of the need to refine assistance to the lower courts (through the former Judicial Council). The Bank has two judicial assistance projects in Venezuela. The first one is Judicial Infrastructure Project signed in 1993 and implementation commenced in mid 1995. The design of this project was refined based on start-up difficulties through NGO collaboration and participatory

³ For more details see the unpublished report on the historical evolution of civil society in Venezuela by Maria Magda Colmenares.

involvement of judges. The other one is the Supreme Court Modernization Learning and Innovation Project (US\$4.7 Million Loan). This was prepared in 1997 using participatory methodologies and became the *First Learning and Innovation Loan of the World Bank* and received an *Award from Mr. Wolfensohn in 1998*.

The Bank's initial involvement with the lower courts had been criticized in the beginning by the NGOs. They were unhappy that the initial assistance was limited in focus, and because they were not adequately consulted in the first project's preparation. These sentiments had some considerable validity. But at the same time, the Bank's participation usefully helped "coalesce" several NGOs into an umbrella group⁴. They became more unified in their priorities and their concern and began to present joint plans. This was made possible by the Bank's successful stimulation through knowledge sharing and trust building of the leadership of the Judicial Council and Supreme Court to civil society concern and better understanding of the role civil society could play in facilitating change and promoting transparency in and access to the system.

This was facilitated by the judges' and NGOs' visits to "good practice" locations. These included the Council for Court excellence, Washington D.C., Corporacion Excelencia para la Justicia de Colombia, Universities (e.g. American University in Washington), National Center for State Courts in Williamsburg Virginia and other court systems (US, UK, Germany, France, Costa Rica, Spain, Singapore, Canada, Brazil etc.) to observe community outreach and other programs. The purpose of these sessions were to build knowledge, trust and understanding among citizen groups of the needs of working with the judiciary and to demonstrate how best to organize and participate. The judicial leaders saw the benefits of civil involvement in courts, as well as the diverse challenges decision makers face in *forging workable partnerships*. Technical assistance was also provided in the form of meetings organized with international NGO in Caracas and holding one-on-one sessions among all stakeholders and joint review of proposals and plans.

Consequently, an alliance of about 45 NGOs formed an "umbrella" group called the *Alianza Social para la Justicia* and began to exert new ideas and show commitment for public pressure⁵. All these efforts have been greatly aided by the constitutional reform process that has since been completed in Venezuela by the new government. The Internet has also helped bring many NGOs closer and share information.

⁴ See Halfway to Reform. Lawyers Committee for Human Rights and Venezuelan Program for Human Rights Education and Action, 1996.

⁵ The principal members of Alianza Social por la Justicia include the following institutions: Asociación primero Justicia, Asociación Venezolana de derecho procesal; Acción Ciudadana contra el SIDA; Cámara de Comercio Venezolana- Británica; Centro al Servicio de la Acción Popular; Consejo Nacional de Promoción de Inversiones (CONAPRI); Fundación En Cambio; Fundación para los Derechos Humanos; Instituto de Investigaciones Jurídicas y Sociales; Programa Venezolano de la Educación- Acción en Derechos Humanos, PROVEA; Red de apoyo por la Justicia y la Paz; Una Ventana a la Libertad. At initiation the main objectives of the Alianza were: i) supporting and monitoring the transparency and progress of the judicial reform activities and ii) implementing a reform of Title Seven of the Constitution pertaining to the Judiciary and Public Ministry. Title VII of the 1961 Constitution deals with different topics like the Supreme Court, its responsibilities, requirements to be a Judge, the Judicial Council, the Public Ministry and their responsibilities.

Supreme Court Modernization Project Learning and Innovation Activities

Recognizing this new impetus for reform and learning from experience, the Bank's Supreme Court project was designed with a participatory approach. During preparation, the Bank was engaged in constructive dialogue with judges, various organizations interested in the sector including businesses, the Commission for the Reform of the State (COPRE), concerned NGOs and the users. The results of extensive stakeholder assessments were incorporated into the project design. Carried out through one/two day workshops with judges, judges assistants, administrative staff and civil society groups and others. As a positive outcome of this, the Judges have taken (and still) retain the leadership of project implementation. The social support (facilitated through the new approach on involvement of civil society) for reform has helped continue the project activities even after the conclusion of constitution reforms and changes in the highest court⁶.

