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INTERNATIONAL SUPPORT FOR JUSTICE REFORM IN LATIN AMERICA:

WORTHWHILE OR WORTHLESS?

By
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Introduction

Over the last twenty-five years, support for the reform of justice systems in Latin America has become a fixture of bilateral aid agencies and international financial institutions. International actors have directed substantial financial resources, dispatched consultants, and applied their blueprints for reform throughout the region. Has it been worthwhile? Has it been worthless? What are the shortcomings of these reform efforts? How could they be improved?

Three decades ago few doubted that justice systems in Latin America could be improved. The broad agenda, varying somewhat across the region, included gradually updating legal codes, enhancing the independence of the judiciary, improving the administration of the courts, and ensuring access for all citizens. Arguably, this was a fundamentally domestic project, which should have been initiated and directed by each nation within the region. International actors might have had a role to play, but it should have been be carefully determined in each setting by local actors. While this would have been the ideal case, it was rarely characteristic of the actual involvement of international actors.

This paper examines international support for judicial reform in Latin America, exploring several questions. After identifying the key institutional actors and the financial scope of their involvement, the paper reviews some general rationales for international support for judicial reform. It then considers initiatives for reform projects and the generally inadequate diagnoses that ground them. The shortcomings of the strategies pursued are discussed next, followed by some attention to the resulting distorted relationship between national and international actors. The lack of proper evaluations or of a real learning process is also addressed. The paper closes with some final assessments and recommendations. The guiding question throughout is whether international support for judicial reform in Latin America has been worthwhile or worthless, and whether Latin American justice systems are better or worse off because of it.

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International Involvement: Timing, Actors, and Scale

In Latin America, international involvement in judicial reform dates from the 1980s; "in 1983, the State Department created an interagency working group on the administration of justice in Latin America and the Caribbean." (Langer 2007: 648). The following year, the Bipartisan Commission on Central America recommended: "the U.S. should encourage the Central American nations to develop and nurture democratic cultures, institutions, and practices, including strong judicial systems to enhance the capacity to redress grievances concerning personal security, property rights, and free speech" (*Report of the National Bipartisan Commission on Central America* 1984: 51). Also in 1984, the U.S. Agency for International Development (USAID) launched the first judicial reform project in Latin America with active international support. International aid for institutional reform in El Salvador was meant to replace—or at least counterbalance—military support for the government. In 1985, the U.S. Congress passed legislation authorizing judicial reform programs for the region and "USAID created an administration of justice office in its Latin American and Caribbean bureau and started to provide assistance to other countries in the region" (Langer 2007: 649). With an emphasis "on human rights and criminal justice issues," the program was extended throughout South America in 1986. Thus, "by the early 1990s, the rule of law had been established as an important element of most USAID country strategies in the region." (*Achievements in Building and Maintaining the Rule of Law* 2002: 2-3).

Interagency working groups and aid agency platforms indicate a general international interest in judicial reform shared by many other governments and institutional actors. Throughout this period, three institutional actors were key to executing the programs and transferring the funds that followed from this general interest: the World Bank (WB), the Inter-American Development Bank (IDB), and USAID.

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Certainly the funding channeled by these three institutions confirms them as major actors in judicial reform (Binder and Obando 2004: 742). According to the available figures for the last two decades, the World Bank dedicated more than 305 million dollars to projects related to justice reform in Latin America. The involvement of the IDB was even larger, totaling more than 1.2 billion dollars in this sector (for a breakdown of expenditures by WB and IDB in each country of the region, see Table 1).

The magnitude of the financial commitment of USAID is more difficult to capture, in part because in different years and countries, USAID's projects related to justice have been included under different functional areas (human rights, governance, democracy, etc.). In a public conference, a USAID officer estimated that, by the end of 1999, 300 million dollars had been disbursed by USAID and the State Department for programs promoting justice and police reform in Latin America (Sarles 2001: 47).[1]

Table 1. **Funding for Justice Reform Projects in Latin America Financed by the World Bank and the Inter-American Development Bank, in US dollars**

Country	World Bank (1992-2011)	IDB (1993-2011)	Total
Argentina	5,410,000	451,150,000	456,560,000
Bolivia	11,000,000	3,150,000	14,150,000
Chile	944,400	1,343,000	2,287,400
Colombia	47,379,000	113,785,000	161,164,000
Costa Rica	---	32,225,000	32,225,000
Dominican Republic	---	285,000	285,000
Ecuador	12,874,000	227,312	13,101,312
El Salvador	18,200,000	---	18,200,000
Guatemala	33,096,000	30,531,020	63,627,020
Honduras	15,000,00	41,350,000	56,350,000
Nicaragua	---	1,669,626	1,669,626
Panamá	---	57,470,000	57,470,000
México	30,000,000	---	30,000,000
Paraguay	440,000	42,918,000	43,358,000
Perú	96,210,000	251,554,638	347,764,638
Uruguay	300,000	42,500,000	42,800,000
Venezuela	34,700,000	132,160,000	166,860,000
Regional Projects	---	2,581,400	2,581,400
TOTAL	**305,553,400**	**1,204,899,996**	**1,510,453,396**

Data compiled by the author from World Bank and Inter-American Development Bank sources

[1] Estimated USAID figures do not indicate the true magnitude of funds directed by the U.S. government toward judicial reform in Latin America, as USAID is not the only U.S. agency working in this field. For example, the Department of Justice has been training public attorneys in Latin America for the last fifteen years. It would require an entire research project dedicated just to this question to determine the exact amount of U.S. support for the reform of justice systems in the region.

Adding to these figures the funds provided by other countries—mainly Germany, Spain, and the Nordic countries—a fair estimate is that external funders have directed over 2 billion dollars to judicial reform in Latin America over the last twenty years.

Not only the magnitude but also the status of those international funds (as grants or loans) merits attention. While USAID donates the resources it supplies, the international financial institutions (s) lend most of the funds they provide. Thus, their contributions become public debt that countries must repay. Of the 1.51 billion dollars committed by WB and IDB to judicial reform in Latin America, only four percent of the funding was in the form of grants, while ninety-six percent was in the form of loans (See Table 2).

Table 2. **Loans and Non-Reimbursable Funds for Justice Reform provided by the World Bank (1992-2011) and the Inter-American Development Bank (1993-2011) in US dollars**

IFI	Loans	Grants/Non-reimbursable	Total
WB	**298,544,400 (97.7%)**	**7,009,000 (2.3%)**	**305,553,400**
IDB	**1,151,953,270 (95.6%)**	**52,946,726 (4.4%)**	**1,204,899,996**
Total	**1,450,497,670 (96%)**	**59,955,726 (4%)**	**1,510,453,396**

Data compiled by the author from World Bank and Inter-American Development Bank sources

In other words, over the last twenty years Latin American countries added 1.45 billion dollars to their public debt from financing justice reform. Has it indeed been worth it? A comprehensive answer to that question would require exhaustive work: solid evaluations with clear baselines, relevant indicators, and rigorous measurement of actual impact. It would also require in-depth qualitative case studies exploring the dynamics of reform projects and their broader effects – not just on the efficiency of judicial systems but on the provision of justice or changes in organizational and political culture. As yet, sufficient knowledge to thoroughly assess international support for judicial reform in Latin America is lacking (Binder and Obando 2004: 712). Nonetheless, a number of significant patterns and problems can be identified in how that international involvement has been conducted, and initial judgments made regarding how it has fallen short of its objectives and broader expectations.

Patterns and Problems of International Involvement in Judicial Reform

Rationales for International Support in Judicial Reform

Rhetorically, the World Bank has elaborated "three pillars" of its engagement in legal and judicial reform. These pillars are: "First and foremost, the judiciary must be independent, impartial, and effective. […] Second, an appropriate legal framework must provide enforceable rights to all. Third, there must be access to justice, without which all laws and legal institutions are meaningless". (Initiatives in Legal and Judicial Reform 2004: 2). While no one could conceivably object to these three pillars, they provide neither a specific program nor an underlying rationale for international involvement.

Paying attention to the international actors' behavior, two rationales for their involvement can be identified; neither is well-grounded. One is an implicit rationale that—somehow—better functioning institutions will result in profound political change. In this rationale, judicial reform fits within the ill-defined concept of good governance. The other, more explicit but equally unsubstantiated rationale is that the rule of law is essential to attract foreign investment and promote economic growth.

1. Implicit Rationale: technical change as a route to system transformation

According to the first rationale, the adoption of Western judicial procedure, via limited institutional and technical adjustments rather than direct political change, will somehow transform justice systems. The implicit model to be copied is justice systems as they exist in the developed world (Sieder 2003: 62), without consideration of the unique historical and social conditions that gave rise to those systems. The presumed process of change is simplistic: "if the institutions can be changed to fit the models, the rule of law will emerge." (Carothers 2003: 9). Thus fundamental moral and political commitments to due process or constitutionality are treated as though they could be reduced to and captured by disputable indicators of "the quality of governance and the efficiency of legal systems" (Faundez 2005a: 575).

When this is understood as the implicit rationale of many internationally funded judicial reform projects, the coherence of those projects becomes evident. Early on, many internationally funded reform initiatives focused on legal codes. International actors concurred with national actors, blaming "old statutes and codes" for the backwardness and poor performance of justice systems. Changes in legal codes in accordance with current Western models were then presumed to constitute judicial reform, such as USAID's conclusion that in El Salvador it had achieved "progress in passing justice system reforms because most enabling legislations for the legal and structural reforms to the justice system has been enacted" (U.S.G.A.O. 1999: 10).

