

THE WORLD BANK AND JUDICIAL REFORM. OVERCOMING “BLIND SPOTS” IN THE APPROACH TO JUDICIAL INDEPENDENCE

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INTRODUCTION

In his book *The Rule of Law*, the late Lord Tom Bingham makes it clear that the principle of “rule of law does not import unqualified admiration of the law,” judges, or lawyers.¹ However, as the author rightly adds, one would rather live in a country that respects such a principle than one which does not. Generally speaking, the rule of law means that all persons are bound by the law and no one is above the law. And, as the eminent jurist points out and most would agree, an independent judiciary is fundamental to the rule of law. Such independence is not limited to the political branches of government; it also extends to any particular individual or group. Yet, given their potential power and interests, it is most important for judges to be free from interference by the executive and legislative authorities.

Unfortunately, most people do not enjoy the blessings of the rule of law. They live in countries where the image of Lady Justice, wearing her blindfold, is simply that—an image far removed from reality—her blindfold often removed or not there to begin with. Impartial justice is rare: seldom dispensed without fear or favor and regardless of money or power. In many settings, there is a cultural disregard for the rule of law and values of independence and impartiality. An illustration of this grim reality is depicted in the New York Times series “Above the Law,” the winner of the

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1. TOM BINGHAM, *THE RULE OF LAW* 9 (2010).

most recent Pulitzer Prize for international reporting.² This series of journalistic materials, produced by Ellen Barry and Clifford Levy, shows widespread abuse of power in Russia's justice system and violence against rights and opposition activists, jurors, and journalists.³ They clearly demonstrate a culture of impunity with no respect for the rule of law, judicial independence or impartiality.⁴ Constitutional safeguards to ensure judicial independence exist, but they do not work in practice.

Examples of pervasive government abuse such as this abound worldwide. Their devastating effects on society make it clear why building the rule of law and functioning judiciaries has become a central concern of the international development community. The World Bank ("the Bank"), arguably the premier development institution, recognizes that countries with weak legal and judicial systems are economically and socially impaired.⁵ For about two decades, the Bank has been a key player in helping to strengthen judiciaries in developing countries, providing significant financial and technical assistance for justice reform. As of its last compendium, issued in 2009, the Bank's justice sector assistance and reform portfolio comprised nearly 2,500 justice reform activities in developing or transition countries.⁶ These activities take many operational forms and span all Bank operational instruments: including loans or credits, grants, technical assistance, and research. Central to this portfolio are the "stand-alone" operations, those lending operations that take justice sector institutions as their primary focus.

This Article analyzes the manner in which the Bank evaluates and addresses judicial independence in its portfolio of stand-alone operations. It focuses particularly on the independence of judges from political power. It shows that the Bank fails to evaluate political interference in the judicial process in a coherent, consistent and comprehensive manner and to address the underlying cultural forces. Section I describes the legal basis for the Bank's engagement in judicial reform and reviews the development of the Bank's thinking and strategy. Its emphasis is on how such strategy affirms

2. See *The 2011 Pulitzer Prize Winners: International Reporting*, THE PULITZER PRIZES, <http://www.pulitzer.org/citation/2011-International-Reporting> (last visited May 18, 2011).

3. E.g., Clifford J. Levy, *Russian Journalists, Fighting Graft, Pay in Blood*, N.Y. TIMES, May 17, 2010, at A1, available at <http://www.nytimes.com/2010/05/18/world/europe/18impunity.html>.

4. See *id.*

5. The World Bank is composed of two unique development institutions, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). The IBRD focuses on middle-income countries and creditworthy poor countries while IDA focuses on the poorest countries in the world. IBRD provides low-interest loans and IDA provides interest-free credits and grants to developing countries.

WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, at 1 n.5 (2009).

6. *Id.* at 4.

the strategic significance and centrality of judicial independence to judicial reform efforts. The Article then moves from the Bank's strategy to its practice. Section II comprehensively examines the Bank's portfolio of stand-alone operations, analyzing how the Bank addresses judicial independence in such projects in light of its strategy. It examines to what extent the problem of political interference in the judicial process informs and shapes the Bank's assistance for judicial reforms. Finally, Section III makes recommendations for better assessing true political commitment to judicial independence and deepening the focus on the relationship between judicial independence and culture.

I. JUDICIAL REFORM: MANDATE AND STRATEGY

The foray into judicial reform activities by the Bank required serious consideration of its mandate to pursue these aims. The Bank is not free to pursue any activity it wishes; the respective activity must fall within its economic development mandate as interpreted by the appropriate bodies.⁷ For judicial reform, this act of interpretation took place as the Bank defined the boundaries for its engagement with governance issues. Discussion of the context and details of the Bank's legal rationale for judicial reform assistance follows.

A. The Bank Charter and Judicial Reform

Scholars and development practitioners widely accept that a sound judicial system, as an essential element of the rule of law, is key to a country's political, economic, and social development.⁸ A well functioning judicial system is required to stimulate investment, both domestically and

7. The legal mandates of the World Bank are found in the respective IBRD and IDA Charters or Articles of Agreement. See Articles of Agreement of the International Bank for Reconstruction and Development art. I, Dec. 27, 1945, 60 Stat. 1440, 2 U.N.T.S. 134 [hereinafter IBRD Articles of Agreement] (stating the IBRD's purposes to "assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes," to "promote private foreign investment," and to "promote the long-range balanced growth of international trade and the maintenance of equilibrium in balances of payments . . . thereby assisting in raising productivity, the standard of living and conditions of labor in [members'] territories"); Articles of Agreement of the International Development Association art. I, Jan. 26, 1960, 11 U.S.T. 2284, 439 U.N.T.S. 249 [hereinafter IDA Articles of Agreement] (stating the IDA's purposes "to promote economic development, increase productivity and thus raise standards of living in the less-developed areas of the world") available at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:20052360~menuPK:115747~pagePK:83988~piPK:84004~theSitePK:73154,00.html>.

8. For a survey of this scholarship, see Richard Messick, *Judicial Reform and Economic Development: A Survey of the Issues*, 14 WORLD BANK RES. OBSERVER 117, 120-23 (1999).

from abroad.⁹ Indeed, private investors seek a judicial system that protects property and contractual rights, and adjudicates disputes without capriciousness or undue outside influence.¹⁰ Further, fair and impartial judges protect the civil and political rights of citizens such as freedom of speech, association, and religion. Judiciaries that are institutionally weak, subject to corruption, and heavily politicized cannot fulfill these vital roles.¹¹

While an effective judicial system is important in the developed world, it is perhaps even more critical in countries where democracy is fresh and the need to institutionalize the rule of law is essential for development. In the past two decades, many developing countries have made the transition from authoritarian rule to a democratic form of governance. In many such transitions, “victims of human rights abuses . . . have demanded that [their offenders] be brought to justice.”¹² These shifts to democracy also brought with them a need for a judicial system that can effectively establish confidence in government institutions and practices, and governments have also quickly realized that their economic

9. See *id.* For additional World Bank sources on the relationship between functioning judicial institutions and economic and social development, see ANA PALACIO, WORLD BANK, LEGAL EMPOWERMENT OF THE POOR: AN ACTION AGENDA FOR THE WORLD BANK, 2005-2006 (World Bank Working Paper No. 48701); WORLD BANK, ECONOMIC GROWTH IN THE 1990S: LEARNING FROM A DECADE OF REFORM (2005); WORLD BANK, WORLD DEVELOPMENT REPORT 2002: BUILDING INSTITUTIONS FOR MARKETS (2002); WORLD BANK, WORLD DEVELOPMENT REPORT 1996: FROM PLAN TO MARKET (1996).

10. IBRAHIM SHIHATA, 2 THE WORLD BANK IN A CHANGING WORLD 149-50 (2000).

11. The World Bank produces empirical evidence showing the relationship between a sound justice sector and development. This includes cross-country data sets that demonstrate a correlation between deficiencies in the rule of law and negative economic and social development. See *IDA Resource Allocation Index (IRAI)*, WORLD BANK, <http://go.worldbank.org/S2THW11X60> (last visited Oct. 31, 2011); *World Bank Institute, Governance & Anti-Corruption*, WORLD BANK, <http://www.worldbank.org/wbi/governance/govdata/> (last visited Oct. 31, 2011). Doing Business Reports—a publication by The International Finance Corporation (IFC)—provide a quantitative measure for comparing business regulations in ten indicator sets across 181 countries. Doing Business has found that streamlined court processes and faster contract enforcement are associated with a better environment for business. See, e.g., WORLD BANK, DOING BUSINESS 2004: UNDERSTANDING REGULATIONS 41-42 (2003). The Business Environment and Enterprise Performance Survey (BEEPS)—developed jointly by the World Bank and the European Bank for Reconstruction and Development—comprises surveys of over 4,000 firms in 22 transition countries in the Europe and Central Asia Region. The findings of these surveys indicate that firms identify critical obstacles to their effective functioning as crime, complex regulations, and judicial performance among others. See *Business Environment and Enterprise Performance Survey*, WORLD BANK, <http://data.worldbank.org/data-catalog/BEEPS>.

12. See, e.g., LAWYERS COMMITTEE FOR HUMAN RIGHTS & VENEZUELAN PROGRAM FOR HUMAN RIGHTS EDUCATION AND ACTION, HALFWAY TO REFORM: THE WORLD BANK AND THE VENEZUELAN JUSTICE SYSTEM 18 (1996) [hereinafter HALFWAY TO REFORM].

development is inextricably linked to an efficient judicial system that can impartially resolve commercial disputes.¹³

In varying degrees, judiciaries in developing and transition countries remain unprepared to respond to these challenges. Judicial systems are choked with inefficient procedures that cause unreasonable delays, and undermine the courts' ability to enforce judgments.¹⁴ Often, they are heavily influenced by (or under the direct control of) the executive or legislative branch, thus making it very improbable that a private litigant will receive a fair trial against the government.¹⁵ Corruption, along with a lack of transparency and predictability in court decisions, undermines public trust.¹⁶ Other barriers to access to justice include excessive court fees, overburdened and inaccessible courthouses, biased judges, and cumbersome procedural requirements.¹⁷ In addition, judges inexperienced in commercial law can leave a country with a body of weak and inconsistent jurisprudence.¹⁸

In an effort to deal with these problems, governments in developing and transition countries have taken steps to reform their respective judicial systems. Many of these initiatives are supported by the international donor community. The Bank has engaged in judicial reform operations since the early 1990s as a result of the gradual expansion of its mandate and its then-emerging governance agenda.¹⁹

The concept of governance emerged out of the Bank's experience with its own portfolio. By the late 1980s, it became clear that the Bank's structural adjustment programs were not producing the expected results in

13. *Id.*

14. *See id.* at 19.

15. *Id.* ; SHIHATA, *supra* note 10, at 151.

16. HALFWAY TO REFORM, *supra* note 12, at 19-20.

17. *See id.*

18. *See* SHIHATA, *supra* note 10, at 151 (pointing to the problem of judicial inexperience in applying new legislation).

19. Initially, the World Bank adopted a narrow interpretation of development as exclusively economic growth. Correspondingly, "economic considerations" encompassed "only those issues that were directly relevant to the financial and technical feasibility of the projects it was funding and to the project's impact on the economic growth potential of the Member State." Daniel D. Bradlow, *The World Bank, the IMF and Human Rights*, 6 TRANSNAT'L L. & CONTEMP. PROBS. 47, 55 (1996) (citing United Nations, Statements of U.N. Legal Counsel and IBRD General Counsel on Relations of U.N. and IBRD and Effect of U.N. Resolutions, 6 I.L.M. 150 (1967)). However, as notions of development have evolved and international political circumstances have changed, the World Bank's interpretation of its mandate has expanded. Beginning in the 1960s, the World Bank's scope expanded to a broader focus on poverty alleviation and sustainable development including new areas of lending such as rural development, human resources development (e.g., health, education) the environment, and structural reforms. *See* PAUL MOSLEY ET. AL., 1 AID AND POWER: THE WORLD BANK AND POLICY BASED LENDING 21-23 (1991).

many countries. In evaluating the poor performance of its policy-based lending in Sub-Saharan Africa, a landmark Bank study in 1989 attributed this situation to a “crisis in governance.”²⁰ This study defined governance as “the exercise of political power to manage a nations’ affairs” including elements such as accountability of leaders to their peoples, transparency of transactions, proper administration of public funds, respect for due process and human rights, protection of the freedom of press, and independence of the judiciary.²¹

The 1989 study proved to be a stimulus for debate in the Bank on the relationship between governance and its mandate.²² In 1990, the General Counsel of the Bank issued a legal opinion on the legitimacy of its involvement in judicial reform.²³ Under its Charter, the Bank is precluded from “interfer[ing] in the political affairs” of its member countries or taking into account anything other than “economic considerations” in its lending operations.²⁴ In his 1990 legal opinion the General Counsel concluded that the Bank “may favorably respond to a country’s request for assistance in the field of legal reform, including judicial reform, if it finds it relevant to the country’s economic development and to the success of the Bank’s lending strategy for the country.”²⁵

While the political neutrality aspect of its mandate did not prevent the Bank’s entry into judicial reform activities, the scope and conditions of its participation were unclear. At the time, according to the General Counsel, the Bank’s charter only permitted Bank-financed judicial reform projects that have “direct and obvious” implications for economic development.²⁶ In

20. WORLD BANK, SUB-SAHARAN AFRICA-FROM CRISIS TO SUSTAINABLE GROWTH, A LONG TERM PERSPECTIVE STUDY 60 (1989).

21. *Id.* at 15, 22, 60-61, 192.

22. WORLD BANK, GOVERNANCE AND DEVELOPMENT 5 (1992).

23. Memorandum of the Vice President and General Counsel of IBRD, *Issues of “Governance” in the Borrowing Members—The Extent of Their Relevance Under the Bank’s Articles of Agreement* (Dec. 21, 1990).

24. IBRD Articles of Agreement, *supra* note 7, art. IV, sec. 10; accord IDA Articles of Agreement, *supra* note 7, art. V, sec. 6; Articles of Agreement of the International Financial Corporation art. III, sec. 9, *opened for signature* May 25, 1955, 7 U.S.T. 2197, 264 U.N.T.S. 117 [hereinafter IFC Articles of Agreement]; *see also* Convention Establishing the Multilateral Investment Guarantee Agency art. 34, Oct. 11, 1985, T.I.A.S. 12089, 1508 U.N.T.S. 99 [hereinafter MIGA Convention] (prohibiting decisions to be influenced “by the political character of the member or members concerned”).

25. HALFWAY TO REFORM, *supra* note 12, at 25 (citing Ibrahim Shihata, *Judicial Reform in Developing Countries and the Role of the World Bank*, in WORLD BANK, JUDICIAL REFORM IN LATIN AMERICA AND THE CARIBBEAN: PROCEEDINGS OF A WORLD BANK CONFERENCE 226 (1995)).

26. *Id.* (quoting Memorandum of Vice President and General Counsel, *Issues of “Governance” in the Borrowing Members: The Extent of Their Relevance Under the Bank’s Articles of Agreement* 38 (Dec. 21, 1990)). Many groups, including the Lawyers Committee for Human Rights, have criticized

practical terms, such criteria were generally taken to mean that the Bank should focus on the business and commercial side of the court system; criminal justice was outside of the Bank's mandate.²⁷ This interpretation failed to reflect the interrelation of the different parts of the judiciary system. And in addition to this issue of scope, there was no clear guidance on the nature of the reforms to be concerned with. Support for administrative improvements such as statistics and court records would be relatively simple and uncontroversial compared to projects that might evaluate and implement measures directly affecting the balance of powers between branches of government. It remained unclear whether the Bank was legally permitted to address sensitive issues of judicial independence, and how far it could go if in fact it was permitted. These issues, however, became clearer as the Bank gained project experience and further developed its thinking and strategy.

B. The Bank's Strategic Directions on Judicial Reform

The first stand-alone project, the Venezuela Judicial Infrastructure project, was approved by the Bank's board of directors shortly after the institution decided on the legitimacy issue as previously discussed.²⁸ This may explain in part the narrow focus of this initial operation. The Bank had no clear strategic directions for its lending activities in the justice sector. It only addressed the administrative and technical aspects of the judicial system,²⁹ concentrating its early lending on highly technical issues such as capacity building, streamlining management systems, conducting training programs, and improvement of physical infrastructure.³⁰

This first project in Venezuela met with significant criticism both within and outside the Bank. Internally, some advocated for a deeper sector analysis prior to the identification and preparation of any specific project. Externally, the Lawyers Committee for Human Rights and the Venezuelan Program for Human Rights Education (PROVEA) conducted a

the World Bank for this interpretation, stating that it arbitrarily rejects projects that seek to reform criminal codes, train police or criminal court judges or manage penal institutions. Similarly, they argue that projects aimed at constitutional reform are likewise denied. By focusing solely on economic consequences of judicial reform, these groups contend that World Bank reform projects fail to address more fundamental, albeit political, issues, such as against alleged human rights abuses.