The project stemmed from a broad call from the Venezuela civil society, the Government, the judiciary and other sectors for judicial reform to promote economic growth and social stability. Its development objective are to begin to improve Supreme Court's transparency, efficiency in administration, case management, and timeliness of decisions, through development of new work methods, attitudes and behaviors. Equally important as a "process" objective is to learn, how best to involve user groups and civil society in enhancing institutional performance in Venezuela's judicial system⁷. In order to help target this assistance, it was decided to focus on the Alianza Social para la Justicia to maximize benefits--substantial knowledge of individual members, good organizational capacity, voice, and communication skills—of this umbrella group..

In the last few years many of the objectives have been advanced through expanded civil society activities. This has been enhanced by the Supreme Court's creation of Civil Society Unit and similar moves at the lower courts with adequate staff, training and resources. International expertise has also been tapped. The most salient of civil society partnership activity was the provision of a "space" for policy and technical discussions. The Court's unit convenes and coordinates sector initiatives and dialogue with civic institutions. With these actions, the vacuum that had existed is beginning to be filled. Initially the civil society participation was limited to training activities channeled through the Civil Society Unit. But after understanding and trust developed among the actors, an agenda was designed of a host of activities. Some accomplishments and activities are the following:

--Support and partnership for constitutional reform. One of the major accomplishments of the Alianza was successfully implementing the reform project for Title Seven of the Constitution pertaining to the Judiciary and Public Ministry. After

⁶ As per the new Constitution (approved December 1999), the Supreme Court is now called the Supreme Tribunal of Justice. It has two additional chambers and overall responsibility of administration of justice in Venezuela.

⁷ Project Appraisal Document, Supreme Court Modernization Loan, December 1997.

the election of President Chavez in 1999, and the consequential new political climate, the Alianza was able to efficiently promote the reform program. In collaboration with Instituto Latinoamericano de Investigaciones Sociales, the Alianza prepared a series of reports on individuals rights, social and cultural rights, economic rights, political rights, constitutional guarantees, specific parts of the judicial reform program, Public Ministry and Public Defenders Office. These were later published in a document *Foro para la Defensa de los Derechos Humanos y la Democración de la Justicia* which paved the way for national recognition of the Alianza's work. This increasingly won support from among other organizations among them Foro por la Vida, an alliance of 17 Human Rights groups whose backing was a preponderant factor in the positive outcome of the constitutional proposal. The Alianza also suggested reforms of Title IV for improving citizen rights, duties and guarantees which were fully incorporated into the Constitutional Reform Program of President Chavez.

The debates facilitated by the Court's civil society unit and other discussions among stakeholders helped bring about several important measures in the new constitution. These include an assurance to the judiciary of the receipt of not less than 2 percent of annual budgets. It guarantees the financial independence whose absence was among the causes of past weakness of the judicial system. The Project supported this through a study of public expenditure for the judiciary. Further, the appointment of judges is now more open to public scrutiny and participation, thereby de-politicizing and building confidence in the system. Implementation of some of the new constitutional provision is in progress. For example, the Supreme Court—it is now called the Supreme Tribunal of Justice--has been reformed to include a constitutional chamber among other changes.⁸

--Inter-Institutional Coordination and studies. Coordination among judicial sector agencies has always been a contentious issue. On this, the Supreme Court took leadership in bringing all parties of the sector and civic institutions together for discussion. These promoted improved mutual understandings, identified gaps in policy areas and exposed the weaknesses of some institutions. Overall, this has helped raise awareness about the links in the “system of justice” whose consistent parts must perform well to give citizens good quality justice.

--Introduction of oral and transparent procedures in penal courts and the establishment of citizen participation offices. Court delay and violation of human rights have been major concerns. Venezuela put into operation a new criminal procedure code (Codigo Organico Processal Penal-COPP) in July 1999 to address many of these and related concerns. It succeeded notably in eliminating secret trials, introducing oral and simpler procedures, optimizing organizational resources and making them efficient. This benefited from the leadership of the judges with active support of the civil society members who defended the proposals in Congress and actively participated in the training of judges and citizen groups. The UNDP, GTZ and the Bank supported these.

