Concept Note:
Judicial Reform Program for Improving Governance

1. The objective of the judicial reform program is to contribute to build client capacity in order to have a more efficient, fairness and accessible system of justice. More Efficient, meaning increasing the cost-effective utilization of existing resources. Fairness, meaning following the rules and procedures to avoid arbitrary or biased decisions, and accessible system, meaning fostering access to justice services. The program will achieve these objectives by:
   1) Researching and conducting empirical analysis
   2) Facilitating debate and consensus among different stakeholders within the country with the final objective of prioritizing reforms and sharing experiences across countries.
   3) Training experts in the Legal and Judicial field.

2. World Bank Approach

Over the last decade, the World Bank has placed greater emphasis on the justice sector. The initiatives of the World Bank drew in the past on an agenda, focused on improving the legal climate for commercial development.

Its assistance efforts have involved drafting and revising commercial codes, supporting courts and alternative mechanisms for resolving business disputes, and promoting law reforms in the areas of intellectual property, contract, and investment regulation.

The efforts have been focused on seeing the courts as key actors in facilitating economic investment and building the law. Judges understandably focused on questions of the infrastructure of the courts, human resources reforms, judicial salaries, alternative dispute resolution as a means to reduce court congestion, and the need to bolster the independence of the judiciary from other political branches.

In the area of training, Judicial reform programs and projects have supported Law Schools and the Ministry of Justice focusing on judicial code of conduct, evaluation and discipline and the qualifications, appointment and promotion of judges, court administration and case management.

The Bank’s approach to justice reform is in current discussion and it is changing perspective towards stressing the importance of improving not only the effectiveness of judiciaries, but strengthening the other public institutions which judiciaries interact with as well so as to promote sustainable economic development. Also as projects and perspectives evolved, some of the more general questions of the legitimacy of the legal system, such as access to justice, are gaining importance.

3. Context of the Program and WBI’s approach
The capacity enhancement program on judicial reform is trying to better leveraging its expertise and resources through closer alignment with World Bank country operations and regional networks to promote and improve the rule of law. Part of this work in WBI includes sharing of knowledge and experience as well as capacity building in the area of judicial reform.

During the past years, and as part of the Governance Program, WBI has, in cooperation with the client countries, the Legal department and operations, been working in the area of Judicial reform concentrating its efforts on analyzing the key indicators and the variations among countries that contributes to the area of corruption inside and outside the judiciary. Corruption leads to impunity of corrupt activities, and if not addressed will lead to lack of accountability within the government. Corruption undermines efficiency, fairness and access to justice because where corruption exists there is no predictability in the system; there is an increases of the cost-effective utilization of the resources through informal and obsolete court systems for the poor; and there are delays and biased decisions in the process for the less rich who does not have resources to afford to pay bribes.

WBI’s work on Judicial Reform is designed to assist countries to improve the performance of their judicial reform system by:

1) Researching and conducting empirical analysis. Empirical diagnostics are being conducted before the design of the program to know what are the key areas for reform in a given country and region. Overall, regardless of their political, economic and social characteristics measures for improving independence, accountability, structural and procedural mechanisms, technology, budgetary allocation were deemed universally applicable, with the sense that the same approach could be replicated across countries. This original assumption has been challenged by initial results of the reforms: variations across countries showed that the “one size fits all” assumption did not work. As a result, this program tries to work with the reformers to analyze the political, social and economic conditions of the recipient country before designing and implementing reforms.

Now, even before designing learning programs WBI facilitate discussion with Ministries of Justice, Legislative, Justices Committees, Bar associations, civil society and media who will discuss the key areas for designing the learning program which are in connection with the key areas for reform. They first discuss the matter on a regional basis and afterwards on a country by country level. The areas selected for a given program vary from region to region depending on the initial economic, political, social and legal conditions of the country (for example how independence is the Judiciary from the other branches or if there is well established ADR mechanisms, how the media and civil society organizations interact with the judiciary).
Facilitating debate and consensus among different stakeholders within the country and sharing experiences among countries with the final objective of prioritize reforms. The establishment of an efficient, fairness and accessible judicial system is a continual process, the consolidation of which has been a key objective of many governments since the 1980s involving mainly and in most of the cases solely the judiciaries. This programs seek to broaden and deepen the limited focus of traditional judicial reform approaches caused by internal improvements -- covering such matters as procedural simplicity, information flows, cost, speed and fairness as between the parties to the litigation.

While these internal improvements are indeed important and necessary, experience shows that they are not sufficient to ensure legal and judicial systems produce pro-poor and pro-growth outcomes. For this, judicial reform needs to move beyond the narrow initial focus and address external factors in a more comprehensive approach involving a wide range of stakeholders with a multisectorial approach including Ministries of Justice, Legislative Justice Committees, the media, Bar associations and law schools, economists, social scientist, and other civil society actors.

Training experts in the Legal and judiciary field. Thought we recognize that the processes by which laws and regulations are initiated, prepared, produced, enacted, and effectively publicized are of crucial, our focus is on Judicial Reform, addressing only the legal aspects of the laws that the judiciary enforces and affects fairness, access to justices and efficiency. Appropriate training programs are designed to enhance the performance of the main actors and institutions in the legal system (e.g., legislatures, the judiciary, the executive, prosecutors, public defenders, the media, the legal profession, and the public at-large) and instill the values of impartiality, professionalism, competency, and efficiency.

Core topics where modules have been developed and delivered in several regions are:

- **Independence**, including: a) transparency and information issues (public and media access to proceedings, publication of judicial decisions, case assignments, court monitoring by NGO’s, b) the limits of independence, and c) Political and Economic networks of influences.