The area of criminal procedure offers another striking example of a limited change following an imported model which is presumed to lead to fundamental transformation. Drawing heavily on the practices of the U.S. criminal system, similar reform projects were implemented in fourteen different Latin American countries. A change in the performance of the actors, a better administration of justice, and ultimately a stronger rule of law were all expected to emerge as a result of procedural changes.

The imitation of Western models also appears to be the rationale for ubiquitous training components of many reform projects. Again, the belief appears to be that if a society can reproduce the institutional components of established Western democracies, it will achieve such a democracy. With this goal, training is the means through which "individuals in key institutions can and should be taught to shape their actions and their institutions in line with the appropriate models" (Carothers 1999: 90). Any of these training components require considerable sums of money, whether in grants or loans. Thus far, "invariably, […] the performance of these components has been disappointing" (Faundez 2005b: 9).

Updated infrastructure, such as facilities or computers, are yet another change presumed to have much larger systemic ramifications. In particular, a significant proportion of the IDB projects on justice have included large sums for new buildings.

None of these fairly narrow changes to make Latin American legal codes, criminal procedures, training, or facilities appear more like foreign models have actually transformed these legal systems. These projects continue to be funded and implemented by international actors because they are in line with the underlying implicit rationale, that somehow such changes will transform reality. The sequence seems promising, if naive. First comes the new code; then, an intensive training program for the actors; finally a new justice system should emerge. Without a doubt, the facts tell a different story. New buildings have been constructed, computers have been purchased, and innumerable training modules have been executed – all with little effect on the quality of justice achieved. "Training for judges, technical consultancies, and other transfers of expert knowledge

make sense on paper but often have only minor impact" (Carothers 1998: 104).

Such projects continue to receive international funding in part because, if they have little impact, they also meet little resistance. All these projects are fairly neutral or uncontroversial. Among the greatest imperatives of judicial reform are to "enhance the principle of separation of powers: judicial independence of the courts; and the extent of judicial review powers vis-à-vis the other branches of the state." But international aid agencies find it difficult to confront these major political issues, and as a consequence "have generally been shy of pursuing reform initiatives that engage" them (Domingo and Sieder 2001: 154). Clearly, "political benchmarks are the most difficult for the donor to establish or impose," although they are nonetheless "the most important conditions for project success." (Salas 2001: 41). Thus the imitation of formal or technical aspects of the Western model of justice systems, though ineffectual as a route to the systemic transformation, continues as an implicit rationale behind many internationally supported projects of judicial reform.

2. Explicit rationale: economic growth

Another more explicit, but equally unproven, rationale for international support for judicial reform has been the relevance of the rule of law for economic growth. The conditions of justice administration have been increasingly linked to the reliability that any country supposedly must provide in order to attract foreign investment and, as a consequence, to improve growth and employment. According to this perspective, "if a country does not have the rule of law […] it will not be able to attract substantial amounts of foreign investment and therefore will not be able to finance development" (Carothers 2003: 6).

While the importance of functioning institutions for economic development was first elaborated by Douglass North (1990), the organizational champion of this view is undoubtedly the World Bank. Its support of a link between the economy and the rule of law is forthright: "Economic reform requires a well-functioning judiciary which can interpret and apply the laws and regulations in a predictable and efficient manner. With the emergence of an open market, there is an increased need for a judicial system" (Dakolias 1996: 3). And the views of the Word Bank tend to prevail. "The financial leverage of the Bank […] is perhaps surpassed by the normative power of its development theories […] what it says about development, shapes other multilateral, bilateral, and national development strategies and defines the conventional wisdom on global development" (Weaver 2008: 9, 10). Thus, the WB is responsible for the articulation and dissemination of this argument, and has made this the most accepted rationale for judicial reform: economic success requires good governance; therefore, the rule of law and judicial reform are crucial for achieving growth and development.

> USAID can be seen as following the World Bank lead. In its own assessment, the agency depicts its record in the field of justice as "impressive" and notes, USAIDS's shift in the mid-1980s toward trade, investment, and indigenous private sector development brought attention to the enabling environment for private sector growth, and the Agency quickly recognized that the legal, regulatory, and institutional framework operating in target countries represented major barriers to foreign and domestic investment. (Lecce 2002).

Other international actors have also adopted this orientation. For example, the Spanish international aid agency has formally stated that "an independent and professional judiciary […] is a key for the development of economic activities," emphasizing that "carrying out of contracts depends on judges being

independent and having a good technical preparation" (*Estrategia de la Cooperación Española para la Promoción de la Democracia y el Estado de Derecho* 2003: 35).

Despite the general chorus of approval, the link between justice and growth has not been proven. Indeed, a number of studies have noted the lack of empirical evidence of a causal relationship between the two factors (Weder 1995; Messick 1999; Carothers 2003). Moreover, during the last decade, the impressive economic growth of China has shown that the rule of law and an efficacious justice system are not needed for either attracting foreign investment or reaching a high rate of economic growth.

Proof of this link is hardly necessary when the actual goal is improving the investment climate. This may lead to reform projects that prioritize facilitating investment rather than achieving real significant change in justice systems. Thus Riggirozzi perceives in the current WB approach to reform the concern to create "conditions that enable a sound investment climate and reduce the costs of commercial transactions" (2007: 219). Some years earlier, Mendez arrived at a similar conclusion about the engagement of the international community in the field of justice: "Its priority has been the efficient delivery of services, particularly in fighting crimes of international interest and in expeditious resolution of investment disputes […] there has been relatively little interest in emphasizing the overall fairness of processes and any decisions resulting from them" (Méndez 1999: 224).

Thus, as with the previous implicit rationale regarding resource and procedural adjustments so as to approximate a "modern" model, the economic rationale for judicial reform permits international actors to avoid confronting the need for deep political change. Under both rationales, judicial reform can be conceived as a technical process rather than a political one (Carothers 1998: 99). If the rationale for reform is to be found in economics, its implementation needs not and should not be positioned in the political realm. The reform effort is thus depoliticized, and some politically controversial components—such as the selection process of the judges, or the accountability and independence of courts—fall conveniently outside the scope of the internationally supported reform projects (Riggirozzi 2005: 9).

External Initiative, Insufficient Diagnosis

With these general underlying rationales, international aid agencies have become involved in a variety of judicial reform projects throughout Latin America. Even before examining specific strategies, shortcomings can be identified in the very inception of these projects. For the most part, they are driven by external actors and depend on insufficient diagnoses of local situations.

1. External initiative

Across the region, the initiative for judicial reform projects funded by external institutions has frequently come from those external institutions, rather than from local actors directly involved in justice systems. Once offered, the proposed aid (both the funding and the technical support to design and implement programs) can be hard to refuse – regardless of the perspectives and priorities of local actors. Some individuals among the national authorities and officials may be aware of the importance of reform, but the externally promoted projects are unlikely to be genuinely appropriate to the local context or to have necessary local backing. Ministries of Justice, Supreme Courts, and other local authorities may agree to proposals of assistance "in the hope that participating will bring at least some benefits" (Carothers 1999: 260). However, such passive acceptance does not indicate a genuine commitment to reform or to a particular reform strategy.

Indeed, in some instances, local support for judicial reform has been considered dispensable or even

irrelevant. In Central America, the region where international aid for justice reform started in the 1980s, the governments' political will was clearly considered secondary. As subsequent assessment revealed,

> State Department officials believed that the availability of funds for judicial reform in Latin America in the 1980s pushed AID into initiating large projects prematurely in El Salvador, Honduras, Costa Rica and Guatemala. They noted that Congress, in an attempt to deal with the political instability in the region, earmarked funds for the region before host governments had demonstrated a willingness to implement significant reforms. […] the impact of these early efforts are [sic] largely uncertain. (U.S. GAO 1993: 14).

In another notable case, at the end of the 1990s, a WB task manager arrived in Guatemala City and with no further introduction announced that the Bank had decided to lend 30 million dollar to the country to overhaul its justice system. Years later a representative of the European Union similarly proclaimed that the EU would be donating 10 million euros to overhaul the Guatemalan prison system. According to a UNDP assessment, between 1996 and 2003 international sources made more than 185 million dollars available to Guatemala's justice institutions more than 185 million dollars. (Pásara 2003: 211).

Such funding can be almost impossible to decline, even if it is marked for inappropriate projects. "Developing countries may find themselves unable to resist the demands placed on them by foreign funding agencies and may adopt legal reforms implanted by developed countries with little public discussion on analysis." (Salas 2001: 44). This is as true of non-governmental organizations (NGOs) as it is of official authorities. As Carothers noted, regarding the relationship between donors and entities of civil society:

> With donor dependence so high among NGOs in most transitional societies, donors invariably find an enthusiastic response to almost any line of activity they propose. […]NGOs in transitional societies everywhere are following the leads of donors in both area and project style and local ownership of much civil society assistance is still very partial (Carothers 1999: 261).

The fundamental asymmetry of the relationship between external and local actors, evident from the start both in who takes the initiative in judicial reform and who has the money (whether requested or not) affects all aspects of the reform process as it has unfolded in Latin America.

2. Insufficient diagnosis

The initial phase of any reform project should be a thorough and accurate diagnosis of the problem to be confronted. As judicial reform projects are frequently initiated externally, it is unsurprising that donors' diagnoses of existing problems rarely accord sufficient attention to local problems or historical conditions.. Critics of international assistance often cite the superficial conclusions that result from such an insufficient diagnostic phase. Rather than examining the actual context and conduct of the justice system, diagnoses often addresses only the formal elements. Tellingly, these diagnoses are often referred to as "legal assessments": "the emphasis appears to have been placed excessively on collecting information on legal institutions, but without an in-depth understanding of the way these institutions work. […] legal assessments tend to be somewhat formalistic exercises that compare legal institutions of a particular country with an ideal model of what a good legal system should look like." As a conse-

quence, the diagnosis is hardly "a device designed to provide pointers regarding which components of a particular legal system can realistically be expected to change or improve" (Faundez 2005b: 23).