⁸ In this paper the term Supreme Court and Supreme Tribunal for Justice will be used interchangeably.

COPP introduced lay judges who are not law graduates and trials with jurors picked from communities and courts with open proceedings and reorganized public information centers. These require a major effort to inform the population of these fundamental changes from the past and their challenges and benefits. Civil society participation offices have been created in all states where NGOs are collaborating in dissemination of the code and sharing responsibilities. A CD ROM on COPP was also prepared to facilitate training and dissemination efforts. The new code has also aided in the fight against corruption by promoting transparency and speeding up procedures. Public information windows have been set up in reorganized courts for users to follow up cases and seek information. Some locations are fully automated (e.g. Barquisimeto courts are using Juris 2000, a fully integrated “information” solution) to serve the community; others are being equipped.

--Anti-corruption measures and evaluation of judges quality. Presently a large majority of judges are temporary and do not hold tenure, the sources of deep rooted problems. Corruption and political influence has always been the concern of NGOs but action in this front had been limited. Recently though, the highest court and the government have made greater efforts, in response to popular demand and social pressure. Long outstanding corruption complaints against judges have been addressed in judicial review; many judges were dismissed. This politically sensitive and difficult area was advanced by a special judicial commission appointed by the Congress which has representation from the civil society (an active ex-member of the Alianza) and the inspector general of the courts was involved. The new appointment of judges will now be subject to citizen scrutiny, on which some preliminary work is currently in progress with participation of the civil society and press coverage. In the last few months, names of shortlisted candidates for judge ships were published in the news papers and over the internet with the purpose of soliciting citizen feedback before final selections are made. A process is being developed for carrying out evaluation of all judges nationwide. The institutional policy support to the highest court has helped keep the process moving in the right direction and continues to engage civil society and provide transparency.

--Promoting knowledge and learning among the judges. There has been general appreciation of the need to enhance the knowledge and skills of sitting judges. The supreme court in partnership with the lower courts, and human rights NGO groups (e.g. PROVEA member of the Alianza) organized training courses for judges in all parts of the country to update them on international human rights treaties and other local and international laws. Many of the participants were from the NGO community. The activities were organized with the Inter-American Institute for Human Rights and the Inter-American Court for Human Rights in Costa Rica. The supreme court has also organized two Iberamerican summits of chief justices to advance knowledge sharing on judicial reform and discuss the role civil societies can play in improving justice systems and specially in the fight against corruption and menace of drugs. Based on these meetings a network to facilitate knowledge sharing among judges (IUDICIS) has been created. This virtual network aims to promote

information interchange among judges from different countries and run training courses. These summits and the network were supported by the Bank and other agencies (e.g. UNDP).

--Improved access, alternatives and attention to users. Courts in Venezuela have operated without benefit of strategic technology. Now however, discussion with judges and other policy makers has achieved progress in this area. The Supreme Tribunal has launched its web-site (www.tsj.gov.ve); it has been publishing its decisions on-line for the last several months. When the project was initiated, it was taking several years to gain access to court decisions and there was a backlog of over seven years. Now pending cases have also been significantly reduced. The improvement in the effectiveness of the courts has been due to the combined effect of several factors including internal reorganization, introduction of a pool of judges assistants and simplified procedures and strategic use of technology. Public information office in partnership with the Ombudsman office and civil society representatives, is available. In order to promote the rights of children, a stage drama was organized by the court in partnership with civic associations in Caracas to launch the new family code and promote access to justice. The supreme court organized with active members of the Alianza (e.g. Primero Justicia and CONAPRI NGOs) a seminar on how to promote conciliation measures through the uses of justices of the peace and arbitration measures through chambers of commerce.