27. LAWYERS COMMITTEE FOR HUMAN RIGHTS, BUILDING ON QUICKSAND: THE COLLAPSE OF THE WORLD BANK'S JUDICIAL REFORM PROJECT IN PERU 2-3 (2000) [hereinafter BUILDING ON QUICKSAND].

28. World Bank, *Staff Appraisal Report, Venezuela Judicial Infrastructure Project*, at 11, Report No. 10635 (July 15, 1992) [hereinafter *Staff Appraisal Report: Venezuela 1992*].

29. See HALFWAY TO REFORM, *supra* note 12, at 25-26.

30. BUILDING ON QUICKSAND, *supra* note 27, at 2-3.

comprehensive study of the project.³¹ Issued during the project's implementation, the study found several problems including a lack of broad government commitment to reform, failure to address "crucial structural impediments to reform," failure to address access to justice concerns, and a lack of broad-based participation.³² The Bank also failed to gauge the level of government commitment to the project prior to implementation. Instead, as the Lawyers Committee contends, the Bank "assumed that a successful Project would generate a commitment to further reform on the part of the judiciary and serve as an example to the legislative and executive [branches]."³³

Experience with the Venezuela project prompted a great deal of rethinking and analysis within the Bank. By the mid-1990s, the institution, through official documents and publications of its then General Counsel and other staff, recognized the need to adopt a more comprehensive approach in its justice sector operations. It also affirmed the centrality of judicial independence, government commitment, and broad-based public participation to effective and sustainable judicial reform. Publications of both the Bank itself and those of individual Bank officials repeatedly identified several crucial issues to be addressed in its judicial reform programs: judicial administration, procedural codes, access to justice, legal education and training, and judicial independence (actual independence and as perceived in the community).³⁴ The issue of judicial independence thus became central to judicial reform.

In a 1996 report, the Bank identified judicial independence as an "imperative feature of any judicial reform project."³⁵ In a separate piece, a Bank judicial reform specialist asserted that "efforts to promote judicial independence are . . . at the heart of insuring judicial reform."³⁶ As articulated by the then General Counsel, the core function of the judicial system encompasses three principal elements: (1) a well-functioning judiciary in which judges apply the law in a fair, even, and predictable manner without undue delays or unaffordable costs; (2) rules interpreted

31. HALFWAY TO REFORM, *supra* note 12, at 12.

32. *Id.* at 21.

33. *Id.* at 102.

34. See SHIHATA, *supra* note 10; Maria Dakolias, *A Strategy for Judicial Reform: The Experience in Latin America*, 36 VA. J. INT'L L. 167 (1995); Ibrahim F.I. Shihata, *Judicial Reform in Developing Countries and the Role of the World Bank*, in WORLD BANK, JUDICIAL REFORM IN LATIN AMERICA AND THE CARIBBEAN: PROCEEDINGS OF A WORLD BANK CONFERENCE 220-26 (1995).

35. BUILDING ON QUICKSAND, *supra* note 27, at 3 (citing MARIA DAKOLIAS, THE JUDICIAL SECTOR IN LATIN AMERICA AND THE CARIBBEAN: ELEMENTS OF REFORM 7 (1996) (World Bank Technical Paper No. 319)).

36. Dakolias, *supra* note 34, at 172.

and applied according to established procedures; and (3) an independent body to resolve disputes.³⁷

In early 2003, the Bank outlined a strategic framework and methodology for designing and preparing legal and judicial activities.³⁸ The strategy reaffirmed and further developed the centrality of judicial independence to the rule of law and judicial reform. The Bank noted that judicial independence “has two functions: one is to limit government power and the other is to protect the rights of individuals.”³⁹ It further added that “a truly independent judiciary is one that issues decisions and makes judgments that are respected and enforced by the legislative and executive branches; that receives an adequate appropriation from the legislature; and that is not compromised by political attempts to undermine its impartiality.”⁴⁰ Thus the Bank’s definition of judicial independence included both individual and institutional elements. In this respect,

Individual independence (decisional independence) is both substantive, in that it allows judges to perform the judicial function subject to no authority but the law, and personal, in that it guarantees judges job tenure, adequate compensation and security. Institutional independence affects the operation of the judiciary and adequate resources are an important aspect of this.⁴¹

37. Ibrahim F.I. Shihata, *Legal Framework for Development: The World Bank’s Role in Legal and Judicial Reform*, in JUDICIAL REFORM IN LATIN AMERICA AND THE CARIBBEAN, PROCEEDINGS OF A WORLD BANK CONFERENCE 14 (1995).

38. WORLD BANK, LEGAL AND JUDICIAL REFORM: STRATEGIC DIRECTIONS 55-63 (2003) (World Bank Working Paper No. 26916) [hereinafter STRATEGIC DIRECTIONS].

39. *Id.* at 3.

40. *Id.*

41. *Id.* at 26. In dealing with judicial independence, the strategy reflects accepted international principles and standards. See Seventh United Nations Conference on the Prevention of Crime and the Treatment of Offenders, *Basic Principles on the Independence of the Judiciary*, U.N. Doc. A/CONF.121/22/Rev.1 at 59 (Sept. 6, 1985) [hereinafter *United Nations Basic Principles*]; Council of Europe, *European Charter on the Statute for Judges* (Jul. 10, 1998); International Bar Association, *IBA Minimum Standards of Judicial Independence* (1982); American Bar Association, *Principles on Judicial Independence and Fair and Impartial Courts*, (Aug. 2007); Shimon Shetreet, *Mount Scopus Approved Revised International Standards of Judicial Independence* (Mar. 19, 2008) [hereinafter *Mount Scopus Standards*]. Because no widespread agreement on a concrete definition of “judicial independence” exists, most attempts to define the term consist of lists of factors, which fall into two categories of independence: Institutional and Decisional. *E.g.*, AMERICAN BAR ASSOCIATION COMMISSION ON SEPARATION OF POWERS AND JUDICIAL INDEPENDENCE, AN INDEPENDENT JUDICIARY, i–ii (1997); See also American Bar Association Commission on the 21st Century Judiciary, *Justice in Jeopardy* 8 (2003); Brian K. Landsberg, *The Role of Judicial Independence*, 16 MCGEORGE GLOBAL BUS. & DEV. L.J. 331, 347 (2006).

The report recognized that economic growth and poverty reduction can be neither sustainable nor equitable without the rule of law.⁴² It then stressed that the rule of law “is built on the cornerstone of an independent, efficient, and effective judicial system.”⁴³ In fact, the first pillar of the Bank’s new legal and judicial reform strategy was judicial independence.⁴⁴ As the Bank affirmed, “First and foremost, the judiciary must be independent, impartial, and effective.”⁴⁵ Creating an institution with these qualities “is particularly challenging in countries where the executive branch views the judiciary as its instrument for political goals.”⁴⁶ Thus, since legal reform cannot succeed without an independent judicial system, the Bank announced that it would direct its efforts in judicial reform at “enhancing independence and increasing efficiency and equity in resolving disputes by improving access to justice that is not rationed, and by promoting private sector development.”⁴⁷

The 2003 strategy document additionally argued that judicial integrity of individual judges is also critical to judicial independence. Indeed, “The essence of an independent and impartial judge lies in his or her personal integrity,” and “[j]udicial independence can operate properly only when judges are trained in the law and make decisions with integrity and impartiality as guardians of public trust.”⁴⁸ In this respect, the report noted that judicial training, a common element in legal and judicial reform, not only hinges on improving knowledge “but also changing attitudes.”⁴⁹ This change “is the most difficult area of education in any field,” but “it is the essence of reform.”⁵⁰ For example, judicial training programs may concern skills or awareness building designed to help improve judicial integrity or reduce judicial bias in fact finding, both of which can especially concern issues of gender and ethnicity.⁵¹

Public trust and accountability also relate to judicial independence. As the report explained, “Externally, public confidence is essential to maintain an independent judiciary that enforces the law.”⁵² In addition, public trust is

42. STRATEGIC DIRECTIONS, *supra* note 38, at 1.

43. *Id.* at 2.

44. *Id.* at 3.

45. *Id.* at 2.

46. *Id.*

47. *Id.* at 26.

48. *Id.*

49. *Id.* at 3, 28.

50. *Id.* at 28.

51. *Id.*

52. *Id.* at 26.

necessary to enforce judgments even against the executive branch and to prosecute and punish judicial corruption. While independence should be respected and protected, this is not to say that the judiciary should be free from public accountability.

The Bank also emphasized the need for consensus and support from all levels of government and civil society for sustainable reform.⁵³ Several Bank publications recognized the necessity of government commitment for ensuring that judicial reform projects will succeed. A 1994 Bank report stated, “Legal reform cannot be successful without the full conviction and political commitment of the government concerned.”⁵⁴ One year later, the Bank expanded on this point: “In order for legal technical assistance to bring about the desired results, the recipient governments need to demonstrate a clear commitment to legal reform and take full ownership of the legal reform process.”⁵⁵

As Bank documents developed the importance of government commitment, they also began to recognize the importance of participation at all levels of project development and implementation. Participation of key stakeholders in the evolution of a project is closely linked to the Bank’s ownership policy. Citing the UN Secretary-General’s Agenda for Development, the General Counsel identified the partnership between civil society and government as an “important prerequisite for sustainable development.”⁵⁶ He continued, “The World Bank recognizes the integral link between participation and the achievement of the Bank’s ultimate objective—poverty reduction Thus, the Bank endeavors to the extent possible to include the local community in the design, implementation, and evaluation of Bank projects.”⁵⁷ Increased public participation, according to the Bank, will allow those most affected by Bank projects to have a voice in their design and execution, and consequently will improve the quality and sustainability of those projects.⁵⁸

We have dealt so far with principles and strategy. As we discussed in the first section, the Bank by the early 1990s decided that it could legitimately enter the business of judicial reform. Yet, the scope and boundaries remained unclear. By the early 2000s, as seen in this section,

53. Dakolias, *supra* note 34, at 172; SHIHATA, *supra* note 10, at 149.

54. WORLD BANK, GOVERNANCE, THE WORLD BANK’S EXPERIENCE 27 (1994).

55. BUILDING ON QUICKSAND, *supra* note 27, at 3 (citing WORLD BANK LEGAL DEPARTMENT, THE WORLD BANK AND LEGAL TECHNICAL ASSISTANCE—INITIAL LESSONS (1995) (World Bank Policy Research Working Paper No. 1414)).

56. SHIHATA, *supra* note 10, at 59.

57. *Id.* at 60; *see also* WORLD BANK, THE WORLD BANK AND PARTICIPATION 19 (1994).

58. *See* SHIHATA, *supra* note 10, at 61.

the Bank devised a strategy in order to better orient and shape its operations. The strategy speaks clearly on the Bank's legitimate and priority attention to judicial independence including the concern with political intrusiveness. It affirms that there is no truly independent judiciary without the respect of the executive and legislative branches. Political power must uphold, not undermine, judicial impartiality. As the Bank further acknowledges, there is a moral dimension to judicial independence. In fact, judicial independence depends on the integrity and impartiality of judges as "guardians of public trust." In this regard, the strategy report recognizes that this hinges on "changing attitudes." While the report emphasizes the integrity and attitudinal changes of judges, as we shall further discuss, this must be viewed in the context of the broader society and its cultural values and expectations. We now turn to the actual practice of the Bank.

II. JUDICIAL REFORM: IN PRACTICE

This Section comprehensively examines the Bank's portfolio of stand-alone operations, analyzing how it addresses judicial independence in such projects. It begins with a brief overview of their objectives, elements and costs.

A. The World Bank's Portfolio of Judicial Reform Projects

The Bank's engagement in the justice sector has grown considerably in the last two decades, with the approval of thirty-six stand-alone judicial reform projects.⁵⁹ Of these, twenty-one are closed and sixteen remain active.⁶⁰ These operations spread across all geographical regions. While some projects focus on one single element (e.g. training or case management), others take a comprehensive approach and cover multiple elements. An overview of these projects' objectives, design and costs will

59. See World Bank, *Directions in Justice Reform: Discussion Note*, http://siteresources.worldbank.org/EXTLAWJUSTINST/Resources/wb_jr_discussionnote.pdf, (last visited April 20, 2011); THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/0,,menuPK:115635~pagePK:64020917~piPK:64021009~theSitePK:40941,00.html> (last visited April 20, 2011).

In addition to the closed and active projects, there is one self-standing project in the pipeline (Kenya, Judicial Performance Improvement) and five dropped projects (Russian Federation, Judicial Reform Support Project; Kenya, Justice and Integrity Project; Sri Lanka, Legal and Judicial Infrastructure Development Project; Cambodia, Legal and Judicial Reform Project; and Mozambique, Legal Capacity Project). *Id.*

60. *Id.*

provide a necessary background for the subsequent analysis of the manner in which the Bank evaluates and addresses judicial independence.⁶¹

1. Objectives

Projects may have a single objective or multiple ones. Those with a single objective generally concern judicial efficiency. For example, the first stand-alone project (Venezuela Judicial Infrastructure Project) had objectives to: (1) improve efficiency in the allocation of resources within the judiciary, (2) increase courtroom productivity and efficiency, and (3) reduce the private sector costs of dispute resolution.⁶² By increasing courtroom productivity and efficiency, the project expected to reduce the private sector and individual costs of dispute resolution.⁶³

The second stand-alone project (Bolivia Judicial Reform) aimed not only to improve the efficiency of the judiciary but also, primarily, its quality. As the first phase of a long-term program, it sought to “improve the quality and effectiveness of civil justice administration,” and to “strengthen the capacity of the judiciary . . . and of the Ministry of Justice to prepare, review, and implement laws and programs related to the country’s constitutional, judicial, economic and social reforms.”⁶⁴

In an effort to distinguish the Bolivia project from the previous Venezuela operation—highly criticized for its narrow scope, among other things—the Bank noted that the former had a more balanced and holistic perspective. The project “would aim to increase efficiency through improved courtroom administration” but also “seek improvements in the *quality* of the justice provided by the present system.”⁶⁵ Further, “its foundation is reform of the judicial incentive framework and of the judicial process itself, thereby striking the necessary balance between quality and efficiency issues.”⁶⁶ While the first Venezuela project emphasized the infrastructure aspects of justice administration, the Bolivia project “attempted to strike a balance between the policy, organizational and infrastructure aspects of justice administration.”⁶⁷

61. See *infra* Appendix 1.

62. *Staff Appraisal Report: Venezuela 1992*, *supra* note 28, at 16.

63. *Id.* at 20.

64. World Bank, *Staff Appraisal Report, Bolivia Judicial Reform Project*, at 15, Report No. 13052 (March 24, 1995) [hereinafter *Staff Appraisal Report: Bolivia 1995*].

65. *Id.* at 14.

66. *Id.*

67. *Id.* at 29.

After the Bolivia project, the substantial majority of the Bank's projects declared objectives beyond that of improving efficiency.⁶⁸ These projects generally sought to increase the overall quality or effectiveness of the respective judicial systems.⁶⁹

Some projects aimed at increasing access to justice. Access to justice appears for the first time as an objective in the 1996 Ecuador Judicial Reform Project.⁷⁰ While the main focus of the Ecuador project was on judicial efficiency, it also dealt with access issues. The objective of the Ecuador Judicial Reform Project was to improve access to justice, the efficiency of judicial services, and the participation of civil society in judicial reform.⁷¹ Other projects which aimed to improve access to justice included those in Peru, Guatemala, Kazakhstan, Morocco, Armenia, Bangladesh, Philippines, El Salvador, Mongolia, Mexico, and Honduras.⁷² The Bangladesh project identified a disincentive to foreign investment as a result of significant shortcomings in access to justice that stemmed from weak procedure, untrained court staff, and poor physical infrastructure.⁷³

Judicial independence is an explicit objective in very few projects. The first one was the 1997 Peru Judicial Reform Project. In fact, this project was cancelled because of insufficient government commitment to judicial independence.⁷⁴ Other projects include the 1999 Georgia Judicial Reform Project; the 2000 Armenia Judicial Reform Project; the 2005 Peru Justice Services Modernization Project; and the 2006 Sudan Capacity Building of the National Judiciary.⁷⁵ The Georgia project sought to address

68. The phrasing of the objectives is not consistent across the projects. In some cases, the objective of improving effectiveness includes other aspects such as efficiency and integrity (e.g. Bolivia and Philippines projects). Other projects separate the objectives of efficiency, transparency and accountability from that of effectiveness. And in other operations, different terms are used such as responsiveness, professionalism, competence, predictability, and accountability.