Given this prevailing approach, reform projects tend to focus on the symptoms rather than the causes of the realities to be transformed. They disregard the relationship between a specific problem to be confronted and the context in which the problem has originated and developed. The historical and cultural roots of the problem are often ignored or underestimated. A superficial diagnosis gives way to a poorly defined project that cannot anticipate the magnitude of the difficulties to be faced. As has been noted regarding U.S. aid programs' assessment of a judicial system, foreign experts may:

> ….conclude that it falls short because cases move too slowly, judges are poorly trained and lack up-to-date legal materials, the infrastructure is woefully inadequate, and so on. The aid providers then prescribe remedies on this basis: reform of court administration, training and legal material for judges, equipment for courtrooms, and the like. What they tend not to ask is *why* the judiciary is in a lamentable state, whose interests its weakness serves, and whose interests would be threatened or bolstered by reforms (Carothers 1999: 102).

Rather than engaging in a more profound diagnosis of the problems of a justice system, foreign aid agencies rarely even ask whether basic conditions exist for engaging in a reform project. According to Blair and Hansen, "the decision process starts with the question […] *Does the state meet the minimal criteria for even contemplating an ROL* [Rule of Law] *effort?* […] attempting to improve such systems before basic minimal integrity is established would be senseless" (Blair and Hansen 1994: 10). All too often, however, even this step is circumvented, with the excuse that the project itself is needed so as to generate the conditions for its success. As an IFI official has written, "It might very well be counterproductive for the IDB to refuse to do any justice reform work in those countries that do not meet IDB-established standards for judicial independence or for consensus for reform" (Biebesheimer 2001: 106). Accordingly, an independent judiciary is not a prerequisite to a judicial reform project because "when independence does not exist, the IDB has developed projects that address some of the obstacles to independence." In sum, a justification can always be found for implementing a project in a country under any circumstances, even a lack of consensus regarding the need for or shape of reform: "the IDB is working both in countries where there is a broad-based support for reform and admirable judicial independence, and in countries or contexts in which only partial independence and consensus for reform exists" (Idem).

Insufficient diagnosis and an inclination to proceed even where local demand for reform and consensus on its content are absent may elicit a sort of "shopping-list" syndrome that is not a comprehensive strategy but rather just an extensive enumeration of goals, objectives, and activities, neither interrelated nor logically sequenced. In 1993, an official U.S. balance of results admitted: "neither the Department of State, USIA, nor AID had assessed the region's needs or formulated long-term goals or objectives before targeting short-term technical requirements" (U.S. GAO. 1993: 3). In fact, as IDB officials have conceded, "most projects are not defined as partial efforts to achieve a broader, longer-range goal", and that happens because "most [projects] developed so far have not been preceded by a country sector study which could help establish a long-range strategy […] Formulation of project strategies will be helped by better diagnostics" (Biebesheimer and Payne 2001: 31, 30). Strategy—with a well-founded diagnosis as its basis—is mostly lacking as a framework to elaborate projects. The

same authors recommend the IDB "should develop justice sector studies that set medium-to long-term goals and provide organizing principles and priorities for project work", working with a strategy to "identify those projects that are priority in terms of their impact and catalytic potential for bringing about additional changes in the system" (Biebesheimer and Payne 2001: 41, 30-31).

Patterns of Judicial Reform

Given lack of local initiative and generally insufficient diagnosis of existing problems, as well as underlying rationales that skirt actual political change, it is unsurprising that the patterns of judicial reform pursued by international actors have tended to be highly standardized and transplanted, relatively superficial, and obedient to the bureaucratic imperatives of the international financial institutions themselves.

1. Standardized and transplanted approaches

A number of authors (Domingo and Sieder 2001: 145-146; Garth y Dezalay 2002: 5; Faundez and Angell 2005: 102) concur in the observation that the contents of reform projects are usually imported institutional prescriptions or regimes that are transplanted without serious consideration of local conditions. This is in spite of the well-known lack of success in importing legal institutions because "law is a set of institutions deeply embedded in particular political, economic and social settings." (Haggard, MacIntyre and Tiede 2008: 221).

Notwithstanding, international aid agencies—and the expert consultants they hire—base their decisions on their knowledge of various countries and regularly advocate imported approaches as the preferred tool in projects of justice reform. Frequently, foreign experts make only short visits to the country, speak primarily to government officials, and fail to take into account national experts' opinions (Salas 2001: 45). Their advocacy of standardized strategies, with a blend of legal formalism and instrumentalism, provides "a convenient methodological shortcut as it enables [consultants and experts] to offer legal advice without having to go through the tedious, difficult and often unrewarding task of understanding the societies they purport to help." (Faundez 2005a: 575). A common outcome is that "reform projects are imported prescriptions rather than policy proposals which reflect specific local needs and power relations." (Domingo y Sieder 2001: 145-146). This trend entails "the risk that reform promoters assume that a one-size-fits-all model" is the best approach (Faundez and Angel 2005: 96).

Indeed, the international financial institutions have advocated a recipe of policy prescriptions for the judicial sector, and made loans available for their implementation. "Using the [general, one-size-fits-all] strategy, assistance providers can arrive in a country anywhere in the world and, no matter how thin their knowledge of the society or how opaque or unique the local circumstances, quickly settle on a set of recommended program areas." (Carothers 1999: 96). With the backing of international agencies, the combination of available money tied to recommended prescriptions results in the adoption of standardized contents in many reform projects. The IFIs' general formula for judicial reform has served as a template for most of the reforms initiated in the region (Finkel 2008: 26).

One articulation of this one-size-fits-all strategy came from the WB, which produced a veritable shopping list of reforms. In a candid presentation, the standard package was itemized by a WB official:

> The basic elements of judicial reform should include measures with respect to guaranteeing judicial independence through changes to judicial budgeting, judicial appointment, and disciplinary systems; improving court administration through the adoption of case management

> and court management reforms; providing alternative dispute resolution mechanisms; enhancing the public's access to justice, incorporating gender issues in the reform process; and redefining and/or expanding legal education and training programs for students, lawyers and judges (Dakolias 1996: 7).

This blueprint is usually supplemented with infrastructure such as new buildings and computer systems—costly components that have consumed a significant proportion of the money devoted to justice reform projects. When the approach includes a bottom-up perspective, additional beneficiaries are added, such as "nongovernmental organizations that work for public interest law reform […]; […] that seek to help groups of citizens […]; NGOs whose explicit goal is to stimulate and advance judicial reform, police reform, or other institutional reforms directly related to the rule of law; media training […] legal aid clinics" (Carothers 1999: 169).

From an array problematically transplanted formulas, one of the clearest examples of the inappropriate application of a foreign prescription is the alternative dispute resolution mechanism (ADRM), originally developed in the United States. ADRM has been instituted in Latin America, under the auspices of the IDB, without regard to the specific nature and conditions of the conflicts to be solved (Faundez and Angell 2005: 99), without asking whether these mechanisms provide safeguards to protect the rights of individuals, and without perceiving the effects in "marginalizing ordinary courts from involvement in important social and economic issues" (Faundez 1997: 18-19).

2. Superficial and limited

In addition to being standardized and transplanted, the reform patterns pursued in internationally supported projects tend to be rather superficial and limited. They are commonly consider justice systems and their component parts in isolation, as though the judicial sector "is a separated entity from all the other national institutions" and offering, as a result, "assessments that put emphasis on formal aspects" (Faundez and Angell 2005: 103).

Formal aspects are also easier to address. USAID has chosen to define the limited scope of the reforms it supports as "technical" instead of what would be "political," thus eschewing complex contextual factors deeply affecting the performance of justice systems:

> AID officials in El Salvador and Guatemala favored technical projects because they (1) believed that such projects were easier to design, implement and manage; (2) assumed that technical changes could bring about substantive improvements; or (3) underestimated the extent that political considerations drove the host government's decision-making concerning the future of the judicial system (USGAO 1993: 4).

Indeed, in Central America, "USAID projects focused on easier-to-manage technical assistance, such as judicial training seminars and computerized caseload management, rather than working on the institutional, political, and attitudinal changes necessary for fundamental, sustainable, reform." (U.S. GAO 1993: 17).

Other international actors have also preferred to promote limited, neutral justice reforms, rather than politically controversial ones. Infrastructure projects have been particularly prominent. While good governance is touted as the guiding principle of IDB action in the field of justice, its actual operational orientation is depoliticized, directing funds toward buildings and computers (Faundez and Angell 2005: 99). The emphasis on computers is justified through the theory that "though upgrading technology does not, in itself, constitute

reform or modernization, it can be an important tool to achieving transparency and more efficient functioning of institutions." (Biebesheimer and Payne 2001: 31).

Training is probably one of the most recurrent in reform projects. When projects on justice in Latin America are designed, it seems that judges, public attorneys, public defenders, lawyers, and even law professors are all deemed to be in need of training. Indeed, every actor in the justice system is presumed to be in need of training and retraining, and not once, but many times. In some cases, sessions are even provided in English with simultaneous translation rather than the native language. In the absence of a real diagnosis of any weaknesses these actors actually suffer, training becomes a routine activity that fills out any project—with diverse and sometimes humorous content. Occasionally, as with a USAID project in Mexico, "the training has covered such broad areas that it is difficult to draw any cause-and-effect relationship between the training and USAID/Mexico Rule of Law goals" and is not even known whether "the training programs are having the desired impact" (USAID 2011: 8, 12).

