AMERICAN UNIVERSITY INTERNATIONAL LAW REVIEW

CONFERENCE
The Experts Roundtable: A Hemispheric Approach to Combating Corruption

ARTICLES
Guatemalan "Justice Centers": The Centerpiece for Advancing Transparency, Efficiency, Due Process, and Access to Justice
Steven E. Hendrix

NOTES AND COMMENTS
Convention Against Torture: A Viable Alternative Legal Remedy for Domestic Violence Victims
Barbara Godwin Alexander

Compulsory Licensing Provisions Under the TRIPS Agreement: Balancing Pills and Patents
Sara M. Ford

Current Development: Afghanistan Recognizes Cheritya
Thomas D. Grant

VOLUME 15  NUMBER 4
AMERICAN UNIVERSITY INTERNATIONAL LAW REVIEW
VOLUME 15 NO. 4

CONFERENCE

The Experts Roundtable: A Hemispheric Approach to Combating Corruption

ARTICLES

Guatemalan "Justice Centers": The Centerpiece for Advancing Transparency, Efficiency, Due Process, and Access to Justice ......................... Steven E. Hendrix 813

Current Development: Afghanistan Recognizes Chechnya ................................ Thomas D. Grant 869

NOTES AND COMMENTS

Convention Against Torture: A Viable Alternative Legal Remedy for Domestic Violence Victims ........................................ Barbara Cochrane Alexander 895

Compulsory Licensing Provisions Under the TRIPs Agreement: Balancing Pills and Patents ........ Sara M. Ford 941
GUATEMALAN "JUSTICE CENTERS": THE CENTERPIECE FOR ADVANCING TRANSPARENCY, EFFICIENCY, DUE PROCESS, AND ACCESS TO JUSTICE

STEVEN E. HENDRIX*

EXECUTIVE SUMMARY .................. 814
INTRODUCTION .......................... 815
I. CONDITIONS BEFORE THE JUSTICE CENTER ARRIVED ........ 818
II. DEFINITION AND DESCRIPTION OF THE "JUSTICE CENTERS" .......... 819
III. ORGANIZATIONAL AND ADMINISTRATIVE STRUCTURES; CASE MANAGEMENT AND RECORDS SYSTEMS .......... 825
A. WITHIN THE COURT SYSTEM ............ 826
B. WITHIN THE PUBLIC MINISTRY ........... 829
IV. IMPROVED FUNCTIONING AND TEAM APPROACHES ............. 839
V. USE OF STANDARDIZED FORMS ........... 842
VI. INTERPRETER, CULTURALLY-APPROPRIATE OUTREACH AND EDUCATION PROGRAMS .......... 843

* Justice Program Coordinator in the Democratic Initiatives Office in Guatemala for the United States Agency for International Development and Senior Research Fellow with the De Paul University College of Law International Institute for Human Rights. The author would like to thank Tim Cornish, Brian Treacy, and Tyler Raimo for their help in preparation of this Article. The author would also like to thank the United States Agency for International Development for its support while drafting this document. The opinions expressed in this document reflect the personal opinion of the author and do not necessarily reflect the opinion of the United States Agency for International Development or any other institution. The author can be contacted at shendrix@usaid.gov.
EXECUTIVE SUMMARY

Guatemala is a country with a history of justice problems: human rights, corruption, impunity, and inefficiency. Women, the poor, and the indigenous are especially disenfranchised by the foregoing problems. After a genocidal civil conflict, the need is clear for establishing the rule of law.

To address these concerns, the U.S. Agency for International Development ("USAID") has assisted Guatemala with the development of a new operational model—the Justice Center. This structure brings together police, prosecutors, judges, public defenders, local civil society, and private law practitioners to solve problems in a collaborative framework. The core ingredient of the Justice Centers is the people coming together in a voluntary effort to break with traditional structures. In a nutshell, the Centers are designed to make the justice system actually work in a given location.

Key elements of the Justice Centers are: (1) organizational and administrative structures that reduce delay, minimize exposure to corruption, and create accountability; (2) improved functioning of key actors in their assigned roles and management structures and techniques that promote team approaches; (3) use of standardized, user-friendly forms; (4) user-friendly case management and records systems that reduce opportunities for corruption, improve the quality of case supervision, and generate accurate statistics; (5) interpreters and culturally-appropriate outreach and education programs in local languages to make the system truly accessible to non-native Spanish speakers; and (6) promotion of alternative dispute resolution, plea bargaining ("criterio de oportunidad"), stay of prosecution ("suspensión condicional"), and other mechanisms to settle cases identified through improved case intake and diversion programs.