69. See THE WORLD BANK PROJECTS & OPERATIONS, *supra* note 59.

70. World Bank, *Clustered Project Performance Assessment Report, Ecuador Judicial Reform Project (Loan 4066), Guatemala Judicial Reform Project (Loan 4401), Colombia Judicial Conflict Resolution Project (Loan 7081)*, Report No. 55277 (June 30, 2010) [hereinafter *Clustered PPAR* 2010].

71. *Id.* at 7.

72. See *infra* Appendix 1.

73. World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 23.6 Million (US\$ 30 Million Equivalent) to the People's Republic of Bangladesh for a Legal and Judicial Capacity Building Project*, at 21, Report No. 21863-BD (Mar. 1, 2001) [hereinafter *Project Appraisal Document: Bangladesh* 2001].

74. See World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US 12 million to the Republic of Peru for a Justices Services Improvement Project*, at 9, Report No. 27861-PE (February 9, 2004) [hereinafter *Project Appraisal Document: Peru* 2004]; BUILDING ON QUICKSAND, *supra* note 27, at 18.

75. As further discussed in the next section, this explicit reference to judicial independence does not reflect any significant difference with all other projects. See *infra* Part II.2.

widespread corruption, legal uncertainty, poor enforcement of laws and regulations, and inadequate protection of property rights and contracts through judicial independence reforms.⁷⁶ Unfortunately, this explicit reference to judicial independence is not dispositive: there is no clear distinction between these few projects which explicitly state judicial independence as an objective and the other projects in the portfolio which do not.

2. Project Design

The projects range from those with a narrow scope to others with a very comprehensive reach. Some projects focus, either exclusively or primarily, on one element such a court administration or judicial training. Other projects, such as Albania, support a much broader set of elements including legal education, legal information, court administration and case management, judicial training, judicial enforcement, and alternative dispute resolution.

As a recent Bank report indicates, the most common judicial reform element is court administration and case management. This element is included in 89% of projects.⁷⁷ Many times this element is accompanied by infrastructure investments which appear in almost half of the projects.⁷⁸ Legal drafting and transparency of legal information is found in 78% of projects.⁷⁹ Legal drafting is very significant in Kazakhstan, Yemen, Morocco, Sri Lanka, and Croatia.⁸⁰ In Kazakhstan, the market reforms undertaken during the 1990s required legal institutional changes that lagged behind economic reforms. A project addressing legal drafting became necessary because new laws often underwent continuous revision and yet remained inconsistent with existing laws.⁸¹ Access to legal information is a primary focus in Venezuela 1997, Kazakhstan, Albania, Morocco, Armenia, Croatia, and Mongolia. Some projects target legal education in law schools including Albania and Mongolia.⁸²

76. See World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 9.9 million (US\$ 13.4 million equivalent) to Georgia for a Judicial Reform Project*, at 6, Report No. 19346-GE (June 7, 1999) [hereinafter *Project Appraisal Document: Georgia 1999*].

77. *Directions in Justice Reform: Discussion Note*, *supra* note 59, at 2.

78. *Id.*

79. *Id.*

80. E.g., World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US \$16.5 million equivalent to the Republic of Kazakhstan for a Legal Reform Project*, at 6, Report No. 18792-KZ (April 19, 1999) [hereinafter *Project Appraisal Document: Kazakhstan 1999*].

81. See *id.* at 4.

82. E.g., *id.* at 22.

More than half of the projects include training legal professionals, including those in the justice sector. The purposes of the training differ across projects. In some, the training focuses primarily on management and administration (Venezuela 1992, Argentina) or substantive business law (e.g. Kazakhstan).⁸³ Most training components, however, have a more holistic approach and target knowledge, skills, and attitudes of the participants. Ethical training is a key ingredient in several operations.⁸⁴ In Bolivia, the Bank attributed weak judicial autonomy to political patronage, a long-standing problem in Bolivia history as the report asserts. Indeed, "Political patronage and regional interests are the main forces driving personnel decisions, outweighing consideration of professional excellence, probity and administrative effectiveness."⁸⁵ It stresses that judicial appointments and career advancement mostly result from political or personal connections.⁸⁶ These are perverse incentives which the Bank project sought to address directly.

Access to justice components may be found in several operations. These include Alternative Dispute Resolution (ADR), legal aid and public outreach programs. Several projects include investments to strengthen ADR including Ecuador (mediation), Yemen (training of arbitrators), Guatemala (justices of peace, mobile courts, mediation), Sri Lanka (mediation), Bangladesh (small case courts, arbitration), Bolivia (justices of peace, arbitration), Armenia (arbitration), Colombia (conciliation), Philippines (mobile courts), Peru 2004 (community justice), Mexico (small claims, public defender and Honduras (mobile courts, arbitration, public defenders).⁸⁷ The Bangladesh project included these small claims and arbitration components in order to address a substantial judicial backlog that was negatively affecting access to justice.⁸⁸

Legal aid, public awareness, and education programs are also significant areas of assistance in Georgia, Yemen, Guatemala, Morocco, Armenia, Bangladesh, Peru 2004, Honduras, Azerbaijan, Afghanistan, Armenia, Peru 2010, Philippines, El Salvador, Mongolia, and Mexico.⁸⁹

Other special focus areas include (a) judicial selection, evaluation, promotion, and disciplinary procedures (found in Peru 1997, Bolivia, Peru 2004, Honduras, Peru 2010); (b) enforcement of judicial decisions

83. See *Staff Appraisal Report: Venezuela 1992*, *supra* note 28.

84. *Id.*

85. *Staff Appraisal Report: Bolivia 1995*, *supra* note 64, at 6.

86. *Id.* at 5.

87. See *THE WORLD BANK PROJECTS & OPERATIONS*, *supra* note 59.

88. *Project Appraisal Document: Bangladesh 2001*, *supra* note 73.

89. *E.g., id.* at 41.

(Georgia, Armenia and Albania; largest component in Albania); (c) ethics infrastructure including “supply” and “demand” side measures (special emphasis in Guatemala (whole component), Philippines, El Salvador, Peru 2004, Mexico); and (d) supporting registries (Morocco (largest component), Sri Lanka, Azerbaijan).⁹⁰

3. Costs

The total amount of estimated costs for all projects amounts to over US \$1.1 billion and the total amount of Bank lending exceeds three quarters of a billion dollars.⁹¹ The lending amounts for these projects range from US \$2.4 million to US \$130 million.⁹² Court administration, case management, and physical infrastructure represent the largest project components in terms of dollar amount investments.⁹³ Further, these administration, management, and infrastructure components represent about two-thirds of the investments in a majority of the projects, including: Venezuela 1992, Ecuador, Peru 1997, Venezuela 1997, Armenia, Georgia, Bangladesh, Croatia, Philippines, Colombia, El Salvador, Peru 2004, Azerbaijan, Macedonia, Romania, Russia, Mongolia, Afghanistan, Armenia, Colombia, and Croatia.⁹⁴ In some of these projects, they account for virtually the whole investment cost (e.g. Venezuela 1994, Bangladesh, El Salvador, Macedonia, Romania, and Croatia).⁹⁵ Infrastructure alone accounts for at least half of the investments in several projects, including Venezuela 1992, Georgia, Armenia, Azerbaijan, Macedonia, Romania, Afghanistan, and Armenia.⁹⁶ The Georgia project document indicates that 51 percent of the project financing went to infrastructure rehabilitation.⁹⁷

This broad overview of the Bank’s portfolio shows a primary emphasis on “operational” and “structural” aspects of the judiciary. Issues of court administration and case management are prevalent throughout virtually all projects. Support for court buildings and other infrastructure are substantial. Assistance for more critical issues of judicial selection, performance and discipline is largely of a formal and technical nature, dealing with new structures, mechanisms and processes. Training of judges

90. See, e.g., World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of US\$9.0 Million to Albania for a Legal and Judicial Reform Project*, at 3, Report No. 19915-ALB (Mar. 1, 2000) [hereinafter *Project Appraisal Document: Albania 2000*].

91. See *infra* Appendix 1.

92. *Id.*

93. World Bank, *Directions in Justice Reform: Discussion Note*, *supra* note 59, at 2.

94. See *infra* Appendix 1.

95. *Id.*

96. *Id.*

97. *Project Appraisal Document: Georgia 1999*, *supra* note 76, at 7.

mainly targets knowledge and administrative skills. On the demand side, the emphasis lies in access to legal information, legal aid and mechanisms for external accountability. Deeper issues concerning the cultural and moral foundations and incentives of political leaders, and society at large, for values of judicial independence and impartiality are largely ignored or marginalized. Next we turn to an inquiry on how the Bank assesses the degree of “true” judicial independence from political authorities and how it seeks to strengthen such judicial independence in its operations.

B. The Bank’s Approach to Judicial Independence

The independence of the judiciary is one of the central pillars on which both a liberal democratic system and an efficient and equitable market economy rest.⁹⁸ Among all of the weaknesses of developing country judiciaries, a lack of judicial independence is among the most serious, because it infringes on the ability of judiciaries to carry out their primary responsibilities: dispute resolution, contract enforcement, deterrence of crime, and constraining government abuse of power. In this regard, because of its actual and potential serious threats to judicial independence, protecting judges from political interference is of the highest concern.

As previously noted, the Bank’s strategy affirms the centrality of judicial independence to the rule of law and judicial reform. Indeed, “The principle of judicial independence is a central feature of the programs undertaken by the Bank.”⁹⁹ Legal and judicial reform cannot succeed without an independent judiciary. According to the Bank, judicial independence “has two functions: one is to limit government power and the other is to protect the rights of individuals.”¹⁰⁰ The Bank accordingly defines an independent judiciary as “one that issues decisions and makes judgments that are respected and enforced by the legislative and executive branches; that receives an adequate appropriation from the legislature; and that is not compromised by political attempts to undermine its impartiality.”¹⁰¹

The following analysis of the Bank’s approach to judicial independence in its stand-alone judicial reform projects will draw upon the appraisal of the projects by the Bank’s operational staff as reflected in the respective reports (staff appraisal report (SAR) or project appraisal

98. William M. Landes & Richard A. Posner, *The Independent Judiciary in an Interest-Group Perspective*, 18 J. L. & ECON. 875, 876 (1975).

99. STRATEGIC DIRECTIONS, *supra* note 38, at 3.

100. *Id.*

101. *Id.*

documents (PAD)). These are the key project reports in which “[World] Bank staff assess the intrinsic quality of a project and evaluate the critical risks to which the project is exposed.”¹⁰² In addition to these appraisal reports, internal evaluation reports, known as Implementation Completion Reports (ICRs) and Project Performance Assessment Reports (PPARs), issued by the Bank in regard to closed projects, provide additional valuable information.¹⁰³ Three questions will be addressed: (1) To what extent is judicial independence identified and assessed as a judicial sector issue? (2) How is judicial independence addressed in the design of the projects? And (3) how do the Bank’s internal evaluations deal with judicial independence?

1. To What Extent Is Judicial Independence Identified and Assessed as a Sector Issue?

According to Bank policy, its investment projects must “be anchored in country policy/sector analysis; and reflect lessons learned from the Bank’s experience.”¹⁰⁴ The appraisal reports (SARs and PADs) include brief analyses of the respective sector’s salient features. This analysis is often based on in-depth analytical work undertaken by the Bank.

In reviewing the appraisal reports on the judicial reform projects, it is hard to find a consistent and coherent approach on the treatment of judicial independence. As a starting point, we note that there are a few project documents which are either silent on judicial independence as a judicial

102. World Bank, *Operational Manual*, World Bank Procedure 10.00 - Annex D, Jan. 15, 1994, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20065821~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>. I recognize that an analysis on the basis of the publicly available written record has its limitations. They are not necessarily a perfect and exhaustive source. The insights of this article must be viewed in such context and, hopefully, as a small contribution and catalyst for further research and analysis.

103. The ICRs are prepared by a team appointed by the respective regional sector manager or team leader at the time of project completion. These reports assess (a) the degree to which the respective project achieved its development objective and outputs as set out in the respective project documents; (b) other significant outcomes and impacts; (c) prospects for the respective project’s sustainability; and (d) World Bank and borrower performance, including compliance with relevant World Bank safeguard and business policies. *See* World Bank, *Operational Manual – Implementation Completion Reporting*, § 13.55, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064672~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>. The PPARs are prepared by the World Bank’s Independent Evaluation Group. *See* World Bank, *Operational Manual - Monitoring and Evaluation*, § 13.60, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:21345677~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>.

104. World Bank, *Operational Manual - Investment Lending: Identification to Board Presentation*, § 10.00, available at <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064659~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>.

sector issue or simply acknowledge that judicial independence is secured or part of the government's strategy for judicial reform.¹⁰⁵ In the remaining projects, while receiving more attention on the face of the documentary evidence, the scope and details of the analysis differ. A number of projects identify the problem of judicial independence, either in general or as specific manifestations of political interference (i.e. political interference in judicial appointments or enforcement of judicial decisions) and refer to constitutional and legal reform measures taken by the respective governments to strengthen judicial independence.¹⁰⁶

Other projects identify judicial independence as the main or key issue facing the respective judiciary.¹⁰⁷ At one level, there are project documents

105. E.g., World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 13,600,000 to the Democratic Socialist Republic of Sri Lanka for a Legal and Judicial Reforms Project*, Report No. 20135-CE (May 12, 2000) [hereinafter *Project Appraisal Document: Sri Lanka 2000*] (giving limited sector analysis with no mention of judicial independence); World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US\$18.2 million to the Republic of El Salvador for a Judicial Modernization Project*, Report No. 24201-ES (July 5, 2002) [hereinafter *Project Appraisal Document: El Salvador 2002*] (referencing that constitution has secured independence of the judiciary); World Bank, *Project Appraisal Document on a Proposed Learning and Innovation Lending Credit in the Amount of SDR 4.0 Million (US\$5.0 Million Equivalent) to Mongolia for a Legal and Judicial Reform Project*, Report No. 23286-MOG (November 19, 2001) [hereinafter *Project Appraisal Document: Mongolia 2001*] (referencing that judicial independence is one of the values of the government's judicial reform strategy).

106. See, e.g., *Project Appraisal Document: Bangladesh 2001*, *supra* note 73, at 6, 85 (referencing a relevant Supreme Court judgment and a brief statement in a policy letter declaring that "The Government believes in the separation and independence of the judiciary. For that matter appropriate steps are being taken. It has already initiated the process of delegating more financial powers and autonomy to the Supreme Court."); World Bank, *Project Appraisal Document on a Proposed Learning and Innovation Loan in the Amount of US\$5.0 Million Equivalent to the Republic of Croatia for Court and Bankruptcy Administration Project*, at 15, Report No. 19995-HR (June 13, 2001) [hereinafter *Project Appraisal Document: Croatia 2001*] (referencing problems of political interference and corruption and to unspecified measures taken by the government to address such issues); *Staff Appraisal Report: Venezuela 1992*, *supra* note 28, at 11 (referencing problems of political influence in judicial selection criteria and government reform efforts, including proposed constitutional reforms, to de-politicize judicial appointments); World Bank, *Implementation Completion and Results Report on a Proposed Loan in the Amount of \$US 33 Million Equivalent to the Republic of Guatemala for a Judicial Reform Project*, at 2 (Mar. 10, 2008) [hereinafter *ICR: Guatemala 2008*] (referencing the government's strategy to strengthen judicial independence and related reform measures including the new Constitutional Court, the new Judicial Council, a new judicial career, a budgetary earmark for the Judiciary, and human rights guarantees); World Bank, *Staff Appraisal Report, Ecuador Judicial Reform Project*, at 7, Report No. 15385-EC (June 24, 1996) [hereinafter *Staff Appraisal Report: Ecuador 1996*] (referencing government's overall program to de-politicize the judiciary and strengthen independence and related reform measures including new mechanisms for selecting judges, a new Constitutional Tribunal, a new Ombudsman and independent prosecutor's office).