3. Bureaucratic imperatives

What explains this international preference for superficial projects? In part, these are the only approaches possible in the absence of a serious diagnosis of local problems. Such limited projects also enable international actors to avoid serious political controversy. The international preference for these patterns also fundamentally follows from the internal bureaucratic imperatives of the IFIs.

The WB, for example, has well-established bureaucratic bias. It has been observed to exhibit a "predilection to deductively design aid proposals around the prevailing organizational discourse and routines of the Bank rather than the specific context" (Weaver 2008: 87). In the same vein, "considerable weight is given to economic and technical factors that are easy to identify and measure, whereas complex political and social risk assessments that involve 'soft' qualitative indicators are usually distrusted as unscientific" (Weaver 2008: 86). A review of WB's justice reform projects concludes: "project components often appear as disconnected activities that are not clearly linked to objectives" (Faundez 2005b: 7).

Institutional imperatives lead IFIs to support short-term reform projects that can be completed within a lending cycle. Projects are designed to operate within a given period of time—usually no less than six months, no more than three years—and are nonetheless supposedly reasoned to be the right tools to tackle aspects of the justice *problematique* that are deeply rooted in traditional practices. Indeed, the shorter the term employed in producing results, the better the project is considered at time of approval. The need to produce quick results has been officially recognized with respect to assistance provided by the United States: "The State Department's policy stipulated that all assistance should be practical, start up quickly, have an immediate impact, serve as demonstration projects, and be directed toward existing institutions" (U.S.G.A.O. 1993: 21). Hence, deeper problems that would require attention for an extended period of time become unsuitable for reform projects.

Also due to institutional imperatives, projects tend to promise more than they can feasibly deliver. Faundez considered the WB "project expectations […] wholly unrealistic" and wondered: "Are there structural reasons related to the project approval process that create an incentive to exaggerate the outcomes and impact of project components?" (Faundez 2005b: 8). In trying to get approval for projects as quickly as possible, WB staff members may pay little attention to the difficulties existing in the political and institutional context. According to another observer, WB staff members

> are frequently overoptimistic (at least in writing) about how the project relates to

> broader development objectives, its expected output and the impact, and its sustainability. […] As a result, […] staff members underestimate the risks during implementation that may undermine long-term outcomes. This often results in poor rating of a project's performance (Weaver 2008: 87).

Perhaps the greatest bureaucratic imperative of the IFIs is simply the need to lend money. Weaver describes the WB as it was shaped during the presidency of Robert McNamara, who

> ….initiated annual lending targets that over his thirteen-year tenure would increase lending from $1 billion to $12 billion. Internal promotions were granted on the basis of the ability of operational staff to meet targets. As a result, staff members have a strong incentive to find 'bankable' projects (particularly those that would require large loans), convince borrowing governments of their necessity, and get the projects designed and approved as quickly as possible. […] The internal pressure to lend means that, in practice, projects are pushed through the organization very quickly (Weaver 2008: 84-85).

The IFI's operational mode has been criticized by contesting "the loan structure itself" in which staff members pursue "making big loans, even when those loans are going to incompetent or corrupt debtor countries whose priorities—financial liquidity over institutional reform—vary considerably from those of the project." According to this argument, officials "seek out investments that can absorb huge amounts of capital with modest, if any, concern for the extent to which those investments support the larger judicial reform effort. And that is why project activities usually include the construction of courthouses and the purchase and installation of computers. Put simply: they cost more money." (Jensen 2003: 350, 353). Indeed, this approach is in accord with the vision of traditional judges who call for large capital investments in infrastructure and facilities.

This bureaucratic imperative is shared by many IFIs and donor agencies: aid money must be disbursed, regardless of the actual conditions found in the recipient countries. Considering El Salvador, Popkin has observed: "the availability of funding often does not coincide with a country's readiness to undertake major reform efforts. […] the dollars are available and must be allocated, but the counterparts may have a very limited ability to absorb the assistance and may actually be resistant to change" (Popkin 2000: 254-255).

Putting aside obvious mistakes, if a bureaucratic procedure imposes the rules, the rationale of a justice reform may be lost along the way. IFIs officials and donor agents are in fact evaluated according to their capacity to assign funds. They will try to distribute the funds to projects that at the beginning—and at the end—appear better than they really are. In the case of U.S. aid, Carothers noted: "The imperative of getting millions of dollars out the door on a regular basis with a high degree of fiscal accountability produces inexorable pressure to create molds and formulas that stifle innovation" (Carothers 1999: 343).

Dynamics of the Relationship between National and International Actors

The internal imperatives that shape IFI behavior are then imposed on recipient countries. In the case of the World Bank, conditionality requirements have been central to getting countries to agree to reforms. As the WB itself explains, "structural and sector adjustments loans were the Bank's most common instrument to induce changes in legislation and reform in the administration of justice in borrowing countries. The 'conditionality' of these loans often includes the preparation and adoption of certain laws and regulations that reflect policies

agreed upon with the Bank" (*Initiatives in Legal and Judicial Reform*, 2004: 6-8).

Nevertheless, the relationship between the different actors in judicial reform is not adequately captured by international prescription and national compliance. The relationship is more complex, with distortions resulting from asymmetries of power and resources, and with all actors having some other, mostly individual, interests to pursue while ostensibly engaged in judicial reform.

For their part, national actors use their involvement in internationally supported projects to gain legitimacy and prestige. They position their performance and proposals within the frameworks provided by the discourse and actual behavior of international agencies working on a given subject matter. As was observed during the Chilean criminal procedure reform, "importing ideas was a tool that legitimized the agents promoting the reforms, allowing them to gain a better position in the legal and political fields" (Palacios Muñoz 2011: 123). Being a counterpart in an internationally supported project—at both the institutional or the individual level—confers a certain degree of legitimacy vis-á-vis other government agencies, the media, and other international cooperation entities because "countries outside the West rely on approaches developed in the key Western countries to provide credibility and legitimacy to their governments both locally and in global arenas" (Garth y Dezalay 2002: 5). Therefore, to share the approach, concepts, and proposals acquired from international actors is an extremely attractive option for would-be national counterparts.

This is true not only of state officials, but for nongovernmental organizations as well. For instance, human right groups frequently concentrate a significant amount of their efforts in getting international attention rather than working on local networks—always a more difficult and tedious task. In fact, rather than building rights awareness among the local citizenry, these groups look for the "rebound effects" of international attention in their own country, as amplified by the media. In this way, they seek greater and swifter influence on public policies.

In the course of courting these international relationships, national actors tend to lose local authority and initiative. The importation of laws and legal institutions—via transplant or imposition—has long been prominent in the history of law (Faundez 1997:1); more recent, however, has been the further erosion of local expertise or debate as a result of international actors' intervention. Local actors who are in favor of justice reform but lack capacity tend to cede control to the international actor—and in the absence of local stakeholders the process of change suffers. Once judicial reform is on the public agenda, countries are often confronted with irresistible proposals, conceived and funded by international agencies, with little domestic debate, let alone consensus (Salas 2001: 44). It becomes difficult to establish any limits between technical advice provided by an expert and the imposition of a policy based on the concurrent funding needed to implement the recommended policy (Riggirozzi 2005). Given both the financial resources and the normative power of the IFIs, it becomes impossible to challenge them. As Riggirozzi underscores, the WB created both the ideology of the reform and the demand for it (2005: 28). This conclusion is shared by a participant of the reform process in Argentina: "The Bank capacity for orienting funds towards reforms—via loans or technical assistance or training—has been a crucial element to boost the WB's policy ideas in the reform process. By the same token, this capacity has somehow sterilized efforts made by domestic actors". (Horacio Lynch, *personal communication*, 2.1.06).

A further element in the distorting relationship is the ever-present potential for cooptation, if not corruption. It is easy to be swayed by the sums involved, and "many of the recipients […] have often failed to question the motives of donors and have primarily

focused on the amount to be received and less on the strings that were attached" (Salas 2001: 44). Individuals may also expect to receive some personal benefit, "whether computers, cash, a trip to the United States [or other donor country], or simply the association with a powerful foreign friend" (Carothers 1999: 260).

International actors also find their actions and commitments distorted in the relationship. No project can go forward without a national partner, even if in name only. International actors thus sometimes find themselves cultivating national officials to serve as an anchor for a project. International actors particularly need local partners for projects "that have no popular base of support [and so] may find themselves tied to the coat tails of temporary political leaders." (Salas 2001: 42).

Internal guidelines used by international entities, in some cases, strongly recommend that their officials fulfill the requests made by some key national actors even when they do not fit into the strategy formulated by the agency to reform justice in that particular country. They are advised to respond in a positive way to requests for traditional (perhaps useless) reform techniques—training, for example—in order to tactically reinforce the relationship with the counterpart and so facilitate the work made by the international agency in the country.

The need to cultivate local partners is intensified when multiple international agencies are active in a particular country. In such situations, each agency counts on its local champion—so labeled by an important international agency—who functions as the tactical ally to secure the relationship between the international agency and the national agency counterpart. In 1998, for example, the Supreme Court of Guatemala engaged in a modernization plan with external support. Each of the major aid agencies involved counted on "their" justice in the Court, who was both the formal link with the agency and its informal representative before the Court. The alliance between any agency and its champion may be based on a real confluence around some goals and/or be stimulated by personal incentives granted to the champion.