Results so far are impressive. The Justice Centers show improved customer service, access to justice and quality of service, all with enhanced transparency. This, in turn, has advanced procedural due process and human rights. Today, Justice Centers in various stages of development are found in Zacapa, Escuintla, Quetzaltenango, San Benito (Petén), Santa Eulalia (Huehuetenango), Nebaj (El Quiché), and Santa Cruz.

After such a prolonged period in Guatemalan history of disrespect for the law, change does not come overnight. Guatemala will have to stay the course for several generations before true access to a rule of law is extended to all citizens. The Justice Center strategy, however, figures to be part of the solution.

INTRODUCTION

Currently, Guatemala is experiencing a triple revolution involving changes from war to peace, authoritarianism to participatory democracy, and a state-centered economy to a global market. Since 1985, Guatemala's political structure has consisted of constitutional governments and democratically-elected presidents. One of the most formidable obstacles confronting the peace process, however, has been a national-level climate of violence. Consequently, the assassination of Monsignor Juan Girardi Conedera has emerged as the focal point of discussions about impunity and the need for effective justice.

In addition to the widespread violence, there is a pressing need to address human rights concerns. According to the Commission for Historical Clarification, the thirty-five year fratricidal war, from 1962 to 1996, killed about 200,000 people. Untold thousands of cases of human rights violations and acts of violence occurred during that period. At the same time, impunity permeated Guatemala to such an extent that Monsignor Girardi's assassination was symptomatic of the larger problem of impunity in the country.1

1. Bishop Girardi was one of the most important human rights advocates in Guatemala until he was murdered on April 26, 1998. Girardi had led the Archbishop's Office on Human Rights. He was killed a week after publishing a four volume treatise on human rights abuses in Guatemala entitled, GUATEMALA: NUNCA MÁS [Guatemala: Never Again].

an extent that it consumed not only the justice sector but also the State itself. In particular, women and children were victims of this lawlessness. The Guatemalan Government regarded the Mayan population as the collective enemy of the State. The justice system, nonexistent in large areas of Guatemala before the war, was further weakened when the court system submitted to the demands of the dominant national security apparatus. The courts were incapable of investigating, trying, judging, or punishing even a small number of those responsible for the most serious abuses."

The Peace Accords note that the justice system in Guatemala is flawed. Corruption, inefficiency, slow and antiquated practices and procedures, a lack of modern office management techniques, corruption, and inefficiency plague the system of justice. The peace process called for an end to impunity and corruption. Today, ordinary crime is a significant problem in Guatemala. Furthermore, domestic violence against women has reached critical levels, accounting for more than forty percent of murdered women in Guatemala. Other crimes such as lynching and vigilantism have added to the increase in violence.

In large part, according to the Guatemalan Supreme Court, these problems are due to the justice system’s weak response to demands for reform, lack of communication, and the disorganized justice structure. An encompassing solution that strengthens and restructures the formal justice system, including court, municipal representatives, police, prosecution, and others is necessary. In addressing these concerns, the obvious challenge is to make justice work effectively. According to one of the Peace Commissions, courts must be the epicenter for resolving conflicts, assisting victims, and healing the country. Courts, prosecutors, police, and public defenders need to coordinate to improve public service and the justice system. In addition international donors can play an instrumental role by supporting the dynamic process of reform in Guatemala. The “Justice Center” represents USAID’s latest initiative to improve the justice system in Guatemala.


10. See id. at 15.

11. See Comments of Timothy Cornish, Director of Centro de Apoyo al Estado de Derecho [Center for the Advancement of the Rule of Law], USAID Tele-Conference in Chichicastenango, Guatemala (Sept. 23, 1999) (finding that problems involving communications and structure are weakening the justice system’s ability to respond).

12. See JUSTICE EXECUTIVE SUMMARY, supra note 9, at 13 (enumerating the points to emphasize in re-conceptualizing the justice system in Guatemala).

13. See id. at 14 (arguing that these distinct groups need to be developed simultaneously and cohesively). This recommendation coheres with the approach the Guatemalan Bar Association advocates. See COLEGIO DE ABOGADOS Y NOTARIOS DE GUATEMALA, DIAGNÓSTICO DE LA ADMINISTRACIÓN DE LA JUSTICIA PENAL [GUATEMALAN BAR ASSOCIATION, DIAGNOSTIC OF THE ADMINISTRATION OF THE CRIMINAL JUSTICE SYSTEM] 20 (1998) [hereinafter CRIMINALJUSTICE SYSTEM DIAGNOSTIC] (recommending regional and multi-sector reform of the various administrations of justice).