107. Two of the earlier World Bank projects with judicial independence as a central focus were Bolivia (1995) and Peru (1997). *Staff Appraisal Report: Bolivia 1995*, *supra* note 64, at 6. In Peru, the World Bank attempted to support bold measures to restore judicial independence particularly in relation to judicial tenure. However, political interference and the lack of adequate government commitment led

that apparently reflect a general *de jure* assessment of judicial independence and distinguish the constitutional and legal independence from “independence in practice.” Indeed, the first project to make this distinction is the Albania project. As the report states, the Albanian judiciary has long suffered from excessive executive interference. It notes that “Albania’s new Constitution of November 1998 provides a clear foundation for judicial independence and the new law on Judicial Organization gives further legislative basis for this independence.”¹⁰⁸ To achieve independence in practice, however, the Bank contends that judges “will need the tools to help them operate independently.”¹⁰⁹ These tools include education, safety, reasonable working conditions and salaries, legal information, effective court and case management procedures, and a non-corrupt environment. The Morocco project follows the same approach as the Albania project. While the Bank notes that there is *de jure* judicial independence in Morocco, it adds that judges need the tools to achieve “independence in practice.”¹¹⁰

At another level, one finds a few project documents reflecting explicit criteria for evaluating judicial independence. A good example is the case of Armenia. In this operation, the Bank is not only more candid about the specific manifestations of a weak judicial independence but also assesses the necessary improvements from the perspective of personal and institutional independence.¹¹¹ In noting the progress made since the dissolution of the Soviet Union, the Bank emphasizes constitutional and legal reforms. The new constitution of 1995 establishes the principle of an

to the cancellation of the project. World Bank, *Staff Appraisal Report, Peru Judicial Reform Project*, Report No. 17137-PE (Oct. 27, 1997) [hereinafter *Staff Appraisal Report: Peru 1997*]; World Bank, *Project Completion Note, Peru Judicial Reform Project*, Report No. 20669 (June 30, 2000) [hereinafter *Project Completion Note: Peru 2000*]. Other projects include Venezuela (1997); Albania; Morocco; Armenia, Georgia, Peru (2004); Mexico; Macedonia; Romania; Russia (2007); and Kazakhstan. See *infra* Appendix I.

108. *Project Appraisal Document: Albania 2000*, *supra* note 90, at 6.

109. *Id.* at 7.

110. World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of EURO 5.6 million (US\$ 5.3 Million Equivalent) to the Kingdom of Morocco for a Legal and Judicial Development Project*, at 3, 5, Report No. 20457-MOR (May 18, 2000) [hereinafter *Project Appraisal Document: Morocco 2000*] (noting that “The Moroccan constitutional system is formally based on the principle of separation of powers and article 82 of the Constitution provides clearly for the independence of the judiciary” and “[e]nsuring the rule of law in Morocco requires a properly functioning legal and judicial system. This calls for enforcement of the country’s laws and regulations by a competent, transparent and independent judiciary.”).

111. World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 8.6 Million (US\$ 11.4 Million Equivalent) to the Republic of Armenia for a Judicial Reform Project*, at 4-7, Report No. 20820-AM (Aug. 21, 2000) [hereinafter *Project Appraisal Document: Armenia 2000*] (noting a state of weak judicial independence under Soviet rule).

independent judiciary and a series of fundamental laws enacted during the period 1997–1999 provide a legislative framework for the establishment of a new independent judiciary.¹¹² These “bold measures to develop and enhance judicial independence in Armenia” target the personal independence of judges (life tenure, appointment and removal from the office, compensation, safety, and immunity from prosecution) as well as institutional autonomy of the judiciary.¹¹³

Regarding the personal independence of judges, the PAD explains the changes these laws made in areas of tenure, removal, disciplinary procedures and selection. These laws generally “conform to commonly recognized standards of judicial independence.”¹¹⁴ And yet they are far from perfect. Refinement in the areas of judicial qualification exams, the executive role in judicial nomination, disciplinary and removal procedures would improve Armenia’s *de jure* independence.¹¹⁵ In addition, it notes that the key to developing a truly independent judiciary, perceived as corrupt and partial, lies mainly in the implementation of the new laws.¹¹⁶

With respect to institutional autonomy, the Bank notes the creation of a separate judiciary body (the Council of Court Chairmen (CCC)) to assume court administration responsibilities from the Ministry of Justice as “a significant development towards strengthening independence of the Armenian judiciary.”¹¹⁷ It also notes that “[not] only judges personally, but also the courts as institutions need protection from external pressure, and for courts to operate independently require appropriate funding—both sufficient and stable.”¹¹⁸ In this respect, the PAD describes specific measures including a separate budgetary item for the judiciary budget, a separate budget line item for each court, and the CCC’s exclusive authority

112. *Id.* at 4.

113. *Id.*

114. *Id.* at 5.

115. *Id.* at 10. As noted in the PAD for the second Armenia judicial reform project, constitutional reforms were approved in 2005 providing for the creation of a General Congress of Judges as the highest governing body of the judiciary and new procedures for composition of the Council of Justice which significantly reduced executive branch representation and power over judicial appointments and advancements. World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 15.2 Million (US\$ 22.5 Million Equivalent) for a Second Judicial Reform Project in the Republic of Armenia*, at 2, Report No. 38361-AM (Feb. 9, 2007) [hereinafter *Project Appraisal Document: Armenia* 2007].

116. *Project Appraisal Document: Armenia* 2000, *supra* note 111, at 9-10.

117. *Id.* at 6.

118. *Id.*

to prepare a budgetary proposal for the judiciary and administer the use of budgetary resources.¹¹⁹

The Romania project is also explicit about the evaluation criteria. As the report states, “The degree of independence of the judiciary from the political authorities is traditionally assessed by: (i) the ways in which judges are appointed, transferred, promoted or dismissed; (ii) the level of judicial self-governance; and (iii) the level of budgetary autonomy.”¹²⁰ In evaluating the constitutional and legal framework, the report notes that some provisions are aligned with European standards while others, specifically in the area of budgetary autonomy, fall short.¹²¹

While the level of analysis may differ, these project documents recognize that “*de jure*” reforms are not sufficient to guarantee judicial independence. Indeed, several PADs observe the “gap” between the law or the norm and the practice. Some cite public opinion surveys showing that, despite better laws in the books, the judiciary is perceived as not independent from political authorities and pressures.¹²² This is a

119. *Id.* Like Armenia, the Georgia PAD similarly observes a traditionally subordinate judiciary and describes the legal steps required to enhance judicial independence. These steps include the unification of jurisdiction (eliminating military jurisdiction); a new Judicial Council with responsibilities on administration (transferred from Ministry of Justice), new framework for qualification examinations for judges and salary increases. The report adds that the first rounds of examinations of judges were generally recognized in the country and overseas as transparent and fair. *Project Appraisal Document: Georgia 1999*, *supra* note 76, at 3-4.

120. World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of EURO 110.0 Million (US\$130.0 Million Equivalent) to Romania for a Judicial Reform Project*, at 33, Report No. 33987-RO (Nov. 22, 2005) [hereinafter *Project Appraisal Document: Romania 2005*].

121. *Id.* See also World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of EURO 10.0 Million (US\$ 12.4 Million Equivalent) to the Former Yugoslav Republic of Macedonia for a Legal and Judicial Implementation and Institutional Support Project*, at 10, Report No. 35506-MK (May 10, 2006) [hereinafter *Project Appraisal Document: Macedonia 2006*] (noting that judicial independence in Macedonia is threatened by both political manipulation of judicial appointments and financial control); World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US\$30 Million to the Banco Nacional de Obras y Servicios Públicos, S.N.C. (Banobras) with the Guarantee of the United Mexican States for a State Judicial Modernization Supporting Access to Justice Project*, at 66, 72-74, Report No. 27946-MX (June 4, 2004) [hereinafter *Project Appraisal Document: Mexico 2004*] (noting external and internal challenges to judicial independence); World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of US\$ 50 Million to the Russian Federation for a Judicial Reform Support Project*, at 17-19, Report No. 36104-RU (Jan. 19, 2007) [hereinafter *Project Appraisal Document: Russia 2007*] (noting internal and external challenges to the judiciary).

122. *Project Appraisal Document: Peru 2004*, *supra* note 74, at 7-11 (2004) (noting that “[n]early 90% of the enterprises and households surveyed believed that the Judiciary is not independent from political groups, nor that justice has been administered in a fair and equitable manner.”); World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 10.0 Million (US\$ 15 Million Equivalent) to the Republic of Honduras for a Judicial Branch Modernization Project*, at 7, Report No. 32128-HN (June 6, 2005) [hereinafter *Project Appraisal Document: Honduras 2005*] (noting that “. . . [t]he overwhelming majority of respondents to a more recent survey stated that the Judiciary is

fundamental point. Indeed, the “gap” factor is highly relevant in determining government commitment to meaningful and sustainable reform and political risks for the projects. It reflects the degree of actual respect by public authorities for the independence of judges and the courts, an essential mark of a truly independent judiciary. Regardless of what the law in the books says, and declaratory statements made by government authorities, a record of political interference in the judiciary places such commitment in doubt. As previously discussed, the significance of ownership and commitment is affirmed repeatedly as one of the lessons learned from Bank operations. For example, the Yemen PAD states that “The lessons learned from these projects have underscored the importance of ownership and commitment at the highest level of government and of counterpart commitment. Experience indicates that local stakeholders need to be involved at the outset, both in studying the legal system and developing proposals for change.”¹²³ In a similar fashion, the Morocco appraisal report affirms that:

The lessons learned underscore the crucial importance of ownership and commitment at the highest level of government, as well as of the need for stability of relevant government policies and of leadership . . . strong and sustained support for legal and judicial reform by the country’s highest political authorities is crucial.¹²⁴

The Bank has emphasized that the most compelling evidence of borrower commitment to judicial reform is its actual “track record.”¹²⁵ It is

influenced by economic and political pressures.”); World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 14.8 Million (US\$21.6 Million Equivalent) to the Republic of Azerbaijan for a Judicial Modernization Project*, at 91, Report No. 35447-AZ (June 5, 2006) [hereinafter *Project Appraisal Document: Azerbaijan 2006*] (noting that “[p]ublic opinion tends to regard most judges as subject to political or economic influence, otherwise known as “telephone justice.”); *Project Appraisal Document: Macedonia 2006*, *supra* note 121, at 34 (noting that “[t]he independence of the judiciary is a principle laid down in the Constitution and the Law on Courts. However, there are some obstacles to the full independence of judges from political influence in practice.”); *Project Appraisal Document: Romania 2005*, *supra* note 120, at 33 (noting that the “legacy of subordination of the judiciary to state interests and to the party apparatus, and exploitation of the judiciary by the state as an official device to validate such prerogatives, is very strong and continues to cloud how judges and the court system are perceived.”); *Project Appraisal Document: Russia 2007*, *supra* note 121, at 2 (noting that “[j]udicial independence, integrity and competence are widely perceived as unsatisfactory, by both the authorities and the public.”).

123. World Bank, *Project Appraisal Document on a Proposed Learning and Innovation Credit in the Amount of SDR 1.8 million equivalent to the Republic of Yemen for a Legal and Judicial Development Project*, at 9 (June 28, 1999) [hereinafter *Project Appraisal Document: Yemen 1999*].

124. *Project Appraisal Document: Morocco 2000*, *supra* note 110, at 19.

125. *Project Appraisal Document: Georgia 1999*, *supra* note 76, at 10.

not clear, however, whether Bank practice recognizes this reality. In those operations with a stronger focus on judicial independence, the evidence consists mostly of structural measures (*i.e.* constitutional and legal norms, organizational structures).¹²⁶ In other projects, the proof of government commitment and ownership is largely of a formal and technical nature.¹²⁷ Project documents mainly refer to declaratory statements of support for the projects by the judiciary and other government leaders; initiation of project activities of a technical nature; formation of technical teams, inter-agency groups and coordinating commissions; and even the request for funding from the Bank.¹²⁸

Concerns about political infringements on judicial independence surface in some operations as either explicit or implicit project risks or assumptions. In any event, it is hard to find coherence and consistency in whether, and how, these risks are identified and qualified. The Kazakhstan PAD explains that one of the risks is that “judicial independence is impeded upon and judicial role in administration and education is minimized.”¹²⁹ Further, the Bank recognizes that the project is “implemented in a highly political environment, affecting the role of the state, both internally—the relation between the executive, the legislature and the judiciary—as externally, in its relation with society at large.”¹³⁰ The

126. See World Bank, *Implementation Completion and Results Report on a Credit in the Amount of US \$ 13.33 million (SDR 9.87 Million Credit) to Georgia for a Judicial Reform Project*, at 14 (May 17, 2007) [hereinafter *Georgia Judicial Reform 2007*]; *Staff Appraisal Report: Peru 1997*, *supra* note 107; *Project Appraisal Document: Armenia 2000*, *supra* note 111; *Project Completion Note, Peru Judicial Reform Project*, *supra* note 107; World Bank, *Sudan Multi Donor Trust Fund, Final Project Proposal, The Rule of Law Sector Capacity Building of the Sudan Judiciary*, at 6-8 (Feb. 28 2006) [hereinafter *2006 Sudan Capacity*].

127. *Project Appraisal Document: El Salvador 2002*, *supra* note 105, at 19.

128. *E.g.*, *id.* at 19 (referencing to government requests for donor financing, the approval of the project by Supreme Court, new technical team and assignment of technical staff to the project and declaration of support of project by executive branch); *Project Appraisal Document: Yemen 1999*, *supra* note 123 (referencing to declaration by council of ministers, a workshop with judiciary representatives, compilation of legislation, establishment of a legal reform center and request for World Bank financial assistance of the project); *Project Appraisal Document: Georgia 1999*, *supra* note 76 (referencing to participation of stakeholders, support by executive and legislative branches, assumption by Council of Justice of control of the reform process, preparation of master plan for court administration and case management and declaration by President that judicial reform is essential to the country’s development).

129. *Project Appraisal Document: Kazakhstan 1999*, *supra* note 80, at 13.

130. *Id.* See also *Project Appraisal Document: Yemen 1999*, *supra* note 123, at 12 (identifying the high project risk that “government commitment to supporting an objective and independent judiciary may falter due to budgetary constraints; changes in high-level ministerial staffing or pressure from entrenched interests”); *Project Appraisal Document: Albania 2000*, *supra* note 90, at 23 (project risk is “[i]nformal norms of behavior within the legal and judicial system do not allow new judicial structures and laws to be applied as laid out in the Albania Constitution and new organic laws”); *Project*

Azerbaijan PAD states that there is a risk to “judicial independence and ethics.”¹³¹ In the Russia PAD, the Bank admits that “Political risks are unavoidable. These arise from the complex interplay and sometimes conflicting agendas of major actors: different elements of the judiciary, the executive and the legislature. Such conflicts may be manifested in inter-agency turf battles, coordination gridlocks, backtracking on reforms, and delays in project design and implementation.”¹³² Some PADs include project assumptions that courts function independently or the presence of a supportive political environment.¹³³ In other cases, political interference is arguably implicit in some of the stated risks. Such PADs refer to resistance from interest groups, government transitions or political pressures.¹³⁴

2. How Is Judicial Independence Addressed in the Design of the Projects?

The fact that a project has judicial independence as an explicit objective does not provide much guidance. As we saw before, judicial independence is an explicit objective in only a few projects. This does not appear to signify any distinctive element common to all of these projects. In fact, there is no special project component or activity and one finds similar judicial reform elements in other projects. Regarding policy conditions, it is hard to say if there is any particular difference based on the publicly available information. In the case of the Peru (1997) project, progress on restoring judicial tenure was a key policy condition in the project.¹³⁵ And it was for reasons of breach with this policy condition that the project was cancelled.¹³⁶

Appraisal Document: Georgia 1999, supra note 76, at 15 (critical assumption is a supportive political environment); Project Appraisal Document: Armenia 2000, supra note 111, at 29 (risk is that “[t]he judiciary does not overcome administrative (MOJ) and financial (Ministry of Finance and Economy) control of the executive branch.”).