International actors not only look for—and to some extent depend on—national champions, they also become inclined to excuse poor performers, so long as the relationship endures. The continuation of the relationship becomes a disincentive to demanding that national actors meet their obligations in any reform project. This is one reason "international agencies (…) have failed to require fundamental change from recipient governments in their Rule of Law projects" (Salas 2001: 43). At the worst, some international officials look for ways to justify non-compliance by national actors in order to maintain the best possible relationship with them while are looking forward to the next project.

Thus, in judicial reform as currently pursued, international actors and national actors "need each other to survive" and that is why "they establish tacit pacts of procreation and custody of reforms lacking links with social needs and demands—as in fact has happened many times in the region" (Binder and Obando 2004: 61). The projects that result may either facilitate or harm reforms in the long term. For instance, the relationship may perpetuate clientelist practices that should be eradicated if a deep justice reform project is to succeed. In some cases, the relationship may strengthen the position of an official who occasionally endorses a project only because of the personal benefits received, but is not truly committed to the transformation of the justice system. Regarding the WB, it has been noted that "in an attempt to enhance support for policy change, World Bank staff endorses power relations that in some cases reinforce and in others limit the implementation of policy reform" (Riggirozzi 2007: 214).

Further, the existing relationships do not engender broad popular involvement or support, nor do they make good use of local knowledge. The per-

formance of international actors vis-á-vis their local allies does not usually lend itself to the constitution of a wide alliance, so as to allow the project to attract all those in favor of changing the justice system. And while international experience is undoubtedly a source of learning and the knowledge accumulated is tremendously useful, under no circumstances are international actors better positioned than national actors to understand a justice system. At the end of the day, the appropriateness of the reform heavily depends on the existence and strength of national actors in favor of a deep transformation of the justice system. Because national actors know the context and actual restrictions of the existing system better, they are best fit to identify the more viable options and courses of action during the process of project implementation. Attempts to replace national actors in that role are probably the most serious mistakes made by international actors. With reference to El Salvador, it has been asked "whether excessive or inappropriate international involvement can actually inhibit progress in some areas. International donors can provide crucial assistance, but they cannot and should not replace societal processes." (Popkin 2000: 244).

Of course, the relationship between international and national actors varies from country to country. As discussed above, the initiative for any particular project tends to be external. International actors have frequently led national authorities to consider the issue in order to create a starting point for the reform process (Binder y Obando 2004: 61). Going forward, the strength and interests of national actors can shape the process. In those countries where a core of willing actors was already in place—as in Costa Rica and Chile—the contribution of international actors reinforced a basically endogenous process. Conversely, where local actors were few and weak, as in most Central American countries, international actors used a range of pressure mechanisms to impose their priorities on the public agenda. In these latter cases, international intervention was "decisive, at least at the beginning" (Binder y Obando 2004: 89-90). Mexico offers a different example: as a country with strong internal capacities, it has not accepted the imposition of externally funded projects.

Argentina is one of the countries where the national capacities are significant and actors in favor of justice reform are organized. International actors there might have been placed in their proper role: not acting as key protagonist but rather playing complementary role in the process. The reality is more complex. International aid encountered strong resistance to judicial reform from Carlos Menem's government (1989-1999). In response, some international actors sought to promote domestic efforts and to build the capacity of local actors to demand and propose changes in justice administration. USAID conceded grants to Argentine NGOs—including Poder Ciudadano, Conciencia, and FORES—to strengthen their role as qualified civil society voices on justice affairs (Chávez 2004: 143). Others pursued different strategies. The International Monetary Fund (IMF) conditioned a loan—desperately needed by government authorities—on the implementation of the Consejo de la Magistratura, aimed at increasing transparency and objectivity in the process of appointing judges. The WB persisted in working with the government (the only possible borrower) and tried to find national counterparts for its preferred sets of reforms. After being more or less rejected by the Supreme Court, WB officials worked with the Ministerio de Justicia, which by the mid-1990s had prepared a comprehensive diagnostic study on the Argentine justice system, funded by the Bank. The study traced a complex panorama and seriously recognized political factors in such matters as decisions on judicial appointments and influence over the Supreme Court. However, "despite the highly political issues raised by the assessment reports and the public discussions with local experts, the Bank's Legal Department designed a program of reform that nar-

rowly focused on technical managerial aspects of the system related to court administration," known by the acronym PROJUM and funded with five million dollars (Riggirozzi 2007: 219).

According to Riggirozzi, the decision to disregard the study at the time of designing the project is explained by the WB inclination to choose a depoliticized approach to justice reform that makes it possible to reach an agreement with the government—any government—insofar as its content does not generate resistance among the authorities. The key factor rests on "the power of the Bank to frame policy paradigms that leave aside political questions that challenge the structure of authority […] mainly because the Bank's interest in legal and judicial reform was not related to political aspects of the system but rather technical ones linked to" a friendly investment climate (Riggirozzi 2007: 219). In the Argentine case, the result was a justice reform project that featured some ideas promoted by the WB and deemed acceptable to the depoliticized agenda shared by the Executive and the Supreme Court (Riggirozzi 2005: 28). As one WB official has admitted, "efficiency is a promising starting point […] because of its relatively apolitical nature. […] Efficiency is a more neutral area in which changes can begin without major changes in the structure of government" (Dakolias 1999: 6). The argument is probably right. The problem is that, when adopted as a principle, it leads to a kind of reform that preserves intact the roots of the traditional vices of the justice systems.

Regarding the relationship between international and national actors, some attention is also due to the role of foreign consultants. Consultants are international experts brought to a given country to advise a justice reform project. A consultant may be a specialist in justice reform, or have some expertise in human resources, management, or institutional reengineering, and is hired by the funding agency to elaborate a diagnosis, design and draft a project proposal, or provide advice during implementation. Working as an individual or as an associate of a consulting firm, the consultant's main asset is the international knowledge that, in turn, allows national officials to gain from the experience of other nations. Previous experiences in other countries are highlighted in the resumes of consultants, no matter light their actual knowledge of these countries may be.

Due to the extensive role of consultants, it is fair to say that most internationally funded projects are not entirely elaborated by personnel from the country that will be "beneficiary" of the project. The design phase of most projects is generally entrusted to employees of the international agency or to consultants selected by it; "the bulk of projects continue to be designed by foreign experts during brief visits, primarily consulting with government agencies and with little publicity" (Salas 2001: 45).

Particularly for the WB, it has been observed that consultants may have a limited experience—or no experience at all—in the country where the projects are located. Their qualification may instead be a great familiarity with the WB standard format for solving the most common problems of the judicial sector (Riggirozzi 2005: 22). In Argentina, in particular, the content of the program funded by the Bank was based on the work of consultants whose experience was for the most part in other Latin American countries. These consultants gave insufficient attention to the analysis, explanations, and proposals made by national researchers, involving the risk that "global knowledge carried by external consultants versus local knowledge supported by local ones can obstruct the prospects of join efforts to cooperate in analytical work." (Ibid).

A predominant role for foreign consultants continues at the implementation phase. Many donors and lenders prefer that implementation be managed and overseen by a foreign entity rather by the beneficiary institution or a local entity; "The projects are then awarded based on fairly closed bidding procedures with primary implementation responsi-

bilities being awarded largely to foreign multinational consulting companies" (Salas 2001: 45). In the case of U.S. aid, this is a general criteria corresponding to the "hope that giving aid dollars to American intermediary organizations rather than directly to groups or people in the recipient countries will allow them to keep close track of the funds." As a result, a new industry has prospered: "A whole community of American development consultants depends on U.S. aid funds" (Carothers 1999: 258).

However, it should be noted that the ultimate influence of foreign consultants depends not only on his or her expertise and bearing, but also on the knowledge accumulated by the local actors. The better the local knowledge and thinking on justice issues, the greater the quality of the demands made on external consultants.

Inadequate Evaluation; Unwillingness to Learn

What has been the impact of internationally supported judicial reform projects in Latin America? Reports by the international aid agencies usually maintain that an important, if not deep, change in Latin American justice systems has taken place due to their active contribution to the reform process. A publication from USAID (*Achievements in Building and Maintaining the Rule of Law*) invites the reader to recognize "USAID's role and the changes it helped to bring about in 15 countries: Argentina, Bolivia, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, and Uruguay." (p. 1). The agency's work is presented as crucial in "Placing the Rule of Law on the Political Agenda" because "USAID has been the catalyst for the justice reform movement in the LAC region," by "Reforming Laws and Legal Procedures" for a start—in particular, when "criminal code reform became an integral part of USAID justice programs" (p. 3). However,

> USAID's support of code reform did not end with the enactment of new laws, but went on to include extensive institutional strengthening and training to develop skills needed by judges, prosecutors, defense counsel, and court administrators to carry out their new roles (p. 5). As the reform movement progressed, USAID continued to reinforce and supplement their efforts with considerable technical assistance and training to help shape new laws and foster public education and debate. USAID also furnished information about best practices, provided opportunities for local experts to observe other systems in operation, and otherwise supported and promoted the progress of legal reform throughout the region (p. 4).

Moreover, according to USAID, its work has focused on "Strengthening and Reforming the Judiciary and Judicial Institutions", "Increasing Public Awareness, Access, and Advocacy", and "Supporting the Next Generation of Judicial Reformers", including "the development of national and regional NGOs" (p. 6, 7). Overall, in its own assessment:

> USAID has promoted changes that increase transparency and accountability, reduce political influence, and broaden participation in judicial selection processes. […] USAID programs introduced the concept of the professional court administrator, together with modern systems of case management, record keeping, and statistics, as well as the separation of judicial from administrative functions (p. 6).