14. See JUSTICE EXECUTIVE SUMMARY, supra note 9, at 15 (finding that international cooperation can play a critical role in reforming administrative justice systems); see also CRIMINAL JUSTICE SYSTEM DIAGNOSTIC, supra note 13, at 21 (calling for international cooperation and input in strengthening the judicial process).

15. See infra Part I (defining “Justice Centers”).

3. See COMMISSION FOR HISTORICAL CLARIFICATION, Guatemala: Memory of Silence - Conclusions and Recommendations 36, para. 94 (1999) (attributing the lack of judicial safeguards for individuals being investigated in either military or ordinary tribunals as a lack of impartiality in the former and a general attitude of resignation in the latter).


6. See id. para. 9 (advising that a reform of the system of administration of justice must maintain a goal of ensuring a basic right to justice through “impartiality, objectivity, universality [] and equality before the law”).


8. See INCREASING Women’s Access to Justice, VITAL VOICES (USAID, Washington, D.C.), 1999, at 5 (outlining USAID’s initiatives toward increasing women’s access to justice in Guatemala).
sector in Guatemala.16

I. CONDITIONS BEFORE THE JUSTICE CENTER ARRIVED

Prior to opening the Justice Centers, USAID found many factors contributing to the weakness of the Guatemalan justice system. These factors included: vertical organizational structures with investigative work delegated to untrained and unprepared officials; little cooperation between police and prosecution; no case intake system, no case tracking or filing systems, or even space for their existence; no definition of role or function for the Victim's Assistance Office; little use of plea-bargaining because its application and advantages were unknown, given that it was banned in Guatemala until 1994; and little use of any other dispute resolution mechanism other than a trial.17

Despite many problems confronting the justice system, the Justice Center experience confirms that, if the Guatemalan government allows its people to participate in the solution, their ability to overcome problems should not be underestimated.18 In this context, the notion of a Justice Center was born. The USAID’s role was one of facilitation as local actors received credit for the new Justice Centers.19 In addition, the new Criminal Procedure Code has been instrumental in the success of the Centers within the broader context of legal reform and innovation.20

II. DEFINITION AND DESCRIPTION OF THE JUSTICE CENTERS

USAID originally referred to Justice Centers as “Focus Centers” because USAID was “focusing” resources in particular geographic locations. Regardless of what USAID calls them, the key idea is to make justice more effective—more efficient and integrated—in a particular geographic location.21 Originally, USAID thought an increase in resources included only training, however, it soon realized that the program required much more. The new initiatives called for functionally integrated institutions, streamlining procedures, coordinating within and among programs, and gaining the support of the local Bar associations, civil society, communities, and municipal-

16. See Los Estados Unidos apoya Programa de Justicia para Guatemala [United States Supports Guatemalan Justice Program], DIARIO DE CENTRO AMERICA, Nov. 21, 1999, at 4 (reporting that the United States, through USAID, set aside twelve million dollars in support of Guatemalan judicial reform programs such as the Justice Program, which directs assistance to Guatemala’s most vulnerable sectors). Harvard University Law School undertook the first USAID effort in 1986. See DPK Consulting, FINAL REPORT RELATED TO THE GUATEMALA ADMINISTRATION OF JUSTICE PROJECT 6 (Jan. 1998) [hereinafter DPK FINAL REPORT] (outlining chronologically the Justice Project’s development, noting initial start-up problems and eventual success). The second project in the sector was the “Improved Administration of Justice Project,” carried out by Checchi and Company Consulting, Inc., in 1988. See id. That project produced many diagnostics that focused attention on the problems in the system. See id. The supporters suspended these efforts in 1991, remarking that they would maintain the suspension “until the Government of Guatemala could demonstrate a more active interest in reforming the criminal justice system in Guatemala.” Id. (quoting USAID statement made at the time). In 1994, with a new Criminal Procedure Code in place, USAID awarded a new technical assistance contract to DPK Consulting, after a competitive bidding process. See id. DPK created a local office in Guatemala City known as the “Centro de Apoyo al Estudio de Derecho - CREA/USAID” [CREA/USAID Center for the Advancement of the Rule of Law]. See DPK FINAL REPORT, supra note 16, at 6. The original DPK contract ran through December 1997. See id. USAID provided DPK a new contract on a non-competitive basis from January 1998 through June 1999. See id. In May 1999, USAID awarded another justice sector contract to Checchi and Company Consulting, Inc., after a competitive bidding process. See id.

17. See Memorandum from Erhardt Rupprecht, USAID/Guatemala Acting Director, to Ambassador Donald Planty (May 15, 1998) [hereinafter 05/15/98 Rupprecht Mem.] (reporting on the status of USAID Justice Centers at various locations throughout Guatemala) (on file with the author).