131. *Project Appraisal Document: Azerbaijan 2006, supra note 122, at 26.*

132. *Project Appraisal Document: Russia 2007, supra note 121, at 9.*

133. *See Project Appraisal Document: Kazakhstan 1999, supra note 80, at 12; see also Project Appraisal Document: Georgia 1999, supra note 76, at 15.*

134. *See, e.g., World Bank, Project Appraisal Document on a Proposed Loan in the Amount of US\$21.9 Million to the Republic of the Philippines for a Judicial Reform Support Project, at 21, Report No. 25504 (Jul. 8, 2003) [hereinafter Project Appraisal Document: Philippines 2003] (“change in Supreme Court and hence reform leadership” and “resistance from interest groups that could oppose reforms”); Project Appraisal Document: Peru 2004, supra note 74, at 29 (explaining that resistance from special interests and changes in senior officials may prevent or reverse advances in creating a client-oriented Judiciary and political pressures may limit the ability of sector agencies to move forward with the reform agenda).*

135. BUILDING ON QUICKSAND, *supra* note 27.

136. *See Project Appraisal Document: Peru 2004, supra note 74, at 9; BUILDING ON QUICKSAND, supra note 27.*

A more relevant distinction, for purposes of the question under consideration, is the distinction the Bank draws between “structural independence” and “operational independence” or “independence in practice.” The first one refers to the constitutional empowerment of the judiciary to self-governance and is predicated on formal rules and structures. Many of the projects support such empowerment or formal autonomy. This is evidenced in the establishment and institutional strengthening of independent bodies (i.e. judicial councils) for judicial selection and administration. The second concerns the capacity of the judiciary to manage and administer its own resources. As we noted in the previous section, to achieve independence in practice, judges need the necessary tools such as education, safety, reasonable working conditions and salaries, legal information and effective court and case management procedures. Both types of independence are addressed in the projects though “operational independence” appears to take precedence.

Based on the above distinctions, one may argue that most, if not all, of the project designs address judicial independence to some extent. Some projects explicitly claim that their respective interventions indirectly help to strengthen judicial independence. In the Ecuador SAR, the Bank notes:

The project would aim at strengthening the judiciary in the processing of cases in an efficient and fair manner—that is, providing judges and court personnel with new case management techniques, information technology and mediation procedures which will allow cases to be resolved in an efficient and effective manner as well as improving access to justice and the quality of judicial training. Through these components, the judiciary should experience efficiency gains and improvements in the quality of service delivered to the public—both of which are elements contributing to the independence of the judiciary.¹³⁷

Other projects, as we saw, claim that they build judicial independence in the sense of “independence in practice” or operational independence. However, these institutional interventions do not directly address the underlying cultural and moral forces and incentives underlying the gap

137. *Staff Appraisal Report: Ecuador 1996*, *supra* note 106, at 21; *see also Project Appraisal Document: Kazakhstan 1999*, *supra* note 80, at 13-14. (“Extensive judicial training and implementation of new court and case management techniques are helping to increase the quality, transparency, and accountability of the courts, and may lead to a more independent judiciary, with significant political consequences”); *Project Appraisal Document: Albania 2000*, *supra* note 108, at 18 (“Fundamental democratic principles, such as the independence of the judiciary . . . are still new concepts in Albania The Project will, however, involve staff of benefiting institutions in training programs which, it is anticipated, will at least indirectly, have a positive impact.”).

between formal rules and institutions, one on side, and the actual practices and behaviors inconsistent with values of independence and impartiality.

3. How Do the Bank's Internal Evaluations Deal with Judicial Independence?

The Bank has issued Implementation Completion Reports (ICRs) for twenty projects and Project Performance Assessment Reports (PPARs) for six projects.¹³⁸ The issue of judicial independence figures quite prominently in the above reports. From a review of these reports, the following observations emerge.

First, judicial independence is strategically relevant to all judicial reform projects and must be taken into account at the time of project conception and appraisal. Failure to do so is a "strategic mistake," as was concluded in the Bangladesh project.¹³⁹ It appears that implementation of the Bangladesh project was seriously undermined by the judiciary's vulnerabilities to political intrusion.¹⁴⁰ The Bank project team disregarded such vulnerabilities and this proved fatal.¹⁴¹ Indeed, the reforms pursued by the project, primarily new case management models, were not sustainable.¹⁴² The project showed "clear evidence how insufficient autonomy, if not addressed—e.g. through the design or policy dialogue—could endanger the reforms."¹⁴³ Several other ICRs recognize the relevance of judicial independence to project success.¹⁴⁴

138. THE WORLD BANK PROJECTS & OPERATIONS, *supra* note 59.

139. World Bank, *Implementation Completion and Results Report on a Credit in the Amount of SDR 23.6 Million (US\$ 30.6 Million Equivalent) To the People's Republic of Bangladesh for a Legal and Judicial Capacity Building Project*, at 15, Report No. ICR00001200 (May 14, 2010) [hereinafter *Implementation Completion: Bangladesh 2010*].

140. *Id.* at 24.

141. *Id.* at 15.

142. *Id.*

143. *Id.* at 23.

144. See World Bank, *Implementation Completion Report on a Loan in the Amount of US \$5 Million to the Republic of Argentina for a Model Court Development Project*, Report No. 35356, at 16-17 (Mar. 15, 2006) [hereinafter *Implementation Completion Report: Argentina 2006*] (noting the failure to give proper consideration of the sector's institutional context and assurances of adequate independence for the judiciary), available at http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2006/07/24/000112742_20060724121459/Rendered/PDF/353560corrigenum.pdf; *Project Appraisal Document: Kazakhstan 1999*, *supra* note 80, at 3 (noting the direct relationship between measures to strengthen judicial independence and project success); World Bank, *Implementation Completion Report on a Credit in the Amount of US\$2.49 Million to the West Bank and Gaza for a Legal Development Project*, Report No. 29066, at 12 (June 9, 2004) [hereinafter *Implementation Completion Report: West Bank & Gaza 2004*] (noting that "[t]o have the maximum impact, technical reform initiatives should ideally be planned to complement political progress on creation of the legal and political foundation for reform initiatives").

Second, when taking into account judicial independence, it is not enough to examine the law in the books but one must appraise the law in practice. The Bangladesh ICR is clear on this point. On speaking about the failure to adequately assess judicial independence, the report points out that: “It should have been apparent at the conception of the project that constitutional restraints on undue influence of the executive power over judiciary were not working in practice. Arbitrary judicial appointments and reassignments are just one example of the vulnerabilities of the Bangladeshi judiciary.”¹⁴⁵ Additional infringements on judicial independence included low salaries and executive control of judicial removals. Other ICRs also stress the importance of evaluating the *de facto* government commitment to reform.¹⁴⁶

Lastly, strengthening judicial independence requires a focus on political attitudes and behavior. Judicial independence was one objective of the Georgia project.¹⁴⁷ However, the ICR found that this project was properly designed to address technical aspects of judicial effectiveness and efficiency only; it did not deal with the political complexities of strengthening judicial independence.¹⁴⁸ None of the project outputs directly advanced judicial independence but rather “provided only indirect support for the strengthening of the judiciary *vis-à-vis* the other branches of government by strengthening the capacity of the judiciary for self-governance and providing the tools for improved operational performance.”¹⁴⁹ While Georgia had enacted constitutional safeguards to protect judicial independence, the ICR Bank noted that such amendments were insufficient in a climate of weak political will.¹⁵⁰ The PPAR confirmed this concluding that the project components were “unlikely to lead to judicial independence.”¹⁵¹

145. *Implementation Completion: Bangladesh 2010*, *supra* note 139, at 21.

146. *See Implementation Completion Report: West Bank & Gaza 2004*, *supra* note 144, at 8 (“[T]here was a serious lack of [Palestinian Authority] commitment to judicial reform.”); World Bank, *Implementation Completion Report on a Credit in the Amount of SDR 6.6 Million to Albania for a Legal and Judicial Reform Project*, at 19, Report No. 35351 (June 12, 2006) (“[t]his project has shown that there are a variety of basic institution building interventions that can support legal and judicial development. However, close attention needs to be paid to how these interventions impact and depend on the balance of power between the executive and the judiciary.”).

147. *Project Appraisal Document: Georgia 1999*, *supra* note 76, at 2-3 (explaining that the project would “assist in the development of an independent and professional judiciary, committed to high standards of judicial ethics and capable of efficient, effective dispute resolution.”).

148. *Georgia Judicial Reform 2007*, *supra* note 126, at 12.

149. *See id.* at 13.

150. *See id.* at 12.

151. *Project Performance Assessment Report, Georgia Judicial Reform Project, Structural Adjustment Credit, Reform Support Credit*, Report No. 46832, at 6 (Dec. 29, 2008). In an interesting

III. JUDICIAL REFORM: REFLECTIONS FOR IMPROVEMENT

Our previous analysis shows that the Bank's strategy on judicial reform prioritizes the independence of judges, with particular and special concern for independence from the political branches. The Bank's actual practice, however, demonstrates that the issue of political interference in the judicial process, though extremely relevant, is not properly assessed and its underlying cultural and moral dimension is marginalized. Indeed, there is quite a degree of incoherence and inconsistency in how the Bank evaluates the degree of judicial autonomy. The evidence at times is confined to the existence of rules, regardless of their enforcement and societal support. Further, the Bank not only falls short in evaluating relevant evidence of political intrusion, but also underestimates the dimension of personal and cultural values in such corrupt behavior. Indeed, the project portfolio largely targets structural and operational deficiencies to address judicial independence.

Let us now turn to these two issues in more detail: the relevant evidence of judicial independence and the culture dimension of judicial independence. As I consider these issues, I am fully aware of the challenges in dealing with such a complex, multifaceted and sensitive subject. Judicial independence is "a slippery concept, difficult to define let alone to measure."¹⁵² Indeed, there are no single criteria to evaluate its presence or absence. It exists in degrees throughout the world and there are differing views on its foundation. At the same time, let me remind the reader that the focus of this article is on the independence of judges and the courts from interference by political authorities. It is one dimension of judicial independence, albeit a critical one. Indeed, "Government poses perhaps the most serious threat to judicial independence for two reasons: it has a potential interest in the outcome of myriad cases, and it has so much potential power over judges."¹⁵³

footnote, the report expanded on the necessary changes to achieve judicial independence, "[t]o have independent judges a society must create the political and economic incentives to achieve that result, but the project did not deal with these critical factors. For judicial independence the fundamental positive question would be: 'Under what circumstances will politicians maintain judges who are independent from themselves?'" *Id.* at 5 n.2 (citing J. MARK RAMSEYER & ERIC B. RASMUSEN, MEASURING JUDICIAL INDEPENDENCE: THE POLITICAL ECONOMY OF JUDGING IN JAPAN 4 (2003)).

152. Julio Rios Figueroa, *Judicial Independence: Definition, Measurement, and Its Effects on Corruption. An Analysis of Latin America* 2 (2006), available at <http://homepages.nyu.edu/~jrf246/Papers/PhD%20Diss%20JRF.pdf>.

153. Matthew Stephenson, Brief, *Judicial Independence: What It Is, How It Can Be Measured, Why It Occurs*, WORLD BANK, at 1, <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/JudicialIndependence.pdf> (last visited Nov. 10, 2011).

While political interference is the focus of this article, I fully recognize that interference may come from other outside sources. Further, I also recognize that judicial independence in a broad sense is also

A. The Relevant Evidence of Judicial Independence

To our first question: how does the Bank assess the degree of judicial autonomy? What is the relevant evidence it looks for? As previously discussed, the Bank has had opportunities to evaluate the approach taken in certain projects towards political intrusion in the judiciary. In particular, it was a key concern in the evaluation of the Bangladesh project. Noting the strategic relevance of judicial independence, the ICR highlighted the drastic consequences of disregarding evidence on political interference with judicial autonomy. In fact, such project showed “clear evidence how insufficient autonomy, if not addressed—e.g. through the design or policy dialogue—could endanger the reforms.”¹⁵⁴

The previous section has shown that the Bangladesh project is not the only operation where the Bank has failed to take into account political interference. In most projects, however, there is documentary evidence showing that the Bank took into account judicial independence. Yet the approach that emerges is not consistent, coherent or comprehensive. The ICR noted that there was “clear evidence on insufficient autonomy.”¹⁵⁵ However, it did not suggest or refer to any guidelines on how to go about this matter.

As its standard practice, the Bank should gather and evaluate comprehensive evidence, dealing with both *de jure* and *de facto* judicial independence. The Bank must be able to grasp how serious this type of corruption is and its potential adverse impact on any intervention. Otherwise, it potentially compromises the Bank’s fiduciary obligations and its concern for aid effectiveness. A *de jure* analysis would be a logical starting point. This requires a careful and thorough review of all relevant rules, processes and institutions designed to protect judicial independence. This does not appear to be standard practice in all projects. A failure to fully assess the *de jure* judicial independence and the implications for the project was noted in the Guatemala ICR as it related to the reduced tenure of Supreme Court and appellate judges.¹⁵⁶

a function of the judge’s behavior. Judicial independence is important as a means towards judicial impartiality, which is essential to good justice. See USAID, *Guidance for Promoting Judicial Independence and Impartiality*, at 6 (2002) available at http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacm007.pdf.

154. *Implementation Completion: Bangladesh 2010*, *supra* note 139, at 24.

155. *Id.*

156. See *Clustered PPAR 2010*, *supra* note 70, at 13; World Bank, *Clustered Project Performance Assessment Report for the Guatemala Judicial Reform Project*, Report No. ICR0000623 (Mar. 10, 2008).

The *de jure* review, however, is clearly inadequate on its own. While structural safeguards are important, they do not in and of themselves ensure judicial independence. As the Bank noted in the Georgia ICR: “Tackling independence head on requires more than the constitutional reforms, it requires the focus and will of the political leadership.”¹⁵⁷ Formal guarantees of judicial independence are ignored or manipulated in many, if not most, countries. Thus it is critical to evaluate the *de facto* conditions.¹⁵⁸ To what extent are the formal rules working in practice? What is the relevant behavior of political authorities?

There appears to be no consistent and coherent gathering of the *de facto* evidence, let alone analysis of its underlying causes. This would include factual evidence on, among other things, the actual fairness in the judicial appointment process (including timing of filling judicial vacancies), the extent to which judges render decisions against the government, the extent to which the executive and legislative authorities comply with and enforce judicial decisions, how often are judges changed, the development of actual salaries and budgets, and the extent to which jurisdiction of the courts is usurped by the executive and legislative authorities. Such evidence should be consistently gathered, appraised and explicitly taken into account when assessing government commitment and project risks.¹⁵⁹

I recognize that there are certainly technical challenges with the *de facto* assessments. This requires certain tools and methodologies. Several efforts and attempts have been made in this regard which may guide the Bank in developing its standard practice.¹⁶⁰ The most significant challenge,

157. *Georgia Judicial Reform 2007*, *supra* note 126, at 14.

158. Some scholars argue that it is misleading to distinguish between *de facto* and *de jure* “judicial independence” at the conceptual level. In their view, “[j]udicial independence is best thought of as either autonomy or power, whereas institutions like fixed tenure, budgetary autonomy, and judicial councils are best thought of as rules designed to promote autonomy or power. They do not, strictly speaking, reflect judicial independence.” Julio Rios-Figueroa & Jeffrey Staton, *Unpacking the Rule of Law: A Review of Judicial Independence Measures*, 4th Annual Conference on Empirical Legal Studies, Nov. 20-21, 2009, at 14 (Apr. 26, 2009), available at <http://ssrn.com/abstract=1434234>.

159. It is interesting to note that this is a type of “*de facto*” evidence is used by the World Bank to support the notion that judicial independence is very developed. See World Bank, *Project Appraisal Document on a Proposed Adaptable Program Loan in the Amount of US\$20 Million to the Republic of Colombia for a Justice Services Strengthening Project – Phase I (APLI) in Support of the First Phase of the Justice Services Strengthening Program*, at 31, Report No. 47338-CO (Nov. 6, 2009) [hereinafter *Project Appraisal Document: Colombia 2009*] (noting complaints that Constitutional Court has been too ready to overrule government programs).

160. See *Methodology* FREEDOM HOUSE, http://www.freedomhouse.org/template.cfm?page=351&ana_page=341&year=2008 (last visited Nov. 9, 2011); Rios-Figueroa & Staton, *supra* note 158, at 14; Lars P. Feld & Stefan Voigt, *Economic Growth and Judicial Independence: Cross Country Evidence*

however, may be of a different nature. The *de facto* evidence will make it more difficult to contend that there is sufficient political commitment to meaningful judicial reform. This should impact the ability and willingness of the Bank to make loans for judicial reform, particularly large operations. If the record, which the Bank would need to produce and disclose, shows serious manipulation of the judicial process by political authorities, it would be much harder to support large investments in court administration and infrastructure. I am not arguing that the Bank never takes into account political interference in its judicial reform operations. What I am arguing is that there needs to be a clear set of policies and procedures of doing so.