--“Voice of the poor for access to justice” and policy formulation. Limited access to justice by the marginalized segments of society is still a major problem. There is lack of quality studies and data on the real perception and needs of these groups. Present judicial policy formulation has not paid enough attention to how to address the concerns of these groups. To do so, the supreme court civil society unit and the Bank team has come up with an innovative idea. The idea is to carry out a survey through the NGOs of poor communities in two regions and incorporate the finding in future plans and actions of the judiciary in targeting efforts. The proposal won an Award and funding at the Bank’s Development Marketplace 2000 Competition where over 80 countries and 1800 proposals competed. The survey is presently being developed and should be done by early 2001. The effort is receiving popular support from Venezuela NGOs, showing the creativity of “judicial-civil society” partnerships. More similar initiatives could help improve still further access to and confidence in the justice system in the future.

Beyond the formal partnerships.

As noted, the presence of the Bank and its refinement of approach in assistance to the judicial system has helped coalesce local NGOs around the theme of judicial reform in Venezuela. Beyond the several joint tasks and activities noted above, several other noteworthy things have happened which have facilitated social participation in judicial reform. Many Alianza members, on their own initiative have set up publications and issued reports, and programs. CONAPRI carried out a survey to assess the impact of weak judicial performance on business activity. A new TV show is espousing greater

access to justice and awareness of the “rule of law”. Training materials have been developed by universities and NGOs to help citizen group, lawyers and others adjust to the new codes and other changes in the judicial system. Information technology firms have prepared databases with legislation and court decision for interested users. Some NGOs have carried out an inventory of prisoners without trial in different prisons to press the authorities for corrective actions. Some renowned lawyers have carried out specialized training for reform of the civil procedure and labor codes among others. It appears that these actions demonstrating a “learning by doing” approach of judicial authorities and NGOs are having encouraging spill over effects: encouraging social participation and discussion towards a comprehensive judicial reform. Indications are that the overall political climate, ongoing anti-corruption measures and efforts at the technical level, and civil society oriented measures of the judicial authorities and active participation of civil society organizations promoted by the program are likely to bear fruits. But more study and analysis is needed to gauge the impact and determine reasons for success.

Part Three: Conclusions and Lessons Learned

The social inclusion approach of the highest court to engage civil society in improvement programs and broader sector plans is a major step forward. Along with the Bank’s strategic decision to support the highest court in harnessing citizen support for change. Fortuitously, this coincided with the change in government which promoted fundamental changes to the constitution. Together they have helped trigger profound changes in the justice sector. The strategy to involve the users, and judges and internal staff right from the beginning has yielded demonstrably favorable results.

At the same time though, the “judicial—civil society partnerships” have been largely focussed on the umbrella model of NGO. The future challenge thus is how to strengthen social partnerships to adapt to the evolution of civil society organization and the justice institutions in the coming years. The experience so far however offers lessons and new challenges. One challenge is that as civil society organization and the justice sector evolves, it needs to be determined which models can best guide policy makers and NGO leaders in continuing the reform process. After all, a proven, widely tested medium to long term reform agenda is not yet fashioned. It requires further social support, internal judicial commitment and leadership and technical capacity clearly demonstrated at the highest levels. Other lessons for fostering civil society partnerships are:

- Bank has a key facilitator role in promoting positive change in the public sector. This however needs to be expanded and/or refined by engaging in the sector with an “open mind” so as to listen first and prescribe later and adapt as needed.
- Banks competitive advantage of being a global knowledge institution is useful to reform. As has been demonstrated under the project, organization of technical visits to good practice locations around the globe, setting up networks helps build knowledge among judicial and civil society leaders and promotes team building if these are carried out as “joint-programs.”

- Provision of an objective “space” for policy and technical discussion can have a favorable impact on the quality of judicial reform programs. Its availability can also provide an inherent benefit to improve coordination of tasks and promote understanding of overall needs and identification of gaps.
- “Linkages” among public support, judicial leadership and technical knowledge are essential and can be improved through careful selection of NGOs for partnership activities. Building trust and commitment takes time and depends upon three essential elements: leadership and technical skills, the ready availability of funding resources, and the stability of partner NGOs’ resources.
- Measures to enhance the technical capacity (especially IT) of the judiciary and NGO groups serve as an interface for knowledge.
- Partnership between the judicial branch and civil society groups is essential for sustaining improvements. It should be viewed as a two-way street for judicial reform. However, the participation of the judges should be preceded or shaped in parallel with civil society groups so as to avoid conflict and raising unnecessary expectations before initiation of programs.