18. See Comments of Timothy Cornish, supra note 11.

19. See id.

20. See Hendrix, supra note 7, at 365 (discussing extensively the impact of the new Guatemalan Code of Criminal Procedure).

21. See Memorandum from Jeff Borns & Steven E. Hendrix, USAID Democracy Officers, to George Carner, USAID/Guatemala Mission Director (Sept. 18, 1998) (on file with the author) [hereinafter 09/18/98 Borns & Hendrix Mem.] (commenting on Justice Center program progress). While the term “Focus Center” remained in use for some time, and is still sometimes used today, this paper will refer to the more generic term of “Justice Center.” However, it should be understood that the two terms refer to the same notion.
ties.\textsuperscript{23} The Justice Centers emerged as laboratories of positive activities consisting of concepts that were introduced, tested, and demonstrated.\textsuperscript{24} It ultimately meant computerizing some aspects of the effort, including case intake and case tracking,\textsuperscript{25} and reorganizing offices to eliminate highly vertical structures.\textsuperscript{26}

Each existing Justice Center is somewhat distinct. The impact of such initiatives differ among locations, depending in part on varying levels of local interest and needs. Consequently, while discussing a Justice Center as a "model," it is imperative to bear in mind that the "model" varies among jurisdictions.\textsuperscript{27} A Justice Center is not a physical location, but an entire concept\textsuperscript{28} that involves bringing together civil society and local justice sector officials to address access concerns at the local level.\textsuperscript{29} The purpose of the Justice Centers is to increase the quality of justice sector services, especially for historically marginalized people, such as the poor, women,\textsuperscript{30} indigenous people, and children.\textsuperscript{31} The Justice Center methodology calls for local participants to discuss issues and arrive at a consensus to address local problems. Good communication at the local level has been the key thus far.\textsuperscript{32}

Stated another way, the core ingredient of the Centers is the people. The Justice Centers advance a joining of ideas and a voluntary effort to break with traditional structures. The Justice Centers consider diverse views, for example, those of the indigenous population, police, litigants, judges, civil society, and women's groups, to detect problems and formulate solutions. This philosophy does not require an outside donor or outside financial support; rather it depends primarily on the people themselves.\textsuperscript{33}

While underway, Justice Centers must contend with historic problems of poor communication and few linkages between the official justice sector and civil society. In the Justice Centers, local actors converge to discuss the situation and define courses of action. Such concerns include asking whether such problems are structural, human, or cultural. The actors discuss the local reality and begin a process of increasing access to better-quality justice.\textsuperscript{34} Justice Centers serve to involve all principle actors within a specific geographic jurisdiction in an integrated and coordinated effort to provide local population groups with greater access to justice. These actors include judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, ambulance teams with firemen, and civil society. Justice Centers take advantage of new organizational and information management structures that promote teamwork to

\textsuperscript{23} See id.

\textsuperscript{24} See DPK FINAL REPORT, supra note 16, at 9 (describing the general understanding at the time that progress was impossible in Guatemala City, due to the lack of coordination between existing justice center institutions, and that centers in the country would probably prove more successful).

\textsuperscript{25} See Quarterly Progress Report No. 8, DPK CONSULTING (CREA/USAID, Guatemala, C.A.), Dec. 1996, at 12 [hereinafter QPR No. 8] (outlining CREA/USAID's plan to develop the Public Ministry's information systems, which would subsequently allow it to do tasks previously impossible).

\textsuperscript{26} See 09/18/98 Borns & Hendrix Mem., supra note 21.

\textsuperscript{27} See id.

\textsuperscript{28} See Comments of Timothy Cornish, supra note 11.

\textsuperscript{29} See id.

\textsuperscript{30} See Memorandum from George Carner, USAID Mission Director, to Ambassador Donald J. Plany, United States Ambassador to Guatemala (July 31, 1998) [hereinafter 07/31/98 Carner Mem.] (describing USAID's justice program initiative to instruct on legal processes in domestic violence cases); see also Memorandum from George Carner, USAID Mission Director, to Ambassador Donald J. Plany, United States Ambassador to Guatemala (Sept. 18, 1998) [hereinafter 09/18/98 Carner Mem.] (reporting on scheduled training seminars on domestic violence for prosecutors, judges, public defenders, and members of the bar). These efforts have been combined with public information campaigns. For example, in September 1998, USAID sponsored both with the National Association for Women at the Quetzaltenango Fair to distribute literature on violence against women. See Memorandum from George Carner, USAID Mission Director, to Ambassador Donald J. Plany, United States Ambassador to Guatemala (Sept. 11, 1999) [hereinafter 09/11/99 Carner Mem.] (noting planned attendance in an upcoming Quetzaltenango Fair to distribute information materials on women's legal rights). Similar efforts have been undertaken at the Esquipulas Justice Center. See Memorandum of Mark Williams, USAID Justice Centers' Coordinator, to Brian Tracey, USAID Justice Chief of Party 3 (Aug. 19, 1999) [hereinafter 08/19/99 Williams Mem.] (commenting on the state of the Quetzaltenango effort). See generally Increasing Women's Access to Justice, supra note 8, at 5 (noting the accomplishments of Guatemala's Justice Centers in reducing violence against women).