B. The Cultural Dimension of Judicial Independence

The second question addressing the problem of “insufficient autonomy” is: How do we reduce the intrusion by political authorities? This begs an additional inquiry: What will motivate political leaders to respect the independence and impartiality of the judicial process?

The behavior in question is of a corrupt nature. Politicians abuse their authority and influence to advance narrow and selfish interests at the expense of the public good. Indeed, political interference in the judicial process is a form of judicial corruption. Transparency International (TI) defines judicial corruption as “any inappropriate influence on the impartiality of the judicial process by any actor within the court system.”¹⁶¹ Further, together with bribery, TI deems political interference in the judicial process as the worst kind of judicial corruption.¹⁶² Again, political interference is expressed through threats, intimidation and bribery of judges in addition to the manipulation of judicial appointments, salaries and conditions of service.

The Bank seeks to address the problem of corruption mainly through reforms in the institutional and incentive framework.¹⁶³ As the judicial reform portfolio shows, these reforms include a menu of supply and demand side measures. They mainly target organizational arrangements and capabilities in justice institutions as well as building transparency and external accountability. As discussed in the previous section, judicial independence is mainly addressed through structural and operational

Using a New Set of Indicators, 19 EUR. J. POL. ECON. 497, 502-08 (2003) (listing twenty *de iure* and *de facto* indicators).

161. TRANSPARENCY INTERNATIONAL, GLOBAL CORRUPTION REPORT xxi (2007).

162. *See id.*

163. *See generally* World Bank, *Strengthening World Bank Group Engagement on Governance and Anticorruption* (Sept. 28, 2007), available at <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/GACIP.pdf>.

interventions. Yet despite these efforts, there generally is limited impact on judicial independence and impartiality. There is little or no change in the public's perception of judges partial to political pressures. The Bank's institutional interventions are not producing the desired outcomes.

Judicial institutions in a society cannot be viewed in isolation from its broader cultural context and values. There is little doubt that institutional reforms, as those supported by the Bank, are essential to achieve an independent and impartial judiciary. Indeed, changes in the rules and structures that govern the appointment, promotion, performance and removal of judges are necessary in most settings to ensure greater judicial autonomy and insulation from political as well as other undue pressures and influences. Building institutional capabilities, whether in the management of human resources, budgets or otherwise, is also instrumental for the effective implementation of such new structures and rules as well as the improvement of overall judicial performance. Yet, at a deeper level, the problem of weak judicial independence in a society may stem from deeper cultural roots.¹⁶⁴ Breaches of judicial independence and impartiality are not merely an outgrowth of inadequate laws, poor institutional design, weak institutional capabilities, or even insufficient monitoring and accountability. The institutional environment in a society reflects its cultural values and attitudes. As one author puts it, "culture is the mother, institutions are the children."¹⁶⁵ New rules and structures and improved institutional capabilities and accountability, while absolutely necessary for building a more independent and impartial judiciary, are certainly not sufficient if society lacks a foundation of strong cultural values of respect for the rule of law.

In many social settings, regardless of what formal rules prescribe, the cultural values and practices clash with principles of judicial independence and impartiality. Using political power and influence to promote favoritism for personal or political connections is often perceived as acceptable and legitimate. This dysfunctional behavior, however, is not always limited to the political elite. While leaders bear much of the responsibility, the problem often cuts across all segments and sectors in society. While we

164. See, e.g., SUSAN ROSE-ACKERMAN, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES AND REFORM 89 (1999); Johann Graf Lambsdorff, *Causes and Consequences of Corruption: What Do We Know from a Cross-Section of Countries?*, in AN INTERNATIONAL HANDBOOK ON THE ECONOMICS OF CORRUPTION 17-18, (Susan Rose-Ackerman & Edward Elgar eds., 2006).

165. See Daniel Etounga-Manguelle, *Does Africa Need a Cultural Adjustment Program?*, in CULTURE MATTERS, HOW VALUES SHAPE HUMAN PROGRESS 75 (Lawrence Harrison & Samuel Huntington eds., 2000).

need to guard against the temptation to stereotype and oversimplify the behaviors of communities and individuals, there may be a high degree of complicity among the citizenry. In fact, “doing favors for family and friends is such an ingrained behavior in many cultures that magistrates do not often believe it affects their role as impartial arbiters.”¹⁶⁶ In many societies, these practices are woven into the fabric of everyday life of ordinary citizens. Relatives and friends expect favoritism and partiality from those with authority and influence, whether a political leader, police officer, or teacher. In the words of a Nigerian political leader, “Who gets to . . . a position of power and then refuses to help his people?”¹⁶⁷

These dysfunctional behaviors appear to permeate societies with weak values of common good and public interest. Distinctions between one’s private and public roles are not that clear. Despite the existence of adequate structures, rules and institutional capacity, such societies face formidable challenges in establishing a modern judiciary with competent judges who are expected to act impartially. It is not surprising thus that the public perceives in such societies that there is no rule of law. Carlos Montaner put it well as he described a culture of lawlessness prevailing in Latin America. As he explains, “a large percentage of Latin Americans either nurture or tolerate relationships in which personal loyalty is rewarded and merit is substantially ignored. In Latin American culture, loyalty rarely extends beyond the circle of friends and family. Thus the public sector is profoundly mistrusted and the notion of the common good is very weak”¹⁶⁸ The author further affirms that true power in Latin America resides in the ability to operate above the law.¹⁶⁹ What Montaner says about Latin America is also a reality in other countries and regions around the world.

The Bank needs to give greater emphasis to the role of culture in its work on judicial reform. While its framework for judicial reform does recognize the relevance of cultural factors, the Bank has no system for actually identifying and addressing the relevant cultural issues. Impartial justice will not come about primarily through more structural and operational independence measures. Moral and ethical values are

166. See Mary Noel Pepys, *Justice System*, in *FIGHTING CORRUPTION IN DEVELOPING COUNTRIES: STRATEGIES AND ANALYSIS* 18 (Bertram I. Spector ed., 2005).

167. See Daniel Jordan Smith, *The Paradoxes of Popular Participation in Corruption in Nigeria*, in *CORRUPTION, GLOBAL SECURITY, AND WORLD ORDER* 290 (Robert I. Rotberg ed., 2009).

168. *Id.*

169. See Carlos Alberto Montaner, *Culture and the Behavior of Elites in Latin America*, in *CULTURE MATTERS, HOW VALUES SHAPE HUMAN PROGRESS* 57-58 (Lawrence Harrison & Samuel Huntington eds., 2000).

fundamental incentives for independent and impartial justice. Thus “any approach to corruption that fails to reckon with its moral aspect will be both descriptively and programmatically inadequate.”¹⁷⁰ Reforms must focus more on cultural and ethical values and attitudes. Intrinsic motivations deserve greater attention. We should strive for societies where political leaders, and citizens alike, respect independence and impartiality, in other words respect the law, because it is the right thing to do, not just because of possible exposure and being afraid of being caught.

If large segments of society do not value and care enough, political intrusion, or any other undue influence, in the judicial process will not diminish. In a welcomed development, the Bank, as other development agencies, has oriented its reform efforts to include greater civil society participation and accountability. Indeed, strengthening civil society has become a common mantra in programs and projects seeking to make governments more accountable. These reform efforts focus on the impact that entities outside government can have, working in support of citizen’s demand for better public institutions. Specific measures involve stronger NGOs as watchdogs, media capacity and empowering citizens. This growing focus on demand is reflected in the Bank’s judicial reform operations. Measures are taken to develop a robust civil society by increasing access to information and enabling the public to monitor and challenge the government when necessary. Projects support greater participation of citizens mainly through awareness campaigns, public information and education on legal rights and the judiciary and accountability mechanisms.

There is no doubt that a more informed and empowered citizenry with greater oversight is key to better government and justice institutions. We know that corruption flourishes when the public is poorly informed, apathetic, tolerant or so politically weak as to be unable to protest. However, is the problem primarily one of a poorly informed, apathetic or resigned public? Or is it that values of independence and impartiality are widely lacking in society? The focus on transparency and accountability places more emphasis on institutional reforms and external incentives while marginalizing the dimension of personal and social values as fundamental incentives for decision-making. Civil society oversight will be ineffective if large segments of the public are not outraged by these corrupt behaviors but rather see them as legitimate and acceptable. Indeed, citizens will not care to engage and demand accountability from political leaders and judges

170. Laura S. Underkuffler, *Defining Corruption: Implications for Action*, in CORRUPTION, GLOBAL SECURITY, AND WORLD ORDER 37 (Robert I. Rotberg ed., 2009).

if they are active participants in such undesirable practices. What is worse, generations of children and youth, the future leaders in these societies, come to believe that fairness and personal merit do not count and that it is fine to show partiality and favoritism. This is one of the most fundamental parts of the problem.

CONCLUSION

The Bank's approach to judicial independence, largely shared by other development agencies, is not producing the desired outcomes. In fact, Transparency International sadly admits that "despite several decades of reform efforts and international instruments protecting judicial independence, judges and court personnel around the world continue to face pressure to rule in favor of powerful political or economic entities, rather than according to the law."¹⁷¹ These findings urgently demand a reexamination of the presuppositions and strategies privileged so far. There is a need to move beyond discussions about structural independence and operational independence. It may be more operationally expedient for the Bank to shy away from deeper inquiry about the degree and underlying cultural determinants of political intrusiveness in the judicial process and to prefer a focus on institutional capacity weaknesses. Yet, there is little or no lasting impact and aid effectiveness is in doubt.

Future projects must include rigorous evidence gathering on the actual status of a country's judiciary and political players as shown in practice, not simply relying on *de jure* and declarative factors. Ownership of judicial reform projects, and commitment to them, must be demonstrated by a track record of positive action over words and in accordance with a clear set of criteria and guidelines as Bank policy.

As the Bank moves forward in its judicial reform activities, this article suggests that it review certain blind spots in how it evaluates and addresses the respect for judicial independence by political authorities. The Bank needs a stronger and deeper focus on the cultural determinants of the weaknesses in the rule of law and judicial independence suffered by societies. It needs to conduct broader and deeper diagnostic work, taking into account the underlying cultural forces of endemic political intrusion in the judiciary. This includes exploring and discovering the relationships among these cultural factors, low levels of trust and poor judicial outcomes. Reform efforts should place greater emphasis on societal values and attitudes and less on new structures and operational capabilities.

171. TRANSPARENCY INTERNATIONAL, *supra* note 161, at xxii–xxiii.

This requires new approaches and a long-term effort and commitment. It will likely demand intense and greater educational efforts to instill in society, especially the younger generations, the values underpinning the rule of law and judicial independence and impartiality and their significance to a better society. In the long run, the fundamental willingness to uphold and defend these values will likely be the strongest catalyst for change. Cultural independence matters.

APPENDIX 1: Table of Bank Stand-Alone Judicial Reform Projects¹⁷²

Venezuela Judicial Infrastructure Project (1992)¹⁷³		<u>Approved:</u> Aug. 1992 <u>Closed:</u> Oct. 2002	Project Cost: US \$60 million	Loan Amount: US \$30 million
Project Development Objectives	Improve Venezuela's enabling environment for private sector development and reduce both the private and social costs of justice. It would: (a) improve efficiency in the allocation of resources within the judiciary; (b) increase courtroom productivity and efficiency; and (c) reduce the private sector costs of dispute resolution.			
Project Components	(a) <i>Judicial administration</i> (strengthen the planning, budgeting, and management capacity of the Judicial Council, including the design and implementation of an information system to provide quantifiable performance indicators) (b) <i>Courtroom administration</i> (improve courtroom productivity and efficiency through reorganization and streamlining courtroom administrative procedures, including automation of caseload and courtroom management) (c) <i>Judicial training</i> (strengthen the administrative capacity and specialized legal knowledge of court personnel, including knowledge pertinent to commercial and business litigation, by strengthening the capacity of the Judicial School to design and deliver training) (d) <i>Physical infrastructure</i> (rehabilitate existing and construct new courtroom facilities)			
Bolivian Judicial Reform Project (1995)¹⁷⁴		<u>Approved:</u> April 1995 <u>Closed:</u> March 2000	Project Cost: US \$ 12.75 million	Credit Amount: US \$11 million
Project Development Objectives	Improve the quality and effectiveness of civil justice administration, strengthen the capacity of the Judiciary to provide judicial services, and of the Ministry of Justice to prepare, review, and implement laws and programs related to the country's constitutional, judicial, economic, and social reforms.			

172. All of the figures and text herein are quoted/drawn from the respective Bank project documents, including staff appraisal reports, project appraisal documents, implementation completion reports and project performance assessment reports, and the World Bank, *Initiatives in Justice Reform*. See, e.g., WORLD BANK, *INITIATIVES IN JUSTICE REFORM 2009*, *supra* note 5.

173. *Staff Appraisal Report: Venezuela 1992*, *supra* note 28; WORLD BANK, *INITIATIVES IN JUSTICE REFORM 2009*, *supra* note 5, at 86.

174. *Staff Appraisal Report: Bolivia 1995*, *supra* note 64; WORLD BANK, *INITIATIVES IN JUSTICE REFORM 2009*, *supra* note 5, at 72.

Project Components	The Judiciary: (a) <i>Judicial process reforms</i> (judicial process policies, training, information systems and courtroom administration) (b) <i>Human resource management</i> (judicial career system, judicial training program, judicial ethics program) (c) <i>Institutional strengthening</i> (d) <i>Judicial development fund</i> The Ministry of Justice: (a) <i>Implementation of Constitutional reforms on judicial matters</i> (b) <i>Alternative dispute resolution</i> (c) <i>Legislative reforms</i> (d) <i>Institutional strengthening</i> Project Coordination Unit			
	Ecuador Judicial Reform Project (1996) ¹⁷⁵	Approved: July 1996 Closed: Nov. 2002	Project Cost: US \$12.12 million	Credit Amount: US \$10.7 million
	Project Development Objectives	Improve the capacity of the judicial system by strengthening the administration of justice. Specifically, the proposed project aims at: (a) increasing efficiency, effectiveness and transparency in the judicial process by improving case administration procedures; (b) improving the infrastructure; (c) expanding the use of alternative dispute resolution mechanisms within the court system; (d) improving the access to justice by the public and women in particular; and (e) improving court reform and research and legal education.		
Project Components	(a) <i>Case administration and information support</i> (b) <i>Alternative dispute resolution</i> (mediation centers and training) (c) <i>Program for law and justice</i> (including support for civil society activities, court innovation, a professional development program, a legal education study, evaluation of the mediation centers, and legal services for the poor) (d) <i>Remodeling and development of infrastructure</i> (e) <i>Project coordination unit</i>			
West Bank and Gaza Legal	Approved: June 1997 Closed: June 2004	Project Cost: US \$14.92	Credit Amount:	

175. Clustered PPAR 2010, *supra* note 70, at 7; *Staff Appraisal Report: Ecuador 1996*, *supra* note 106; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5.

Development Project (1997) ¹⁷⁶		million	US \$5.5 million
Project Development Objectives	Assist the Palestinian Authority in (a) starting the process of putting in place a legal framework adequate to support a modern market economy and encourage the growth of the private sector; and (b) increasing the efficiency and predictability of the judicial process		
Project Components	(a) <i>Unification and development of legislation</i> (b) <i>Court administration</i> (c) <i>Judicial training</i> (d) <i>Alternative dispute resolution</i> (e) <i>Legal information</i>		
Peru Judicial Reform Project (1997) ¹⁷⁷	<u>Approved:</u> Oct. 1997 <u>Cancelled:</u> Sept. 1998	Project Cost: US \$31.6 million	Loan Amount: US \$22.5 million loan
Project Development Objectives	Assist Peru in improving the performance of its justice system by enhancing, under the framework and terms of its sector strategy in the policy letter, its access, quality, independence, efficiency, and integrity. The specific objectives are to: (a) modernize the administrative structure and operation of the Judiciary; (b) improve the overall performance in civil and labor courts in the selected districts; (c) strengthen the CNM and consolidate and improve its merit-based system of appointment, advancement and removal of magistrates; (d) strengthen the AM and enhance the professional competence of civil and labor judges in the selected districts; (e) strengthen OCMA's disciplinary system to enhance accountability and integrity of judges; (f) develop and strengthen alternative dispute resolution methods; (g) support the institutional development of the newly established Office of Public Defender; and (h) strengthen the capacity of civil society to analyze, monitor and demand judicial performance.		
Project Components	(a) <i>Administration of justice</i> (modernizing administrative apparatus of judiciary and courtroom performance improvements)		

176. *Implementation Completion Report: West Bank & Gaza* 2004, *supra* note 144.