Despite the modest caution that "this ongoing process is far from complete, but is beginning

to raise standards and expectations," USAID calls attention to something new in the region: "various LAC countries have now witnessed cases being brought against politicians, military officials, and others whose actions until recently had been considered above the law" (pp. 6-7).

A demanding reader would request some hard evidence supporting such optimistic conclusions. However, the very first difficulty in endorsing any conclusion regarding the accomplishments of internationally supported judicial reform projects in Latin America—and probably all over the world—is the lack of serious evaluation of the work that has been done. For that purpose, according to Carothers (1999: 281), it would be necessary not only to establish some criteria to define what exactly should be considered a *success* but also to demonstrate the existence of "*causal links* between assistance programs and changes in the recipient societies." None have been produced. Indeed, most agencies "have tended to do few evaluations of their work" (Hammergren 2007: 23).

Just as initial diagnoses tend to be insufficient, follow-up evaluations tend to be weak. In some cases, no evaluation is conducted at all. In others, the evaluation is restricted to process indicators rather than actual metrics of impact. Administrative aspects of the project are documented, or a mere list of completed activities is compiled, using figures "and indicators for components and activities (specifying that, for example, ten laws should be passed or 500 people trained)" (Biebesheimer 2001: 108). In short, the focus is "on outputs rather than effects" (Carothers 1999: 286). This approach entails a distortion: "when faced with strict, narrow criteria for success, aid officials begin to design projects that will produce quantifiable results rather than ones that are actually needed" (Carothers 1999: 294).

Rarely, is there ever a closer look at the outcomes actually produced, not to mention the deeper impact of the project on the justice system. International actors, ostensibly concerned with introducing projects to promote change, demonstrate little interest at the time of evaluation in finding "what effects those changes will have on the overall development of the rule of law in the country" (Carothers 2003: 10). A cynical interpretation of this disinterest suggests that agencies avoid real evaluations of the projects they manage; "weak independent evaluation is tied to the politics of donor assistance. After all, the goal of monitoring and evaluating these projects lies in obtaining a clean bill of health so that disbursements can go forward and new loans can be made" (Jensen 2003: 351).

In many cases, evaluation is a circumvented—or considerably minimized—phase of internationally-funded projects. In 1993, a U.S. Government Accountability Office (U.S. GAO) assessment of USAID warned that "AID funded continuation of projects without critically evaluating their impact. One major stumbling block has been AID's inability to agree upon indicators to evaluate the impact of its work" (U.S. GAO 1993: 17). An internal audit found later that "USAID/Guatemala did not establish performance indicator baselines and intermediate targets to measure the progress of justice program activities" (USAID 2004: 5). Some years later, the same problem was found by an internal review of a program developed in Mexico: "the performance indicators and the respective targets are not appropriate for measuring progress toward accomplishing the sub-objectives" (USAID 2011: 2).

The enormous gap in exercises that pretend to be project evaluations is whether the outputs really contributed to producing reforms. In El Salvador and Guatemala, "project evaluations […] did not indicate whether the projects resulted in reforms to the judicial system" (U.S. GAO 1993: 4). "In Honduras, AID cited the number of seminar and workshops given, observational trips taken, and public defenders employed as evidence of progress. However, none of these indicate whether the delivery of justice is actually improving" (Ibid: 18).

USAID projects are not the only initiatives with such a gap. Most international agencies have tended to replace substantive impact evaluation with short-term situation analysis which emphasizes certain actions, "not always the most important ones" (Binder and Obando 2004: 74, note 54). Two IDB officials recognized the problem: "Conclusions of field studies and evaluations to date tend to be too general to be very useful" (Biebesheimer and Payne 2001: 43). Quoting the warning made in an IDB Task Force on Country Offices' report, Faundez and Angell (2005: 112) underline the evaluators' emphasis on disbursements instead of attention to project's impacts on the justice system. These authors note that neither the WB nor USAID perform better in this area.

One of the difficulties with evaluation stems from who the evaluators are. Usually an agency relies on a roster of consultants to undertake the evaluation. Though formally independent, these experts are in close, frequently continuous, relationship with the agency officials. In plain language, "independent" evaluators actually depend on the international agencies being evaluated in order to make a living. As a consequence, when problems are found in a project, these evaluators may not be prepared to produce a critical document highlighting serious mistakes or severe shortcomings, as there is no "real detachment between those evaluating and those evaluated" (Carothers 1999: 302). Regarding the WB, "the fact that in some cases task managers are involved in writing the ICRs [Implementation Completion and Results Report] […] further undermines their credibility" (Faundez 2005b: 6)

Usually, problems become prominent when the agency and its national counterpart expect a project extension, or are preparing a new project to confront precisely the problems that the evaluator has found. This practice has been reported at USAID: problem areas that were "highlighted in project evaluations were often used to justify project extensions and additional project funding in the absence of any clear indication that the project would ever meet its intended goals" (USGAO 1993: 47).

Who does the evaluation is significant, but *what* is to be evaluated is another important factor. Faundez' review of the WB project portfolio led him to conclude: "The Bank […] has placed excessive emphasis on quantitative indicators associated with the efficiency of courts, but has neglected the development of qualitative indicators to measure project activities that do not lend themselves to quantitative measurement" (Faundez 2005b: 8). Faundez wonders whether "the Bank has a mechanism to control the quality and relevance of the output of consulting firms" (2005b: 7) and further observes that "Some ICRs [Implementation Completion and Results Report] […] tend to be rather uncritical. […] Moreover, in the absence of a thorough evaluation in the field, it is not possible to state with any degree of certainty the main achievements of the projects" (Faundez 2005b: 6). Weaver concurred about the "neglect of monitoring and evaluation (M&E) throughout the project life cycle" at the WB, where she detects an "externalization of blame" (2008: 87, 89). Weaver also observes: "The result, broadly speaking, is an operational environment in which assessing the impact of a loan may be actively discouraged. Any focus on ensuring results is diminished and organizational learning is impaired" (Weaver 2008: 90).

Without a doubt, one of the consequences of a neglected evaluation process is impaired learning. Nonetheless, most agencies maintain that they pay special attention to what is widely referred to as "lessons learned." The 1993 USGAO report *U.S. Assistance for Justice Administration* reviewed "the lessons learned from 10 years of judicial reform experience in Latin America." In very clear terms, the report indicated:

> The most valuable lessons based on our work in Latin America were that: imposing judicial reform on a country that is not

> ready for or receptive to change is generally ineffective and wasteful, addressing technical problems without confronting the political and institutional obstacles to reform is usually not productive […] Projects Launched Without Commitment From Host Governments Face An Uncertain Future […] Projects That Do Not Address Political and Systemic Obstacles Will Have Limited Impact (USGAO 1993: 2, 3, 6).

Yet at the same time the report noted that those lessons seemingly learned were not being effectively applied: "The State Department has stated that it is U.S. policy to provide assistance only when a serious commitment to change exists. […] If this has been U.S. policy, AID has not always followed it" (U.S. GAO 1993: 46). In even broader terms, the report remarked, "AID appeared to ignore the lessons learned from previous efforts" and specifically "failed to appreciate that the institutions AID was trying to change were at the cultural core of the societies they were seeking to alter. Yet, these same conditions remained at the root of many of AID's most problematic judicial reform programs in the region" (U.S. GAO 1993: 41, 42).

"Lessons Learned" by the WB appear in a 2004 report, *Initiatives in Legal and Judicial Reform*, and seem to show a thorough comprehension of the subject:

> Legal and judicial reform is a long-term process […] Legal and judicial reform should come from within the country and respond to its specific needs. […] Legal and judicial reform requires government commitment. […] Legal and judicial reform projects should be conducted through a participatory approach. […] Wholesale importation of legal systems may not be appropriate. […] Coherence of legal reform requires a comprehensive approach that ensures that the modernized legal system will not suffer from internal inconsistencies. Coordination among all concerned development institutions, multilateral and bilateral, is critical. […] Partnerships to share knowledge and experience can enhance legal and judicial programs (*Initiatives in Legal and Judicial Reform* 2004: 12-14).

The question to be answered, then, is whether this comprehension of the complexities of reform is in fact guiding action. This does not appear to be the case, as "donors have continued to repeat similar mistakes in different countries, suggesting that important lessons learned are not always incorporated into planning and implementation of judicial reform projects" (Popkin 2000: 259-260). Maybe there is a more serious question to be answered: beyond the trumpeted lessons learned, is there a policy of learning and managing knowledge by the international agencies working on Latin American justice?

A look at the projects and activities undertaken by these agencies clearly shows that knowledge does not play a pivotal role. Neither before the project is designed, nor during its implementation, nor during any later follow-up is there any sizable investment in producing knowledge about the issue being confronted. Only occasionally—and primarily because someone in an agency develops a personal interest in a particular subject—is there solid reflection on a given topic. In fact, when the most important agencies' publications are reviewed, they show rather scant cumulative knowledge. Certainly, the amount of knowledge is disproportionately low when compared with the scale of material resources invested. In the area of justice reform, it is also true that "democracy aid providers have accumulated almost no systematic knowledge about the long-term effects of their efforts" (Carothers 1999: 286).