\textsuperscript{31} See Comments of Timothy Cornish, supra note 11.

\textsuperscript{32} See id.

\textsuperscript{33} See id.

\textsuperscript{34} See id. (articulating positive advances in Guatemala, including increased access to justice and increased civic participation).
provide better quality public services.\textsuperscript{35}

The composition, physical layout, and functioning of Justice Centers vary according to local conditions, the special needs of the justice sector officials, availability of resources (monetary and others, e.g., electricity), and particular issues related to the geographic area (e.g., incidence and type of criminal activity).\textsuperscript{36} Diversity notwithstanding, Justice Centers contain the following common characteristics. First, all Justice Centers have organizational and administrative structures that reduce delay, minimize exposure to corruption, create accountability, and establish uniform practices, performance standards, and systems to measure performance. This includes modernized docket and case-filing systems, streamlined case processing, case-filter systems, central-filing systems, unified clerk of court administration, and other related activities.

Second, all Justice Centers strive to improve the functions of key actors in their assigned roles and management structures and techniques that promote team approaches (including greater police-prosecutor cooperation). Third, all Justice Centers use standardized, user-friendly forms, uniform across all Justice Centers, as approved by the respective Government of Guatemala ("GOG") institutions, for the reporting and processing of crimes. Fourth, all Justice Centers have user-friendly case management and records systems that reduce opportunities for corruption, improve the quality of case supervision, and generate accurate statistics (case type, status, assignment, progress, and other appropriate monitoring data, as approved by the Court). Where possible, the courts computerize these systems with a user-friendly software package acceptable to the GOG. Fifth, Justice Centers seek to incorporate interpreters and culturally-appropriate outreach and education programs in local languages to make the system truly accessible to non-native Spanish speakers. This includes a public information campaign on how to access the system. The last component promotes alternative dispute resolution, plea-bargaining ("criterio de oportunidad"), stay of prosecution ("suspensión condicional"), and other mechanisms to settle cases identified through improved case intake and diversion programs.\textsuperscript{37}

Key justice sector counterparts have signaled their commitment to the Justice Center model and replicate the USAID model in other regions of Guatemala.\textsuperscript{38} Nevertheless, given the evolving nature of the model and the diversity of locations, continuous communication and updating is required. USAID continues to coordinate and work with the Guatemalan Government to institutionalize the Justice Center model through dialogue, regular briefings, and information exchanges with members of the main justice sector institutions via the Coordination Unit for the Modernization of the Justice Sector ("Instancia Coordinadora para la Modernización del Sector de Justicia" or "ICMSJ").\textsuperscript{39}

USAID started the first Justice Center, with backing from the Guatemalan Supreme Court and Attorney General, in October 1995 in Quetzaltenango.\textsuperscript{40} The second Justice Center opened in Zacapa in