177. *Staff Appraisal Report: Peru* 1997, *supra* note 107; *Project Completion Note: Peru* 2000, *supra* note 107.

	(b) <i>Judicial selection, evaluation, and training</i> (c) <i>Access to justice</i> (justices of peace, public defender, civil society) (d) <i>Project management and administration</i>		
Venezuela Supreme Court Modernization Project (1997) ¹⁷⁸	<u>Approved:</u> Dec. 1997 <u>Closed:</u> June 2001	Project Cost: US \$7.3 million	Loan Amount: US \$4.7 million
Project Development Objectives	Improve the performance of the Supreme Court in terms of transparency, efficiency of administration and case management, and timeliness of decisions, through development of new work methods, attitudes, and behaviors that would have a <i>demonstration effect</i> in leading further judicial reform.		
Project Components	(a) <i>Capacity building in communications, policy research, and quality assurance</i> (b) <i>Caseload administration</i> (c) <i>Supreme Court decisions' dissemination</i> (e) <i>Administration and management support</i>		
Argentina Reform of Justice Project (1999) ¹⁷⁹	<u>Approved:</u> April 1998 <u>Closed:</u> Sept. 2005	Project cost: US \$6.95 million	Loan amount: US \$5 million
Project Development Objectives	Identify, establish, and evaluate conditions that support the realization of judicial administrative reform and form part of an overall legal and judicial reform program.		
Project Components	(a) <i>Court and case management in pilot courts</i> (judicial administration and backlog delay reduction) (b) <i>Training</i> (c) <i>Evaluation and dissemination of information on pilot courts</i> (d) <i>Project management</i>		
Kazakhstan Legal Reform Project (1999) ¹⁸⁰	<u>Approved:</u> May 1999 <u>Cancelled:</u> Oct. 2003	Project Cost: US \$18.5 million	Loan Amount: US \$16.5 million
Project Development Objectives	Contribute to the strengthening of the implementation of the Rule of Law system in Kazakhstan. Specifically, the Project goals would be to strengthen the legal and judicial systems and selected institutions of the country in order to support and		

178. World Bank, *Project Appraisal Document on a Proposed Learning and Innovation Loan in the Amount of US \$4.7 Million to the Republic of Venezuela for a Supreme Court Modernization Project*, Report No. 17212-VE (Dec. 9, 1997); WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 87.

179. *Implementation Completion Report: Argentina* 2006, *supra* note 144; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 70-71.

180. *Project Appraisal Document: Kazakhstan* 1999, *supra* note 80; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 60.

	deepen the ongoing economic reform program.		
Project Components	(a) <i>Legal drafting and institutional strengthening</i> (b) <i>Judicial strengthening</i> (court administration/case management and judicial training) (c) <i>Legal information and public awareness</i> (d) <i>Project management and implementation</i>		
Georgia Judicial Reform Project (1999) ¹⁸¹	<u>Approved:</u> June 1999 <u>Closed:</u> June 2006	Project Cost: US \$16.2 million	Loan Amount: US \$13.4 million
Project Development Objectives	Assist in the development of an independent and professional judiciary, committed to high standards of judicial ethics and capable of efficient, effective dispute resolution.		
Project Components	(a) <i>Court administration and case management</i> (b) <i>Infrastructure rehabilitation</i> (c) <i>Enforcement of court judgments</i> (d) <i>Assistance to the Ministry of Justice</i> (legal drafting) (e) <i>Judicial training center</i> (f) <i>Public information/education</i> (g) <i>Project management</i>		
Republic Of Yemen Legal and Judicial Reform Project (1999) ¹⁸²	<u>Approved:</u> June 1999 <u>Closed:</u> June 2003	Project Cost: US \$2.94 million	Credit Amount: US \$2.5 million
Project Development Objectives	Assist the Government of the Republic of Yemen in piloting a program of judicial training to assess its potential to enhance the effectiveness of the judiciary, and to enhance the capabilities of its ministry of legal and parliamentary affairs to prepare and advise on business and economic legislation outside of the court system.		
Project Components	(a) <i>Judicial development</i> (training of judges and arbitrators and diagnostic assessments) (b) <i>Legal development</i> (c) <i>Public awareness campaign</i>		
Guatemala Judicial Reform Project (1999) ¹⁸³	<u>Approved:</u> Oct. 1999 <u>Closed:</u> June 2007	Project Cost: US \$49.7 million	Loan Amount: US \$33 million
Project	Support the Guatemalan judiciary in implementing its		

181. *Project Appraisal Document: Georgia 1999, supra note 76; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, supra note 5, at 59.*

182. *Project Appraisal Document: Yemen 1999, supra note 123; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, supra note 5, at 95.*

183. *ICR: Guatemala 2008, supra note 106; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, supra note 5, at 79-80.*

Development Objectives	modernization plan. The project aimed to improve the administration of justice, strengthen judicial independence and accountability, and increase access to justice and confidence in the judicial system.		
Project Components	(a) <i>Strengthening institutional capacity of the judiciary branch</i> (b) <i>Providing anticorruption support</i> (ethical standards, training, anti-corruption commission, disciplinary procedures) (c) <i>Strengthening access to justice</i> (justices of peace, mediation centers, mobile courts, service delivery, civil society participation program) (d) <i>Social communications, modernization and project management</i>		
Albania Legal and Judicial Reform Project (2000) ¹⁸⁴	<u>Approved:</u> March 2000 <u>Closed:</u> Dec. 2005	Project Cost: US \$9.5 million	Loan Amount: US \$9 million
Project Development Objectives	Provide required resources for technical assistance, training, goods, and works that are needed to implement important aspects of the Government's institutional agenda for legal and justice system reforms, thereby contributing to the strengthening of the rule of law in Albania.		
Project Components	(a) <i>Improve legal education</i> (b) <i>Strengthen the justice system</i> (court administration, case management, judicial training, enforcement of judicial decisions, judicial inspections) (c) <i>ADR mechanisms for commercial disputes</i> (d) <i>Disseminate legal information</i> (e) <i>Project management</i>		
Sri Lanka Legal and Judicial Reforms Project ¹⁸⁵	<u>Approved:</u> May 2000 <u>Closed:</u> Feb. 2007	Project Cost: US \$21.14 million	Loan Amount: US \$18.2 million
Project Development Objectives	Improve upon the existing legal and judicial framework by making it more efficient, transparent, and responsive to the needs of the public at large and of the private sector in particular. More specifically, the project seeks to: (a) modernize the legislative framework that impacts private sector activity; (b) improve the administration, monitoring, and regulatory functions of the Company Registry; and (c) build capacity of the judiciary and other institutions providing dispute resolution services.		

184. *Project Appraisal Document: Albania 2000*, *supra* note 90; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 52.

185. *Project Appraisal Document: Sri Lanka 2000*, *supra* note 105; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 102.

Project Components	(a) <i>Legal reform</i> (b) <i>Company registry improvements</i> (c) <i>Judicial reform</i> (judicial education and training, administrative reorganizing, model courts, mediation center for commercial disputes) (d) <i>Project management</i>		
Morocco Legal and Judicial Development Project (2000) ¹⁸⁶	<u>Approved:</u> June 2000 <u>Closed:</u> June 2004	Project Cost: US \$12.2 million	Loan Amount: US \$11.4 million
Project Development Objectives	Improve the Moroccan capacity to resolve commercial disputes and to facilitate commercial transactions within the country.		
Project Components	(a) <i>Legal and regulatory framework</i> (b) <i>Case management and automation of commercial courts</i> (c) <i>Registries of commerce improvements</i> (d) <i>Judicial training</i> (e) <i>Capacity building of Ministry of Justice in communications and information</i> (f) <i>Project Implementation Unit</i>		
Armenia Judicial Reform Project (2000) ¹⁸⁷	<u>Approved:</u> Sept. 2000 <u>Closed:</u> Dec. 2006	Project Cost: US \$6.73 million	Loan Amount: US \$5.3 million
Project Development Objectives	Assist in the development of an independent, accessible, and efficient judiciary in the Republic of Armenia, which is essential to governance, rule of law, and investment climate. More specifically, the project aims at: (a) strengthening judicial self-governance through support to the Council of Court Chairmen (CCC); (b) improvement of court administration and case management procedures; (c) development of a comprehensive institutional base for continuing education for judges and court personnel; (d) strengthening the service for enforcement of court decisions; (e) development of a comprehensive legal information system accessible to judges, legal professionals, business community and citizens; and (f) promotion of public awareness of laws and legal institutions.		
Project Components	(a) <i>Strengthening institutional capacity of the judiciary</i> (Judicial governance, court administration, case		

186. *Project Appraisal Document: Morocco 2000*, *supra* note 110; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 93.

187. *Project Appraisal Document: Armenia 2000*, *supra* note 111; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 53-54.

	management, court automation) (b) <i>Court infrastructure rehabilitation</i> (c) <i>Training of judges and court personnel</i> (d) <i>Improving enforcement of court decisions</i> (e) <i>Dissemination of legal information</i> (f) <i>Public awareness and public education</i> (g) <i>Project management</i>			
Bangladesh Legal and Judicial Capacity Building Project (2001) ¹⁸⁸	<u>Approved:</u> March 2001 <u>Closed:</u> Dec. 2008	Project Cost: US \$43.63 million	Credit Amount: US \$30.6 million	
Project Development Objectives	Improve the efficiency, effectiveness and accountability of the civil justice delivery system, and increase access to justice, particularly for women and the poor.			
Project Components	(a) <i>Judicial capacity building</i> (court administration, case management, information systems, training, upgrading of court infrastructure) (b) <i>Improving access to justice and promoting legal literacy and public awareness</i> (gender sensitivity, ADR mechanisms, small case courts, legal aid, public awareness at grassroots and national level, bar association) (c) <i>Legal reform capacity building</i> (law commission, ministry of justice) (d) <i>Preparation for future reforms</i> (e) <i>Project implementation and related services</i>			
Azerbaijan Judicial Modernization Project (2006) ¹⁸⁹	<u>Approved:</u> June 2006 <u>Closing Date:</u> Dec. 2011	Project Cost: US \$35.60 million	Credit Amount: US \$21.6 million	
Project Development Objectives	Assist the Azerbaijan authorities in developing, and implementing the initial phases of a long-term judicial system modernization program by building capacity to achieve incremental improvements in efficiency, citizen information, and its ability to handle future demand.			
Project Components	(a) <i>Strengthening the management capacity of judicial institutions</i> (b) <i>Upgrading court facilities</i> (c) <i>Human capital - strengthening professionalism of judges and staff</i> (d) <i>Improving citizen information, including strengthening of registries and notaries</i>			

188. *Project Appraisal Document: Bangladesh 2001*, *supra* note 73; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 98-99.

189. *Project Appraisal Document: Azerbaijan 2006*, *supra* note 122; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 55.

Croatia Court and Bankruptcy Administration Project (2001) ¹⁹⁰		<u>Approved:</u> June 2001 <u>Closed:</u> Jan. 2007	Project Cost: US \$6.95 million	Loan Amount: US \$5 million
Project Development Objectives	Assist the Government of Croatia in advancing orderly insolvency proceedings while modernizing selected commercial courts and increasing professionalism and competence of judges, other staff of the commercial courts and bankruptcy trustees.			
Project Components	(a) <i>Commercial court administration and case management model</i> (b) <i>Legal information system</i> (c) <i>Regulatory framework for trustees and administrators</i> (d) <i>Upgrading skills of bankruptcy professionals</i> (e) <i>Insolvency and legal services framework</i> (f) <i>Project management</i>			
Colombia Judicial Conflict Resolution Improvement Project (2001) ¹⁹¹		<u>Approved:</u> Nov. 2001 <u>Closed:</u> June 2006	Project Cost: US \$6.66 million	Loan Amount: US \$5 million
Project Development Objectives	To test a participatory and comprehensive organizational change strategy aimed at tackling the key levers of the courts' organizational structure leading to improvements in the judiciary's timeliness, quality and productivity in discharging its conflict resolution function.			
Project Components	(a) <i>Culture change</i> (b) <i>Human resources competence and capabilities</i> (c) <i>Organizational structure</i> (d) <i>Information systems</i> (e) <i>Court facilities</i> (f) <i>Communication and participation</i> (g) <i>Performance evaluation and rewards</i> (h) <i>Project management, monitoring, and evaluation</i>			
Mongolia Legal and Judicial Reform Project (2001) ¹⁹²		<u>Approved:</u> Dec. 2001 <u>Closed:</u> April 2008	Project Cost: US \$5.55 million	Credit Amount: US \$5 million
Project Development	Enhance public trust and confidence in the legal system as a whole and the judiciary in particular through the design and			

190. *Project Appraisal Document: Croatia 2001*, *supra* note 106; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 57-58.

191. World Bank, *Project Appraisal Document on a Proposed Learning and Innovation Loan in the Amount of US\$5 Million to the Republic of Colombia for a Judicial Conflict Resolution Improvement Project*, Report No. 23184-CO (Nov. 8, 2001); *Clustered PPAR 2010*, *supra* note 70, at 13; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 75.

192. *Project Appraisal Document: Mongolia 2001*, *supra* note 105; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 46.

Objectives	testing of new tools and systems that promote better access to legal information, the creation of specialized courts and an improved legal education and profession.		
Project Components	<p>(a) <i>Development of an administrative court system to promote transparency and governance</i> (communication awareness campaign for the administrative court system, training of administrative judges and court personnel, infrastructure for the pilot administrative courts, new court management and case administration techniques for pilot courts)</p> <p>(b) <i>Knowledge sharing and capacity building to foster access to justice</i> (comprehensive public awareness activities and dissemination of legal and judicial information, electronic legal and judicial database, physical infrastructure for the National Center for Legal and Judicial Information, Research and Training, staff training, equipment and computers.)</p> <p>(c) <i>Enhancing the legal education and legal profession to provide market based solutions for better delivery of Services</i> (training for trainers, development of techniques to monitor the effectiveness of legal education quality assessment, improve the legal profession)</p> <p>(d) <i>Project unit support</i></p>		
El Salvador Judicial Modernization Project (2002) ¹⁹³	<u>Approved:</u> March 2004 <u>Closed:</u> June 2010	Project Cost: US \$ 23.87 million	Loan Amount: US \$18.2
Project Development Objectives	<p>Improve El Salvador's judicial system by promoting measures aimed at enhancing the effectiveness, accessibility and credibility of its Judicial Branch, through a participatory process involving judges, technical and administrative staff and users of the judicial system. Specifically the project would:</p> <p>(1) strengthen the institutional management capacity of the Judicial Branch;</p> <p>(2) modernize the court system;</p> <p>(3) provide knowledge sharing to foster access to justice and transparency;</p> <p>(4) develop the professional competence and quality of officers and employees of the Judicial Branch; and</p> <p>(5) support Project management, monitoring and evaluation.</p>		
Project Components	<p>(a) <i>Strengthening of the institutional management capacity of the Judicial Branch</i> (developing administrative quality standards; designing an integrated planning system, and developing an international grant resource management program)</p>		

193. *Project Appraisal Document: El Salvador 2002*, *supra* note 105; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 78.

	<p>(b) <i>Court system modernization</i> (developing a court remapping plan, strengthening of the automated judicial and administrative case management program, updating models of judicial organization, and expanding judicial infrastructure)</p> <p>(c) <i>Knowledge sharing to foster access to justice and transparency</i> (designing a system for inspection and control of judicial services, carrying out legal outreach programs aimed at civil society groups, and up-grading judicial documentation centers and libraries)</p> <p>(d) <i>Development of the professional quality and competence of judicial officers and employees</i> (improving the Judicial branch's human resources policies and promoting the role of judges in El Salvador's economic and social development)</p> <p>(e) <i>Project management, monitoring and evaluation</i></p>		
Philippines Judicial Reform Support Project (2003) ¹⁹⁴	<u>Approved:</u> Aug. 2003 <u>Closed:</u> Dec. 2009	Project Cost: US \$24.42 million	Loan Amount: US \$21.9 million
Project Development Objectives	<p>Support the development of a more effective and accessible judicial system that would foster public trust and confidence. Specifically, the Project will assist in:</p> <p>(a) Ensuring speedy and fair dispensation of justice to all by improving the efficiency of case adjudication and access to justice</p> <p>(b) Upgrading the integrity of the judiciary</p> <p>(c) Strengthening institutional capabilities</p> <p>(d) Promoting stakeholder support for reform of the judiciary</p>		
Project Components	<p>(a) <i>Strengthening case adjudication and access to justice</i> (case management system, court records management system, computer-aided transcription technology, court jurisdictional structure, policy development on affordability constraints to access to the court system by the poor, mobile courts, information and communications technology)</p> <p>(b) <i>Enhancing institutional integrity</i> (code of ethics, alternative feedback mechanisms on judicial performance, computerized judicial performance management system, professional development for excellence)</p> <p>(c) <i>Strengthening institutional capacity of the judiciary</i> (Decentralizing administrative functions, financial management systems, court infrastructure, electronic judicial library and research facilities)</p>		

194. *Project Appraisal Document: Philippines 2003*, *supra* note 134; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 47-48.