In summary, Venezuela’s experience has shown the importance of strong motivations for social involvement, and the right choice of models to facilitate judicial and civil society partnerships for achieving good quality justice system. Perhaps the best lesson so far is the necessity to promote “learning through doing” and adapt to changing realities on the ground.

Annex: Organizational Models for Civil Society and Justice Sector Partnerships

A brief enumeration of the six models and their pros and cons are described below:

1. *Direct Individual Citizen Action Model.* While the least organized civil society vehicle for reform, this model is used in many cultures by ordinary citizens to express their views or to vent their frustration with their government including its elected officials, police, prosecutor, or courts. The “goal” being sought from this organizational model is frequently direct personal relief or satisfaction by the individual citizen who has petitioned a specific department, office, or individual within the government.

Pros and Cons-- The direct citizen action model approach may have varied success depending on external factors. On the positive side, it offers considerable flexibility limited only by the imagination, capacity and energy of the petitioner. This model also encourages other citizens to register complaints and press their government to better serve them.

On the negative side, governmental agency directors and judicial sector leaders may have a difficult time responding to any continuous stream of citizen calls and letters. Important ideas and issues of concern to the courts and the community may not be given proper notice simply because there is not enough time for the judiciary, the police official, or the prosecutor to study and reflect on what an individual citizen might bring forward. Stated differently, a major drawback of this method of encouraging judicial reform is that the anonymity of the individual citizen to the court makes it unlikely that a court will take time to thoughtfully consider to expressed views of the citizen.

2. *Single Issue Organizations.* This non governmental organizational model is the most widespread and includes an infinite variety of “causes”. In addition to “the cause”, this model also may be organized on specific demographic, age, or ethnic bases within the “cause” itself. In the administration of justice area, single issue civil society NGOs range from those concerned with domestic violence, to victim rights groups, and from citizen court watching groups to juvenile or family court reform committees and from citizens protecting the environment to land reform committees. In the United States two organizational examples among many are Mothers Against Drunk Driving, and the National Organization for Victim Assistance.

Pros and Cons— A major positive characteristic of the single issue civil society non governmental organization (NGO) is the very strong personal commitment of the groups’ members and leaders to the mission or cause. This personal passion and commitment may be essential to the capacity of the NGO to accomplish the myriad tasks, large and small, necessary to advance the core goals of the NGO.

Access to “cause related” financial support from outside the organization’s own members is another potential attribute of this organizational model. In the United States and Europe, for example, there is a very active philanthropic sector which include foundations whose missions may complement the many different types of single issue NGOs. Thus, foundations concerned about domestic violence, or citizen education, or environment and wildlife, fund NGOs committed to addressing those specific causes.

The narrow mission and strong personal resolve of a limited number of individual citizens which characterizes the single issue NGO, may also represent potential limitations. Passions wane, and people may lose interest (or patience) over the extended period of time necessary to effect the desired change. Expressed differently, some single issue NGOs may lack the staying power to sustain the “cause” over time.

3. *Judicial Branch Focused Civil Society Organizations.* These groups focus on a distinct branch of government, the courts or justice system, usually within a defined geographic area. In the United States most NGO’s of this type direct their major focus on a single state or city rather than at the entire nation or at the federal judicial branch of government. The Council for Court Excellence, based in Washington, D.C. and the New York Fund for Modern Courts, based in New York City, are two U.S. examples. At the national level in the U.S., examples range from the Federal Judges Association, the National Center for State Courts, and the American Judicature Society. In Venezuela, there are NGO’s directed at the entire nation (e.g. PROVEA, CONAPRI). In Singapore there are successful women’s associations addressing family violence and access to justice issues. In Colombia, the Corporation for Excellence in Justice is another NGO which has a national focus.

This form of NGO is frequently, but not always, characterized by an action orientation in which the group works, sometimes for years, to address or ameliorate a limited set of discrete problems within the broader administration of justice of a community or a nation.