- **Accountability**, including: investigation of corrupt cases, monitoring the Judiciary by stakeholders, budgetary allocations, Appointment, promotion, discipline and removal of Judges.

- **Structural and Procedural**: Administrative and case management procedures, and technology.

- **Access to Justices** including: a) the area of improving access to existing services, b) expanding access to facilitate or encourage use of dispute and alternative resolution mechanisms by marginal groups focusing on gender and indigenous issues, and c) creating new legal standing to advance the interests of classes of individuals.
To complement the learning capacity program, WBI is accumulating and developing knowledge and expertise both practical and theoretical with respect to issues of corruption inside and outside the judiciary. WBI is using this knowledge and its comparative advantage to cooperate with other parts of the Bank and other donors by:

- providing technical assistance to operations by designing anticorruption components in the judicial reform lending programs).
- Collaborating in concept notes, CAS, strategies on JR for the Bank.
- Writing articles on JR

4. Mode of Delivery

Modules of the program are developed based on local inputs, research and a series of videoconferences and consultations with local actors. Each module contains specially designed curricula, which is distributed to participants before the program. These materials include conceptual frameworks, case studies and background papers prepared by regional experts and practitioners in the area of justice reform.

Country teams discuss current justice sector programs and reforms under implementation in their countries as well as the areas to be reformed or prioritized as in need of reform.

Each participating country has a focal point from the region in the WB and a facilitator who serves as the local expert in the field. They are responsible for the overall coordination with the participants and their relationship with other organizations and donors involved in the judicial reform program. During each session the different stakeholders get together for group discussions on the different topics presenting and at the end of each session the participants present conclusions for the specific topic.

The methodology allows participants to discuss – along the course duration (six to eight weeks in general) – the impacts (expected and otherwise) of reform programs and those in need of urgent attention at the national level. At the end of the program, country teams present a comprehensive programmatic matrix with suggestions and project proposals of action plans in justice sector reform. The implementation stage and work within countries is the responsibility of participants, and the leaders of the reform programs being implemented in the countries with the support of operations.

Partnerships and Linkages

This learning program has been developed by the World Bank Institute (WBI) in close collaboration with the Legal Department (LEG) and the Poverty Reduction and Economic Management (PREM) Network and the Region departments of the World Bank.
Outside expertise is also involved in the program and includes partnerships with such organizations as the Justices Studies Center of the Americas for the LAC region and the International Law Institute – Uganda African Center for Legal Excellence, for the Anglophone Africa region.

6. Quality Control

Program modules, including conceptual papers, case studies and background papers, which are reviewed in advance by our partners in the field, plus peer reviewers around the Bank (LAC, LEG, PREM, AFRICA). Internal peer reviewers have included, among others, Lisa Bhansali, Sr. Public Sector Management Specialist in LAC; Gita Gopal, Rick Messick, Public Sector Group and Co-ordinator of the Legal Institutions Thematic Group, Maria Dakolias, Lead Counsel, Legal and Judicial Reform Unit, Robert Buerghental, Sr. Counsel, Waleed Malik, Lead Public Sector Management Specialist, Ronald Myers, Sector Manager, Public Sector LAC, and Elizabeth O. Adu, Chief Counsel for Africa. External peer reviewers and partners include JSCA, ILI-Uganda, IDLO and ABA.

The program’s content emphasize the importance of continuous data collection to determine the impact of reforms for improving the functioning of transparent and accountable rule of law institutions. The program uses existing and new data in a rigorous way. To measure the impact of the use of empirical tools in determining the core governance and performance issues for judicial systems, it takes into account how many countries have utilized findings in the development of strategies for change. The program is then evaluated based on traditional learning measures such as participant satisfaction and assessments of the amount of learning that took place (evaluations level 1 and 2).

In addition, the program impact is evaluated along the following:

- **Sustainability** – as measured by the number of national and regional activities organized by partners, with little WBI involvement.
- Measuring the impact of the tools provided in the courses: evaluation surveys tools are used to see which reforms have been implemented and what has been the impact on improving performance and accountability of the rule of law institutions.
- Integration with the justice sector programs undertaken by other parts of the Bank or by other donors as an indicator of the impact of the program to see the capacity to create a national consensus strategy applied by the competent authorities based on the country priorities.
7. Challenges of the program

The integration of reforms under discussion in the program is the most important challenge. Revising these projects as well as the creating new components is difficult in some countries and often requires extensive coordination with other departments in the Bank in charge of preparing justice projects. This is many times confusing to other donors who are working on Justice sector programs. Furthermore, the challenges of integrating reforms into the broader strategy of controlling corruption varies from region to region. For example, we have attained a fairly good level of integration for the projects in the LAC region, but still seek further integration with projects in Asia, although some projects, such as Justice Program in the Philippines includes a total integration with the Country Anticorruption strategy supported by the Bank.

References:

7. Web-Sites developed

- **Judicial Reform Program** main web-site
  

- **Capacity for Development.** Building anticorruption networks: WBI action learning program draws on country experience
  

- **Judicial Reform courses (upcoming and previous)**
  

- **Judicial Reform for Improving Governance** in Anglophone Africa
  

- **Judicial Reform and the Control of Corruption** in Latin America and the Caribbean
  
  

- **International Conference- legal and Judicial Reform and Control of Corruption** in Latin America. Madrid, Spain. 2–3 July, 2002
  

8. Anexes


Roumeen Islam, Institutional Reform and the Judiciary (2002). Which Way Forward?

Course brochures:


- Legal and Judicial Reform and Control of Corruption in Latin America and the Caribbean. A Distance Learning Program for Bolivia, Colombia, Ecuador, Guatemala, Mexico and Peru. May 23–July 3, 2002


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