(d) <i>Stakeholder support for reform and program</i>			
Mexico State Judicial Modernization Project (2004) ¹⁹⁵	<u>Approved:</u> July 2004 <u>Closing Date:</u> Dec. 2011	Project Cost: US \$37.5 million	Loan Amount: US \$30 million
Project Development Objectives	Support the improvement of institutional performance of judiciaries in a few states through a credit program of the National Bank of Works and Public Services (BANOBRA) for state judicial modernization.		
Project Components	<p>(a) <i>Strengthen institutional capabilities, organizational culture and knowledge</i> (specialized studies, strategic planning, performance evaluation system, change management, knowledge sharing)</p> <p>(b) <i>Improve efficiency and effectiveness of judicial services</i> (organizational and management models, case backlog reduction, case distribution, professional development and career systems, integrated management systems, training, research, infrastructure)</p> <p>(c) <i>Increase judicial transparency</i> (information and communication mechanisms, disciplinary and accountability systems, public awareness)</p> <p>(d) <i>Strengthen access to justice for all users</i> (outreach to special and disadvantaged groups, ADR mechanisms, small claims courts, public defender, legal aid, infrastructure, bar associations)</p> <p>(e) <i>Support Project coordination, monitoring and evaluation, and learning, including consultation with Project stakeholders</i></p>		
Peru Justice Services Modernization Project (2005) ¹⁹⁶	<u>Approved:</u> April 2005 <u>Closed:</u> March 2010	Project Cost: US \$15 million	Loan Amount: US \$12 million
Project Development Objectives	Set the foundation for a long term, participatory, and sustainable reform process for Peru's justice sector. Specific objectives will be: (a) to strengthen institutional capacity to lead the reform process and achieve specific improvements in justice services delivery, in particular in the Judiciary and in selected project		

195. *Project Appraisal Document: Mexico 2004*, *supra* note 121; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 81; World Bank, *Project Paper on Restructuring the Mexico: State Judicial Modernization Supporting Access to Justice Project*, at 3, Report No. 48695 (July 10, 2008) (extending the closing date to December, 2011).

196. *Project Appraisal Document: Peru 2004*, *supra* note 74; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 82; *Justice Services Improvement Peru*, Project ID P073438, *Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P073438> (last updated Feb. 17, 2004).

	districts; (b) to establish human resource management systems that ensure independence, transparency and integrity; and (c) to enhance access to justice services for the Peruvian society, in particular the poor.
Project Components	<p>(a) <i>Improved justice services delivery</i> (planning and management, court administration, court operations)</p> <p>(b) <i>Judicial human resources professional development</i> (judicial selection and evaluation, training, human resources management)</p> <p>(c) <i>Access to justice</i> (accountability and integrity, legal aid, ADR mechanisms, other pro-poor services, public outreach)</p> <p>(d) <i>Project management, coordination, and monitoring assistance</i></p>
Honduras Judicial Branch Modernization Project (2005) ¹⁹⁷	<p><u>Approved:</u> July 2005</p> <p><u>Closing Date:</u> June 2011</p> <p>Project Cost: US \$15 million</p> <p>Loan Amount: US \$12 million</p>
Project Development Objectives	Support implementation of the Judicial Branch Modernization Plan 2004-2009. The project aims to improve the capacity and performance of the Judicial Branch in three areas: (a) greater efficiency of case processing, judgments and appeals; (b) enhanced transparency and accountability; and (c) better access to justice, especially for the most disadvantaged groups.
Project Components	<p>(a) <i>Improvement of the efficiency of judicial services</i> (streamlined judicial processes, management systems)</p> <p>(b) <i>Enhancing judicial accountability and transparency</i> (judicial career systems, training, institutional performance monitoring and auditing, information dissemination)</p> <p>(c) <i>Promoting equitable access to justice</i> (ADR mechanisms, public awareness, public defender)</p> <p>(d) <i>Project coordination, monitoring, and evaluation</i></p>
Romania Judicial Reform Project (2005) ¹⁹⁸	<p><u>Approved:</u> Nov. 2005</p> <p><u>Closing Date:</u> March 2013</p> <p>Project Cost: US \$171.86 million</p> <p>Loan Amount: US \$130 million</p>
Project	Increase efficiency of the Romanian courts and improve

197. *Project Appraisal Document: Honduras 2005*, *supra* note 122; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 80; *Judicial Branch Modernization Honduras, Project ID P081516, Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P081516> (last updated June 20, 2005).

198. *Project Appraisal Document: Romania 2005*, *supra* note 120; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 64; *Judicial Reform Romania, Project ID P090309, Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P090309> (last updated Oct. 7, 2010).

Development Objectives	accountability of the judiciary which should result in reduced corruption and more transparent act of justice.		
Project Components	(a) <i>Court infrastructure rehabilitation</i> (b) <i>Strengthening the administrative capacity of courts</i> (case management, court administration) (c) <i>Integrated resource management system for the judiciary</i> (d) <i>Institutional development of judicial institutions</i> (policy development, communications, judicial administration, judicial selection, promotion and training, technology)		
Sudan Capacity Building of the National Judiciary (2006) ¹⁹⁹	<u>Approved:</u> Feb. 2006 <u>Closed:</u> June 2009	Project Cost: US \$18 million	Grant Amount: US \$13 million
Project Development Objectives	Strengthen the capacity of the Judiciary to enhance its independence, build the knowledge base of judges, and empower the judiciary to effectively and fairly apply the law and deliver justice		
Project Components	(a) <i>Support for the National Judicial Service Commission (NJSC)</i> (b) <i>Judicial training</i> (c) <i>Establishment of the National Legal Resource and Training Center and rehabilitation of the Judiciary's existing training facility</i> (d) <i>Rehabilitation of selected court facilities</i>		
Macedonia Legal and Judicial Implementation and Institutional Support Project (2006) ²⁰⁰	<u>Approved:</u> June 2006 <u>Closing Date:</u> March 2012	Project Cost: US \$14.7 million	Loan Amount: US \$12.4 million
Project Development Objectives	Contribute to improving judicial efficiency and effectiveness and the business climate in FYR Macedonia by: (i) enhancing ministerial and judicial capacity to systemically implement the Government's Judicial Reform Strategy and key laws; and (ii) improving judicial infrastructure.		
Project Components	(a) <i>Ministerial and judicial capacity building</i> (improving the quality of judicial management of the judiciary, administrative inspections and administrative dispute resolution, improving bankruptcy administration and ministry of economy supervision)		

199. 2006 Sudan Capacity, *supra* note 126; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 32.

200. Project Appraisal Document: Macedonia 2006, *supra* note 121; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 63; Legal & Judicial Implementation & Institutional Support Project Macedonia, Project ID P089859, Project-at-a-Glance, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&SitePK=40941&menuPK=228424&Projectid=P089859> (last updated Nov. 10, 2010).

	(b) <i>Improving judicial infrastructure</i> (c) <i>Enhancing judicial information technology systems</i> (d) <i>Project implementation</i>		
Sudan Southern Sudan Justice Support Project (2006) ²⁰¹	Approved: March 2007 Closed: Dec. 2009	Project Cost: US \$45 million	Grant Amount: US \$ 5.3 million
Project Development Objectives	Develop the capacity of the Police and Prison Services to deliver professional services is substantially increased across Southern Sudan.		
Project Components	(a) <i>Infrastructure</i> (b) <i>Institutional development</i> (c) <i>Training</i> (d) <i>Inmate care and treatment</i> (e) <i>Project management</i>		
Russian Federation Judicial Reform Support Project (2007) ²⁰²	<u>Approved:</u> Feb. 2007 <u>Closing Date:</u> March 2012	Project Cost: US \$172.41 million	Loan Amount: US \$50 million
Project Development Objectives	Strengthen judicial transparency and efficiency in courts financed by the JRSP.		
Project Components	(a) <i>Institutionalizing judicial transparency and accountability</i> (user surveys, publicity of judicial decisions, case management, judicial effectiveness assessment, communications and change management) (b) <i>Harnessing ICT for judicial transparency and effectiveness</i> (Constitutional Court, Supreme Court, CGJ and Judicial Department, Supreme Arbitration Court) (c) <i>Strengthening human capital</i> (workshops, knowledge sharing, IT-related training) (d) <i>Project management, monitoring, and evaluation</i>		
Armenia Second Judicial Reform Project (2007) ²⁰³	<u>Approved:</u> March 2007 <u>Closing Date:</u> Dec. 2012	Project Cost: US \$32.69 million	Credit Amount: US \$22.5 million
Project Development	Provide Armenia's judiciary with the administration, facilities and expanded capacity necessary to improve the efficiency,		

201. World Bank, *Sudan Multi Donor Trust Fund, Final Project Proposal, Police and Prison Support Project*, Juba (Oct. 2006); WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 33.

202. *Project Appraisal Document: Russia 2007*, *supra* note 121; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 65-66.

203. *Project Appraisal Document: Armenia 2007*, *supra* note 115; WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 54.

Objectives	reliability and transparency of judicial operations and services; and continue to improve public awareness of judicial services and access to legal and judicial information.		
Project Components	(a) <i>Strengthening judicial governance and administration</i> (capacity building of reformed Council of Justice, new Judicial Department, rollout of the court administration and case management system) (b) <i>Courthouse rehabilitation</i> (c) <i>Judicial training school</i> (d) <i>Improving enforcement of judicial decisions</i> (e) <i>Strengthening arbitration services</i> (f) <i>Expanding access to legal information and public awareness</i> (g) <i>Project management</i>		
Afghanistan Judicial Sector Reform Project (2008) ²⁰⁴	<u>Approved:</u> May 2008 <u>Closing Date:</u> June 2011	Project Cost: US \$27.75 million	Grant Amount: US \$27.75 million
Project Development Objectives	To strengthen the centralized state justice system in Afghanistan and increase access to justice for the Afghan people.		
Project Components	(a) <i>Strengthening capacity of legal institutions to deliver legal services</i> (human resources management, infrastructure, information and communication technology) (b) <i>Empowering the people</i> (legal aid, legal awareness campaign)		
Mongolia Enhanced Justice Services Project (2008) ²⁰⁵	<u>Approved:</u> June 2008 <u>Closing Date:</u> Dec. 2012	Project Cost: US \$6.95 million	Credit Amount: US \$5 million
Project Development Objectives	Support Mongolian justice sector institutions enhance their efficiency, transparency and accountability through capacity improvements.		
Project Components	(a) <i>Enhancing public legal education on the justice sector</i> (b) <i>Increasing transparency through improved access to legal information</i> (c) <i>Enhancing judicial operations, enforcement and</i>		

204. World Bank, *Implementation Status and Results, Afghanistan Judicial Reform Project*, Report No. ISR3408 (June 14, 2011); WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 98.

205. World Bank, *Project Appraisal Document on a Proposed Credit in the Amount of SDR 2.07 Million (US 3.7 Million Equivalent) and a Proposed Grant in the Amount of SDR 1.03 Million (US\$ 1.3 Million Equivalent) to Mongolia for a Enhanced Justice Sector Services Project*, Report No. 44059-MN, (June 6, 2008); WORLD BANK, INITIATIVES IN JUSTICE REFORM 2009, *supra* note 5, at 45-46.

	<i>monitoring of court decisions</i>		
	<i>(d) Project management</i>		
Serbia Justice Sector Support Project (2008) ²⁰⁶	<u>Approved:</u> Dec. 2008 <u>Closing Date:</u> Dec. 2011	Project Cost: US \$4.7 million	Loan Amount: US \$4.0 million
Project Development Objectives	Facilitation of the acceleration of Serbia's European Union integration process pertaining to the justice sector. This will be done by supporting (i) strengthening institutional capacity; (ii) the improvement of justice sector performance and (iii) increased aid effectiveness.		
Project Components	(a) <i>Institutional capacity</i> (facilitate capacity-building in the MOJ, judiciary and the MOF to design, coordinate and implement judicial reform and modernization programs) (b) <i>Resource management and aid coordination</i> (facilitate the justice sector leadership to strengthen justice sector resource management and aid coordination) (c) <i>Legal and institutional environment</i> (facilitate the strengthening of the legal and institutional environment for the judiciary) (d) <i>Judicial facilities and infrastructure</i> (e) <i>Outreach, monitoring and evaluation</i>		
Colombia Justice Services Strengthening Project (2009) ²⁰⁷	<u>Approved:</u> Dec. 2009 <u>Closing Date:</u> Dec. 2013	Project Cost: US \$20 million	Loan Amount: US \$20 million
Project Development Objectives	Strengthen the capacity of the Judiciary and the Ministry of Interior and Justice to deliver timely, efficient, effective and quality dispute resolution services to citizens		
Project Components	(a) <i>Efficient management of justice services</i> (management and communications systems) (b) <i>Development of judicial human resources</i> (training, performance evaluation systems) (c) <i>Facilitating access to justice services</i> (justice services map, justice services survey, decentralization, ADR mechanisms) (d) <i>Project coordination</i>		

206. World Bank, *Republic of Serbia, Multi Donor Trust Fund for Justice Sector Support Project*, Report No. TF071171 (Dec. 1, 2008); WORLD BANK, *INITIATIVES IN JUSTICE REFORM 2009*, *supra* note 5, at 67; *Serbia Justice Sector Support Multi Donor Trust Fund, Project ID P121377, Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P121377> (last visited Dec. 28, 2011).

207. *Project Appraisal Document: Colombia 2009*, *supra* note 159; *Justice Services Strengthening Colombia, Project ID P083904, Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P083904> (last updated Dec. 1, 2009).

Croatia Justice Center Support Project ²⁰⁸		<u>Approved:</u> April 2010 <u>Closing Date:</u> June 2015	Project Cost: US \$37.84 million	Loan Amount: US \$36.3 million
Project Development Objectives	Improve the efficiency of Croatia's justice system.			
Project Components	<p>(a) <i>Improving the efficiency of the court system</i> (infrastructure, management capacity building, information technology, performance evaluation, case management, enforcement of judicial decisions)</p> <p>(b) <i>Improving the efficiency of the state attorney's office</i> (infrastructure, capacity building, case management and information technology)</p> <p>(c) <i>Strengthening the efficiency of the Ministry of Justice's management functions</i></p> <p>(d) <i>Support for project management and implementation</i></p>			
Peru Justice Services Improvement Project II (2010) ²⁰⁹		<u>Approved:</u> Nov. 2010 <u>Closing Date:</u> Sept. 2015	Project Cost: US \$30 million	Loan Amount: US \$20 million
Project Development Objectives	Improve the quality of service delivery by the Participating Institutions and to enhance access to justice with a focus on citizens' needs for justice services.			
Project Components	<p>(a) <i>Improved justice services delivery</i> (planning and management, case management)</p> <p>(b) <i>Improved human resources management capacity</i></p> <p>(c) <i>Enhanced transparency and access to justice</i> (disciplinary capacity, communications strategy, legal aid, public legal education)</p> <p>(d) <i>Project management, monitoring, and evaluation</i></p>			

208. World Bank, *Project Appraisal Document on a Proposed Loan in the Amount of EUR 26 Million (US \$36.3 Million Equivalent) to the Republic of Croatia for a Justice Sector Support Project*, Report No. 51133-HR (March 3, 2010); *Justice Sector Support Project Croatia, Project ID: P104749, Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P104749> (last updated Mar. 15, 2010).

209. World Bank, *Project Appraisal Document on a Proposed Technical Assistance Loan in the Amount of US\$20 Million to the Republic of Peru for a Justice Services Improvement Project II*, Report No. 56576-PE (Oct. 20, 2010); *Justice Services Improvement Project II Peru, Project ID: P110752, Project-at-a-Glance*, THE WORLD BANK PROJECTS & OPERATIONS, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P110752> (last updated Feb. 3, 2011).