\begin{itemize}
\item 35. See USAID/Guatemala, Section “C,” Request for Proposal No. 520-98P-020 (Sept. 30, 1998) (on file with the author) [hereinafter Section C Request] (stating that, among other advances, the Centers have installed modernized case-filing and docket systems).
\item 36. See id. (noting that this team approach to dispute resolution and problem solving better serves the public).
\item 37. See César Barrientos Pellecer, Centros de Enfoque o Centros de Justicia y CAJs 4-5 [Focus Centers or Justice Centers and CAJs] (Dec. 1998) (unpublished manuscript on file with the Instancia Coordinadora para la Modernización del Sector Justicia [Coordinated Organization for the Modernization of the Justice Sector]) (translation by author) (listing the model criteria used by the different Justice Centers). See generally Section C Request, supra note 35 (discussing general Justice Centers in different regions of Guatemala).
\item 38. See Section C Request, supra note 35 (listing other organizations committed to assisting the Justice Sector, including the Narcotics Affairs Section ("NAS") of the United States Embassy and the United States Department of Justice); see also Annette Pearson de González, Formulación de una Propuesta para la Creación de Ocho Centros de Administración de Justicia en Guatemala Durante el Período 2000-04 [Formulation of A Proposal to Create Eight Justice Administration Centers in Guatemala For the Period 2000-2004] 63 (May 1998).
\item 39. See González, supra note 38, at 63 (noting the importance of coordinating meetings every fifteen days to discuss problems affecting the efficiency of the penal system). The Instancia Coordinadora is comprised of the Attorney General, President of the Court, Director of the Public Defense Service, and the Interior Minister. See generally Gabriela Judith Vásquez Smerilli & Héctor Hugo Pérez Aguilar, Consultoría para la Secretaría Ejecutiva de la ICMSJ [Consultancy for the Executive Secretary of the ICMSJ] (June 1999) (unpublished materials on file with the author) (emphasizing the key role of the Instancia Coordinadora in the development of the Justice Centers).
\item 40. See Comments of Timothy Cornish, supra note 11 (discussing the history of the regional Justice Centers, including where they are located, and when they
\end{itemize}
June 1996, while in February 1997, the United Nations Human Rights Verification Mission in Guatemala ("Misión de Naciones Unidas para la Verificación de los Derechos Humanos en Guatemala" or "MINUGUA") inaugurated the Nebaj Center. USAID joined the Nebaj effort in March 1998. Esquinlta's Center became operational on March 9, 1998, as a result of a meeting of judges, public defenders, and prosecutors. San Benito's Center (Peten Department) began with a participatory meeting of similar local actors on March 12, 1998. MINUGUA inaugurated the Santa Eulalia (Huehuetenango) Center on April 30, 1999, with funds from Canada and technical assistance from USAID. The Justice system applied were established; see also QPR No. 8, supra note 25, at 13 (noting that USAID advised and consulted MINUGUA about the Quetzaltenango Center). MINUGUA even participated in providing some training in the criminal defense area. See id.

1. See QPR No. 8, supra note 25, at 12.

2. See Comments of Timothy Cornish, supra note 11 (noting that the Nebaj-Quiche Justice Center markets the implementation of reconstruction within the formal justice system).

3. See 05/15/98 Rapprech Mem., supra note 17 (offering a brief history of the Justice Center starting in Esquinlta, Nebaj, and Paten in March 1998). The Instancia foresaw that future CAJs would receive support based on the USAID Justice Center model. See Pellecer, supra note 37, at 5 (noting the central role of the USAID model).

4. See Minutes of Meeting in Esquinlta, Guatemala (Mar. 9, 1998) (on file with the author) (explaining the concepts discussed at the meeting). Esquinlta is a particularly difficult place for a Justice Center. The Public Ministry receives 12,000 cases per year and, in March 1998, had about 30,000 backlogged cases. Memorandum of USAID Timothy Cornish, USAID Justice Chief of Party, to Steven Hendrix, USAID Justice Coordinator (Mar. 10, 1998) [hereinafter 03/10/98 Cornish Mem.].

5. See Memorandum from Marisela Velasco de Paniagua, USAID Consultant, to Alicia Warde, USAID Consultant (Mar. 16, 1998) [hereinafter 03/16/98 Velasco de Paniagua Mem.] (listing the participants of the meeting to create a center in San Benito). The Instancia Coordinadora approved the Peten and Esquinlta Justice Centers and requested USAID assistance in both locations on February 26, 1998. See Letter from William Stacy Rhodes, USAID Director, to Attorney General Héctor Hugo Pérez Aguilar, Court President Alfredo Figueroa, and Interior Minister Rodolfo Mendoza (Mar. 16, 1998) [hereinafter 03/16/98 Rhodes Letter] (emphasizing the need for collaboration and cooperation in the developing new Justice Centers).


7. See Section C Request, supra note 35 (stating that the principle objective of USAID during the years of 1994-97 was to implement a new criminal procedure code).


9. See Section C Request, supra note 35 (emphasizing the cooperation between USAID and MINUGUA in integrating administrative advances from existing centers into new ones).

10. See Gonzalez, supra note 38, at 63 (discussing the coordination of efforts by different actors to encourage cohesion and efficiency). To date, the Center coordinators have been local Guatemalans paid by USAID. See id. There is a movement, however, to have these individuals moved to the government's payroll over time to make the efforts more sustainable. See id.

11. See id. at 63-64 (observing the efforts by the Public Ministry and the Court
A. WITHIN THE COURT SYSTEM

Starting in April 1996, the Quetzaltenango Justice Center inaugurated a new court organization structure, providing transparency and efficiency to the court. The new structure boasted a single register ("registro único") implemented by a communal secretary ("secretaria común"). Under the previous system, the courts tracked individual cases in seventeen different books or ledgers. The registro único simplified this process by replacing them with a single book. Pooling the secretarial staff under the secretaria común system reduced the number of people handling each case from twenty-five to six. Now, the time spent locating a file has dropped from one week to nearly instantaneously.