To many international actors, deep knowledge of the operation of a justice system and its relationship with the social and cultural characteristics of a country appears to be considered extraneous information. Instead, they deem short consultancies addressing narrowly-defined topics and aimed at practical results as sufficient to provide the doses of specific knowledge needed to successfully implement a project. Thus, there is no room for any in-depth study of the subject. Such an exercise might illuminate major complexities—which will inevitably be encountered during project implementation—and could "help an aid provider decide what is feasible and where to concentrate the aid efforts" (Carothers 1999: 107). On the contrary, the working methods of international actors tend to correspond to the principle of learning-by-doing; in other words, act first and thereby you will gain knowledge. Although there is some merit to this approach— assuming that knowledge will be gained somewhere along the road— it is a long and costly way to learn.. For any particular project, failure may be a way to learn something – but it is very expensive, entailing wasted time and resources, and is moreover, unnecessary.

Some international agencies even fail to learn from their own experience by discarding "tough-minded reviews of their own performance" (Carothers 1999: 9). Agencies' bureaucracies may ignore previous efforts because they "frequently do a poor job of collecting and disseminating the information they produce, even among their own employees, and sponsor research that is not incorporated in their projects" (Hammergren 2007: 22-23). Newcomers tend to think they are entering unknown territory and sometimes incur expenses just trying to discover what the agency should already have known (Binder and Obando 2004: 706).

The lack of institutional learning is widespread. It has been noted that "an agency like USAID […] is challenged by a lack of institutional learning and memory" (Jensen 2003: 351). In the case of the WB, it has been recommended that "the Bank should consider adopting a more structured approach to knowledge management" (Faundez 2005b: 10). Likewise, the IDB needs "A methodology that permits rapid learning from successes and failures [that] will aid in preventing problems and correcting them as they arise" (Biebesheimer and Payne 2001: 43). All major actors in internationally funded projects on justice reform lack a policy for learning and handling knowledge.

Why do international agencies appear to share such a disregard of knowledge? Hammergreen (1998: 276) and Carothers (1999: 9) point out that external assistance is a competitive business and this discourages international aid agencies from sharing knowledge and building on each other's work. Even among U.S. agencies, competition is a stumbling block: "the Justice Department's foreign rule-of-law work is too separate from that sponsored by USAID, due to institutional rivalries among all the U.S. actors involved in rule-of-law aid that dates from the 1980s" (Carothers 1999: 275). As a result, U.S.-funded programs to support the reform of justice and other state institutions have had "weak effects relative to their size" (Carothers 1999: 336). Moreover, international agencies do not seem to be very interested in their own pasts; "they are by nature forward-looking organizations, aimed at the next project or problem" (Carothers 2003: 12-13).

There is a price to be paid for this approach. The first consequence is neglect of "the input of those with more in-depth knowledge of local institutions" (Riggirozzi 2005: 28). If the available knowledge on a subject in any country is routinely ignored by foreign actors, the projects they sponsor will systematically rest on misperceptions that drive them to failure. A second consequence, partially related to the first, is that "international actors tend to underestimate resistance to the profound changes needed to build the rule of law"

(Popkin 2000: 253). A third, deeper and more fundamental, is that this approach entails a degree of disconnection caused by ignorance between the project and its context that significantly undermines implementation.

> Many U.S. programs treat judicial systems, for example, as though they were somehow separate from the messy political world around them. Such programs have been slow to incorporate any serious consideration of the profound interests at stake in judicial reform, the powerful ties between certain economic or political elites and the judicial hierarchy, and the relevant authorities' will to reform (Carothers 1999: 101-102).

As a result of the limits maintained by international agencies themselves, a substantial portion of their projects end in at least partial failure. As was remarked at the beginning of the new century, "after more than a decade of aid and millions of dollars later, the justice systems of Latin America are facing their gravest crisis" (Salas 2001: 41). One of the factors leading to this outcome is that agencies have "encouraged over-financing and redundancy in areas where everyone wants to work, and the funding of some activities that objectively represent fairly low priorities." (Hammergren 1998: 276).

Projects addressing civil society groups concerned with justice have been similarly ineffectual. "In general, civil society programs reach only a thin slice of the civil society of most transitional countries. […] Programs to aid civil society help many individuals and small organizations strengthen their civic participation but rarely have society-wide reverberations." (Carothers 1999: 338, 341).

A case study on the Guatemalan justice reform process (Pásara 2003) revealed many of these serious shortcomings and explained why internationally-funded projects incur them or fail outright. Most of the factors examined in this paper were evident in Guatemala. Attention was not paid to the particular characteristics of the country. Imported models were introduced in attempts to strengthen justice institutions. Projects emphasized immediate measurable results instead of long-term, deep achievements. International actors did not share joint goals or coordinate among themselves on tasks, objectives, responsibilities, and time limits. Each agency focused on its own policies and mandates, instead of prioritizing the needs of Guatemala. While official discourse endlessly praised cooperation, international agencies competed among themselves. The variety of agendas elaborated by international agencies blocked the possibility of developing an integrated plan to help the country's justice system—even as the peace accords of 1996 opened a rare window of opportunity to reform it. Each agency appropriated the leadership or the influence of a national personality to champion its project, paying only lip service to institutional and social conditions constraining not only the transformation of the justice system but even the success of specific projects of reform.

Justice reform in Guatemala "constituted part of the conditionality for donor funds to support the peace process, yet the demand from local political elites and citizens for concerted reform […] remained weak" (Sieder 2008: 81). When it was apparent that there was not enough will or commitment by national counterparts, external actors took shelter in the rationale that the projects would generate such will and commitment (although both are actually prerequisites), under the premise that "the object of many projects is preparing the way for future reforms" (Biebesheimer and Payne 2001: 31). This stance was indeed conducive to ill-conceived, technically poor, projects.

One of the big failures in Guatemala was the national police force (PNC), newly created with U.S. and Spanish support. Sooner rather than later, it revealed itself as a pernicious actor (Sieder and Costello 1996: 196). When the national authorities

failed to fulfill the commitments made through the peace accords, at the end of the day, funding sources nonetheless went on providing funds, although fulfillment had originally been a condition for disbursing aid.

Unfortunately, the situation in Guatemala is not unique. "Between 1984 and 1990, AID provided some $13.7 million to the judicial reform program in El Salvador. However, given that it focused on technical problems rather than addressing the lack of political will for reform, the project inevitably achieved little" (Sieder and Costello 1996: 185). Accordingly, an official report admitted that "in 1990, after six years of U.S. assistance, El Salvador's judicial system still lacked the ability to deliver fair and impartial justice" (U.S. GAO 1993: 3). Moreover, "AID documents show that most judicial reform efforts in Latin America experienced serious problems, resulting in a portfolio of marginally successful projects" (Ibid).

Indeed, marginal impact characterizes much of U.S.-sponsored work in the justice sector in Latin America. After many years of involvement,

> what stands out about U.S. rule-of-law assistance since the mid-1980s is how difficult and often disappointing such work is. In Latin America, […] where the United States has made by far its largest effort to promote rule-of-law reform, the results to date have been sobering. Most of the projects launched with enthusiasm—and large budgets—in the late 1980s and early 1990s have fallen far short of their goals (Carothers 1999: 170).

Another assessment, covering most of the international institutions working in the area of justice, arrived at a similar conclusion: "the design and approach were neither complete nor comprehensive. They did not correspond to an integral vision for defining an agenda and a methodology with the capacity to unblock and overcome the basic problems of the justice sector in Latin America and the Caribbean" (Binder and Obando 2004: 774). Under most rule of law programs, as Salas noted (2001: 43), international actors did not call for substantial changes from beneficiary governments.

International agencies find it difficult to recognize their own shortcomings and failures. USAID, for example, exhibits a "reluctance to terminate unsuccessful projects" (U.S.G.A.O. 1993: 6). Even on the rare occasions when a project is evaluated negatively, nothing occurs because "one lesson the agencies have had difficulty learning is how to terminate projects that, by their own assessments, consistently fail to achieve results commensurate with the money invested" (U.S.G.A.O. 1993: 9). This point is illustrated by the plan adopted when the project failures in a country were undeniable: "In Guatemala, AID officials said that discomfort with the judicial reform project led AID to concentrate

Table 3**. World Bank Lending on Rule of Law Programs in Latin America and the Caribbean in millions of US dollars (2004-2010)**

2004	2005	2006	2007	2008	2009	2010
270.9	147.9	108.8	97.5	50.1	1.0	22.9

Compiled by the author based on World Bank data

on commodity purchases and high-priced seminars and technical assistance that did not effect any real changes in the justice system" (U.S. GAO 1993: 17). In other words, projects were not stopped despite their failure and disbursements continued for irrelevant acquisitions and activities.

In this context, perhaps the clearest, though tacit, recognition of failure is revealed in the WB decision to quietly retreat from justice reform in Latin America. As Table 3 shows, between 2004 and 2010 the amount devoted to rule of law programs has been constantly decreasing and in 2010 amounted to just one per cent of the total lent to the countries of the region.

Conclusion and Recommendations

With this review of the rationales for international involvement, the limitations of initiatives and diagnoses, the shortcomings of strategies, and the inadequacies of evaluation and learning, the initial question remains: is international support for justice reform in Latin America worthless?

As a starting point for answering that question, it is important to keep in mind that reforming justice systems is a broad and difficult task. Improving the administration of justice, updating legal codes, and enhancing criminal procedures may all be components, but truly establishing the rule of law goes far beyond this (Carothers 1999: 164). The whole legal culture, the existence of social and economic inequalities, and the role played by the government are also important and complex components to the reform of justice systems.