Pros and Cons— The common organizational characteristics of the judicial branch focused NGO model are a diverse base of supporters (often including the legal, business, civic, judicial and philanthropic sectors); a broad

substantive agenda; and independence of voice and action. Each of these characteristics represent potential sources of strength for the NGO model. For example, a diverse base of supporters should contribute to the NGO selecting substantive organizational priorities which concern or appeal to a broad spectrum of the community. That, in turn, may cause the judicial sector leadership to express greater interest and attention to the ideas and views of the NGO.

A second important attribute of this NGO model is the potential diversity of sources of financial support to sustain and advance the programmatic goals and agenda. Because the membership of this NGO form is consciously not limited to one strata of the community the opportunities for funding support could be very broad.

The third attribute to be noted for this NGO model is perhaps its most important, namely its independent voice. Because this NGO form is not part of the courts, or a large university department, bar association, or chamber of commerce, it has the potential organizational flexibility, and perhaps, the obligation to exercise its vocal chords as an independent spokesperson to advance the NGO's goals and objectives.

The potential functional weaknesses of the judicial-branch focused NGO are several. First, the diversity of membership and supporters in this NGO form may dilute the very intensity and passion of concern with the existing police, prosecutorial, or court processes that is necessary to get anything changed. Stated differently, one group of NGO supporters' difficulties with the courts may work to another group of supporters' benefit as in the issue of trial court delay in civil or criminal cases. Defendants in cases frequently are not anxious for expedition in trial processes, whereas plaintiffs usually are.

A second potential weakness of this NGO model concerns the difficulty of securing funds over time to advance its substantive reform program or agenda. To the degree the NGO seeks to advocate improvement or reform of the courts on a broad scale, such as reform of a jurisdiction's juvenile court, it is likely to take many years to see positive results. However, funding sources available to this NGO model (and to most of the others being discussed in this annex as well) typically will not make grant commitments for a term that is long enough to reach the intended goal.

4. *University-Affiliated Civil Society Organizations.* Law schools, graduate schools, and universities from time to time may serve as an incubator or a long term host for a distinct judicial sector, or civil society NGO, initiative or agenda. International legal education, everyday law programs for high school students, in-service or pre-service judicial education programs at the trial or appellate court levels, and promoting a lifetime sense of public interest among undergraduate students, are all examples of where universities have actively participated in advancing a defined civil society need or judicial sector objective. In the United States such successful civil society organizations as the International Law Institute, and the National Institute for Citizen Education in the Law-- which formulated the popular Street Law curriculum— each started as university supported entities. One of the law schools in Baltimore, Maryland promotes an exchange of legal professionals between Brazil and the United States. The American Bar Association has operated a very extensive lawyer exchange program in certain parts of the globe through its Center for Eastern European Law Initiatives. The American University Law School in Washington, D.C. also has programs abroad.

Pros and Cons— This approach may offer a number of near term advantages including institutional support, institutional name recognition, and a potentially high degree of initial organizational sophistication. By utilizing the considerable intellectual capital of the university faculty and staff, NGOs based within a university setting may be able to work on a more substantive level more quickly to advance their agenda than might be the case normally with a new stand alone NGO. The related university department or key faculty member working with the NGO also may help to open doors within the judicial sector which otherwise might be closed to another type of NGO.

As with the other NGO model forms, the university-based NGO may also have limitations. Downstream costs of university affiliation may include lack of NGO operational and policy independence, cost and revenue sharing with the university, and difficulties in raising outside operational resources. Further, while university faculty involvement in the NGO may offer important intellectual depth and rigor for the program agenda, at the same time it may lack "real world" relevance and grounding. Pragmatism and action orientation may be part of an effective judicial sector NGO but these elements may not necessarily be in abundance within university based NGOs. In countries where the universities are organizationally weak or politicized stability of partnership may be at risk and compromise quality.

5. *Business or Legal Sector Hosted Civil Society Organizations.* Chambers of commerce, bar organizations, business trade associations, and major industry groups from time to time set up and underwrite limited scope judicial reform NGOs. The thrust of such law reform civil society organizations frequently parallels the economic self interests of the sponsoring industry, or legal philosophy, though successful intellectually independent models may be found in this area. The American Bar Association, the National Bar Association, the U.S. Chamber of Commerce, and the American Corporate Counsel Association are U.S. examples in this area. In Caracas, Venezuela the British American

Chamber of Commerce has exhibited constructive leadership in facilitating interest in judicial modernization and reform in that nation.