Based on the successes of the Quetzaltenango experience, planning began in May 1998 for a Clerk of Courts Office for Guatemala City. The Clerk of Courts Office, which administers the ten Guatemalan Justice Centers, was to reorganize the current systems to that of the USAID model.

52. See Comments of Timothy Cornish, supra note 11.
53. See Briefing by Timothy Cornish, USAID Justice Chief of Party, for members of the Guatemalan Supreme Court (May 22, 1998) [hereinafter Cornish Briefing] (presenting statistical analysis of the effects of the new structures).
54. See id. (emphasizing the efficiency of the new system). With the single registro único in place, it is now possible to computerize that book. See id. This has been done via the Centro de Recepción, Registro e Información ("CRRI") (Center of Reception, Registration, and Information). See id.
55. See id.
56. See id.
57. See Comments of Timothy Cornish, supra note 11; see also Steven E. Hendrix, Clerk Office-Guatemala City (Oct. 1, 1999) (unpublished manuscript on file with the author) (stating that the request for assistance from the Court for the Clerk's Office came to USAID in September 1996); Minutes of the Supreme Court Plenary Session, Acta 10-98, para. 4 (Mar. 11, 1998) (formalizing request by Court for assistance). The approval of the final design came on July 29, 1998. See Memorandum from George Carner, USAID Mission Director, to Donald J. Planty, United States Ambassador to Guatemala (July 31, 1998). The Clerk's office was inaugurated on October 5, 1998. Memorandum from George Carner, USAID Mission Director, to Donald J. Planty, U.S. Ambassador to Guatemala (Oct. 9, 1998).
58. See Email from Timothy Cornish, Justice Sector Advisor, to Steven E. Hendrix, Justice Program Coordinator (Nov. 15, 1999) [hereinafter 11/15/99 Cornish Email] (arguing that the ten capital area courts are positive outgrowths of the focus centers).
59. See 05/15/98 Rupprecht Mem., supra note 17 (listing the findings of the current system and addressing the problems).
60. See id. (noting the formation of committees at each center location to include police, prosecutors, public defenders, and judges).
61. See Minutes of the Supreme Court Plenary Session, Acta 10-98, para. 4 (Mar. 11, 1998); see also 05/15/98 Rupprecht Mem., supra note 17 (emphasizing the advances of the automated docket systems and its eventual country-wide implementation).
62. See Cable from Donald J. Planty, United States Ambassador to Guatemala, Guatemala Comes Closer to Justice for All (Feb. 22, 1999) (on file with the author) [hereinafter Ambassador Planty Cable] (stating that USAID helped Guatemala establish clerk of courts offices in various justice centers, which have demonstrated improved services). Peru has a small pilot effort in Lambayeque, and Costa Rica has a similar pilot in Guadalupe, Costa Rica. See id. However, the Guatemalan Clerk of Courts Office is a first for a Latin American capital city. See id. It underscores the Court's commitment to the Justice Center model, since the Clerk's Office is modeled on efforts in Zacapa and Quetzaltenango. In this sense, USAID's Justice Center model has been institutionalized. See Note from Steven Hendrix, USAID Justice Program Coordinator, to Elizabeth Hogan, USAID Democracy Program Chief (Nov. 20, 1997) (discussing the Court's decision on November 17, 1997, to expand the Justice Center model to the capital in the form of a Clerk of Courts).
paid no salaries to public officials, and purchased none of the equipment. Instead, USAID concentrated its resources in technical assistance to accompany and guide a Guatemalan-led participatory design effort, and its subsequent implementation. In doing so, the effort has assured complete institutional buy-in from the Guatemalan Supreme Court down to the file clerks. Moreover, system users, including litigants, the public and victims, can now demand a higher standard of quality, transparency, and efficiency.

In just one year, the impact of efforts to reduce opportunities for corruption and to increase transparency is clear. First, the court system now has an inventory of its caseloads. Previously, parties paid corrupt officials to "lose" case files. From October 1, 1996 to September 31, 1997, the court system "lost" 1,061 cases in Guatemala City alone. This represents 1,061 accused individuals, many of whom remained in jail without having enjoyed their day in court, in violation of their human rights. Under the new system, from October 1, 1998 to September 31, 1999, only one has been "lost."

Second, for the first time ever, there is an equitable and transparent distribution of cases under the new system. Consequently, the system is decongested, and the court hears cases, rather than let them sit stagnant and devoid of scrutiny. Third, the system now automatically respects legal time limits. Previously, there was no control over how long processes would extend. Fourth, under the new system, courts have cut in half the number of cases where the defendant was unascertainable. Fifth, for the first time ever, there is a reliable system for generating statistics and reports on court actions.