Internationally-funded programs of justice system reform cannot produce, by themselves, deep changes in the receiving countries. Clearly, they cannot "fundamentally reshape the balances of power, interests, historical legacies, and political traditions of the major political forces in recipient countries. They do not neutralize dug-in antidemocratic forces. They do not alter the political habits, mind-sets, and desires of entire populations." Furthermore, "Often aid cannot substantially modify an unfavorable configuration of interests or counteract a powerful contrary actor" (Carothers 1999: 305, 107). This is why international aid in the area of justice has not delivered a new justice system in receiving countries; It could not.

This paper has exposed the difficulties in achieving justice reform via international projects. It has emphasized the errors, vicious circles, and negative causalities of international aid. Still, in a fair account, the contribution of externally funded programs should also be recognized. An official U.S. assessment is probably right in asserting that,

> U.S. rule of law assistance has helped these countries undertake legal and institutional judicial reforms, improve the capabilities of the police and other law enforcement institutions, and increased citizen access to the justice system. […] In each of these countries we visited [Colombia, El Salvador, Honduras, Guatemala y Panamá], host country government and civil society representatives noted that the presence of the international community—particularly the United States—was needed, not only for the resources it provides, but also to help encourage government officials to devote the necessary resources to enact, implement, and sustain needed reforms (USGAO 1999: 2, 8).

The presence of international agents in the field of justice has no doubt stimulated reform efforts, though to varying degrees in different countries. On balance, as Carothers observed regarding U.S. programs to promote democracy, their presence "is rarely of decisive importance but usually more than a decorative add-on" (Carothers 1999: 347).

If, however, the question is shifted from "is international aid worthless?" to "could international aid be improved?," then the answer could be more extensive and constructive. Certainly there have

been many mistakes and structural limitations in the way that most internationally-funded projects have operated. As reviewed in this paper, the negative column on the balance sheet includes superficial diagnosis, disconnection between general—sometimes unrealistic— objectives and specific activities, use of imported models without regard for local conditions, and a lack of evaluation of the impact on system change. Poor knowledge management maintains conditions where critics and innovation do not flourish and errors are repeated.

Harsh critiques of the international cooperation are hardly scarce. Among the clearest voices are those of Binder and Obando:

> Cooperation […] works through bureaucratic entities, inter-agencies power games and rules of the game shaping a distant reality […] their tendency to achieve short-term results, multiple bureaucratic rationales, internal fights in which political criteria prevail over technical aspects […] the structural difficulty for coordination between different cooperation actors […] may block advancement or depth of judicial reform (Binder and Obando 2004: 90-92).

Certainly, international agencies have not sustained their interest in the area (Binder y Obando 2004: 90); their role has been "neither linear nor always coherent" (Domingo y Sieder 2001: 142). While they have access to ample funds, they have proposed too many objectives within an excessively broad agenda. These are often impossible to implement (Hammergren 1999: 4) and are mainly guided by internal bureaucratic imperatives "which frequently will not coincide with objective needs" (Hammergren 1998: 316).

USAID, the most important governmental agency working in the region, has been accused of "lacking an integral vision and a comprehensive strategy of the reform process" (Binder y Obando 2004: 756). A concurring conclusion was made as recently as 2011, in an Audit Report on a Rule of Law program implemented by the agency: "USAID/Mexico has not delivered technical advisory services in a strategic manner to reach maximum efficiency, effectiveness, and sustainability, mainly because it lacks a strategic focus […] As a result, USAID/Mexico Rule of Law activities have had limited success in achieving their main goals" (USAID 2011: 2).

Looking across the variety of international actors working in justice reform, many contradictory agendas, models and strategies emerge: "Transitional countries are bombarded with fervent but contradictory advice on judicial and legal reform" (Carothers 1998: 104). U.S. support for passing and implementing a new criminal procedure and the Spanish agency AECI's insistence on introducing their conflicting *Consejos* regime to govern the judicial systems are clear examples of competing imported formulas. A not so hidden competition occurs as a result of "the tendency of different aid providers to try to import their own models and for those models to conflict with one another" (Carothers 2001: 15). Contradictory and competing agendas and the desire to expand budgets and functions have all impeded coordination among different international agencies. "The current system of international organizations does not lend itself easily to cogent and integrated action. Each of the different agencies has its own charter, budget and governing body" (de Soto y Del Castillo 1994: 74-75). The need to keep a high institutional profile is also a complicating factor when it conflicts with what is needed to accomplish actual reform. This is another factor that obstructs cooperation among aid agencies. Rather than jointly funding a substantial and significant project, each agency prefers to fund short-term, visible projects that will reinforce its own institutional image.

Internal bureaucratic imperatives—to disburse funds, to support easily implemented short-term projects whose outputs can be quantified—also hinder reform efforts. Both bilateral aid agencies and those that are part of the United Nations system often operate under well-established mandates and guidelines which are not always public. These internal rules may prevail over any other considerations.

Agencies may also develop a vested interest in a project, regardless of its success. For example, the United Nations Development Program (UNDP) frequently signs contracts to administer aid projects funded by a donor country and executed by a recipient government. UNDP charges a fee for this task as part of how the agency is financed. This mechanism becomes increasingly important in the global context of diminishing funds for development. As such, when UNDP establishes such a partner relationship with a local government, a critical look by its officials on the national authorities' performance becomes rare.

A further problem with international aid is that it may become a political tool for donor countries to influence domestic policy in recipient countries. With the exception of the Scandinavian countries, aid becomes part of a foreign policy matrix that is drawn thousands of miles away from the recipient country, an exercise in which even the embassy's opinion may not be taken into account. In numerous cases in Latin America, aid projects have been granted or denied on a purely political basis, putting aside the project's merits. Thus the questions arises "whether aid-providing countries are not in fact mainly serving the interests of the aid-providing countries" (Carothers 2001: 15). Beyond the political utilization of reform projects by donor countries, the rules governing procurement processes—including consideration of the nationality of companies providing equipment or services, and the citizenship of consultants to be hired—cause a significant portion of the granted funds to return to the economy of the donor country.

The repetition of all these failings— because international actors consistently give insufficient attention to their own learning process— is a constant. As early as 1993, a USAID report on the agency's work in Honduras (Hansen et al., 1993) explained away the failures of their projects by attributing them to the lack of proper conditions in the country. A subsequent report (Blair and Hensen, 1994) presented a broader analysis of the specific conditions needed for Rule of Law projects to make sense. This report remarked that in the absence of those conditions—mostly related to the will and capacities of national actors—projects in this area were condemned to failure and were therefore wasteful. The proposed criteria for evaluating these conditions were nonetheless ignored by both USAID and other agencies. Since the publication of that seminal paper, several other critical works have circulated but they too have had a very limited effect on the activities undertaken by international agencies.

Beyond any specific shortcomings may be an insidious pathology of international bureaucracies more generally. As one astute critic has concluded, "while I do not seek to generalize my explanation of hypocrisy beyond the critical case of the [World] Bank, I do see its hypocrisy as an exemplar of the bureaucratic 'pathologies,' dysfunctions, and legitimacy crises that we observe in international organizations today" (Weaver 2008: 3).

Certainly, not all the burden for the failure of justice reform should be placed on the back of international aid. Domestic conditions are crucial, not only in the implementation of the projects themselves but also in the framing of the role of foreign actors. To an important extent, projects aimed at reforming state institutions depend on the wider process unfolding within the state apparatus (Carothers 1999: 341). National counterparts share responsibilities with international officials and experts because both groups associate around the implementation of a project.

The role of national responsibility is apparent when a reform project has been put into effect and it is realized that "the primary obstacles to such reform are not technical or financial, but political and human," and also when even the generation of politicians arising out of the political transitions to democracy "are reluctant to support reforms that create competing centers of authority beyond their control" (Carothers 1998: 96). If anything, international actors are responsible for denying or minimizing the importance of these factors that, in truth, explain a significant proportion of the failures.

On balance, then, international support for justice reform has played a positive role in some countries, at certain times. In several countries justice reform would not even be on the public agenda if international actors had not placed it there. What has so far been gained through international support for justice reform makes international actors key protagonists in the process. However, their role needs to be substantially improved.

Some concrete suggestions for change can be proposed for those acting inside the international agencies who are truly committed to improving efforts to achieve reform of justice systems in the region:

- KNOWLEDGE OF THE LOCAL SITUATION IS A MUST. No decision about the location, content, size, timing, or amount of a project should be made without detailed knowledge of the subject in the country where the project will be conducted. Diagnosis should include in-depth analysis of these conditions.
- LEARN WHAT OTHERS HAVE PRODUCED. Gaining knowledge of the prevailing conditions mainly requires bringing together information that has already been acquired, attending to the perspective and analysis of national actors, taking advantage of international experts who have developed experience in that particular country, and evaluating other agencies' experience in the field.
- PARTNER WITH NATIONAL ACTORS AND ARTICULATE A CLEAR STRATEGY. The conditions required to develop a project include a core of national actors genuinely committed to the reform goals and a strategy jointly designed with those national actors that includes with short-, medium-, and long-term goals into which the project fits.
- NATIONAL ACTORS HAVE A CRUCIAL SAY. The implementation phase of a project must rest on a partnership of national and international actors. The last word should always be given to national actors who know better and have the ultimate responsibility for the reform process in their own country.
- MONITORING AND EVALUATION ARE INDISPENSABLE. Project implementation should be continuously monitored. Project evaluations are indeed opportunities to learn about both achievements and failures. External reviews of projects, including reviews by academic researchers, are a powerful tool to provide critical analysis on what works and what doesn't. Reticence to share information with able peers is, in the long term, a waste of resources.

If these remedies—and other possible changes—are introduced to alter the performance of international agencies, they may dramatically increase the quality and the impact of justice reform projects.

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