Less frequently, business groups serve as incubators for broad based law related NGO's focusing on the judicial branch. Here, the enlightened self interest is expressed in terms of the positive relationship between the quality and integrity of the courts and the confidence of the business community at large to make investments in the community.

Pros and Cons— Among the major advantages of this NGO model are the potential access to the financial and intellectual resources of the sponsoring business sector host. The formal commitment of a business, bar, or industry-related association to embark on an organizational agenda to influence or reform some aspect of the administration of justice is normally made at the highest policy levels of the association. These business, legal, and industry leaders may have direct influence or control over discretionary funding decisions within their firm or company. Since the substantive court reform issues of concern to the business or professional sectors frequently necessitate empirical studies and research to prove the points of view, the availability and access to funding sources is a major advantage.

A second potential advantage of this NGO model is the fact that most judicial sector leaders respect and relate well to business leaders, especially regarding management, applied research, and other quantitative-- as opposed to legal-- matters. Stated differently, NGO members from the business community leadership, because they are generally well known in the wider community, may enjoy ready access to judicial leaders.

Potential disadvantages of the business sector sponsored NGO include the perceived lack of objectivity and balanced viewpoint (for example in tobacco industry related matters) in any research conclusions and policy analysis produced by the NGO; the possible lack of staying power on the part of the business group in supporting the NGO through to the point of programmatic court reform success; and the related lack of a clear nexus many business leaders perceive as needed between good courts and good business.

Businesses and industry groups inherently and understandably seek corporate advantage for their interests; this appropriate attribute for a business group NGO may be viewed as inappropriate by the police, prosecutor, legislator or judicial sector leader in weighing options for reform or modernization. Bar associations are an especially important civil society resource both to the courts and to other NGO's seeking to influence the judicial sector.

6. *Civil Society Umbrella Organizations* In the administration of justice sphere, this civil society NGO model may be comprised of a large number of single issue civil society organizations, all of which share a common interest in some specific policy reform area in impacting on the police, prosecutor, judiciary, or penal systems. Special organizational challenges with the umbrella NGO model include:

- * how to set priorities when each single issue member NGO understandably believes its cause is "most important";
- * how to finance the umbrella NGO when each of its member groups may have to raise funds from the same donor base; and,
- * how to maintain momentum over time when *real* judicial sector reform success perhaps will be reflected most always through "single issue" change.

The question is who gets the credit. Is it the umbrella NGO which may have successfully orchestrated the change process in the judicial sector, or the single issue NGO which identified the problem and perhaps the solution in the first place?

Pros and Cons— A major potential attribute of this NGO model is the combined strength of a larger "voice" such a body of independent groups may bring to the police, prosecutor, or judicial sector leader. Additionally, there may be considerable substantive knowledge and depth extant in the respective individual NGO's which participate in the umbrella NGO. This knowledge base is itself an important potential resource for the umbrella NGO to tap to advance agreed upon goals and strategies. In Venezuela, for example, umbrella groups such as the Alinaza Social para la Justicia have worked in partnership with the judiciary in promoting constitutional reform and the introduction of oral and transparent procedures in courts. A further attribute of the umbrella NGO model may be organizational efficiency. The umbrella NGO model may serve as a clearing house or a means to facilitate quick communication among the various single issue NGOs which are members. A number of the potential weaknesses of this NGO model are summarized above. This model may find it difficult to agree upon key substantive justice system reform priorities to advance as an NGO. NGO operational fund raising may be a special challenge for this NGO type since they may be perceived to be competing for support from the same donor community. It may also be time consuming to achieve consensus on proposed future courses of action. In cases when broader alternatives to formal courts are being proposed (such as non court annexed conciliation or mediation) such civil society organizations may have problems securing judicial support as the reform may be perceived by some in the bar and the judiciary as undermining a core function of the courts—dispute resolution. Therefore, closer information sharing and discussion of potential benefits to the formal

legal and justice system in taking away unnecessary or trivial cases out of the system should be brought forward in dialogue as reform proposals emerge.