The Guatemalan Supreme Court praised the new Clerk's office structure and operation. After six months of operation, the Court requested that USAID support extend the new methodologies in a computerized format—the "Centro de Recepción, Registro e Información" or "CRRI"—back to all the Justice Centers, a task that was complete by June 15, 1999.

B. WITHIN THE PUBLIC MINISTRY

In late 1996, USAID sponsored a study visit for Guatemalan justice sector actors to Chihuahua, Mexico, where the Public Ministry assembled a case-intake and investigation unit to provide a model for accusatorial prosecutions throughout Latin America. This study visit included the participation of Guatemala's Attorney General, top prosecutors, and police officials. After the trip, the participants defined a plan of action for implementation in the Guatemalan Justice Centers. One key component of the plan was a case tracking and control system for the Public Ministry, promising a profound impact on the Public Ministry's method of doing business. In addition, the resulting in an unequal division of caseload). Meanwhile, the staff size was the same for each court. See id. Within each court, private law firms could place a picked "official" who would handle the case, for an appropriate compensation price. See id. The Clerk's Office has reallocated "oficiales" to a central location, removing illegal delegation of work from judges to "oficiales," and taking control of cases out of the hands of the unsupervised non-judge officials, who were the primary source of corruption in the system. See id. Previously, if one did not pay the official, the case did not move. See id. Conversely, you could pay an official to assure that the case never moved. See 11/15/99 Cornish Email, supra note 58.

68. See Memorandum from Lehtia Kelly Butler, USAID Acting Director, to Donald J. Planty, United States Ambassador to Guatemala (May 28, 1999) (on file with the author) [hereinafter 05/28/99 Butler Mem.] (detailing plans to continue the modernization program instituted in pilot Justice Centers throughout the country).

69. See QPR No. 8, supra note 25, at 8 (noting that the visit exposed participants to the benefits of mediation in the criminal process, which has helped to dispose of criminal complaints without involving police and prosecutorial resources).
plan promised more accurate statistics and performance monitoring. In February 1997, Guatemala’s Attorney General formally approved the plan and design elements.\textsuperscript{70}

As the first Justice Center in Quetzaltenango adopted the new system, results were immediately visible. The implementation of a case index system dramatically decreased the time necessary to search for cases from two hours to ten minutes.\textsuperscript{71} Furthermore, the total number of cases were reduced due to the implementation of a case-screening unit, which discovered, after a review of submitted cases, that many are dropped for lack of criminal content or because they are undesirable for prosecution.\textsuperscript{72} Specialized units were created to professionalize criminal prosecutions such as homicide, property crimes, and high impact crimes (drugs, kidnapping, auto theft). The new system eliminated the double assignment of cases to different prosecutors, which had been a problem before implementation. Specialized personnel increased the efficiency of investigations and trial presentations,\textsuperscript{73} making investigations more complete. Moreover, prosecutors were able to spend more time on important cases, resulting in fewer “remands” from the trial courts. By June 1997, Quetzaltenango’s Public Ministry boasted two important additional systems: the centralized filing system (“archivo único”) and the communal secretary (“secretaria común.”)\textsuperscript{74}

In May 1997, USAID held a coordination meeting with MINUGUA to discuss recommendations for organizing the Public Ministry.\textsuperscript{75} MINUGUA clearly disagreed with USAID’s approach to the Public Ministry. MINUGUA espoused that prosecutors, like judges, should be protected with “independence” (“autonomía”). USAID noted that such a structure is contrary to the standards that control modern prosecutors’ offices in that it eliminates teamwork in complex cases, diminishes chances for the sharing of risk in dangerous cases, heightens the risk of corruption because one person controls a case rather than several, and hampers the ability to replace prosecutor’s in complex cases.\textsuperscript{77}

USAID Justice Chief of Party, Tim Cornish, noted that the traditional Guatemalan Public Ministry organizational concept is a vertical structure.\textsuperscript{78} It is “very much like a court in which, in the case of the capital, an ‘agent fiscal’ has his own rigidly structured staff that he administers thereby duplicating the inefficiencies of the courts and magnifying the opportunities for corruption.”\textsuperscript{79} Under this structure, prosecutors cannot be specialized. In contrast, Colombia, Mexico, Northern Europe or the United States have assistant prosecutors. These assistant prosecutors are typically specialized (except in small towns), assigned to teams when involved in important cases, and do not play a supervisory role with respect to personnel, except perhaps with respect to a secretary. Without personnel oversight responsi-