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BOLIVIA ADMINISTRATION OF JUSTICE PROGRAM EVALUATION

FINAL REPORT

AUGUST 2010

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ABBREVIATIONS

ADR	Alternative Dispute Resolution
AECID	Spanish Government Development Organization
BAOJ	Bolivia Administration of Justice Program
CAINCO	Chamber of Industry and Commerce
CdJs	Justice Houses (Casas de Justicia)
COTR	Contract Office Technical Representative
CCP	Criminal Procedures Code
CSO	Civil Society Organization
EBM	Evidentiary Bench Manual
FELCC	Special Force on War Against Crime
GOB	Government of Bolivia
GTZ	German Government Development Organization
IANUS	Case tracking system in Criminal Courts
IDIF	Forensics Investigation Institute
IISIS	Inter-institutional Statistics and Information System
IJC	Integrated Justice Center
JNC	Judicial Notification Center
JTI	Judicial Training Institute
MIP	Manual of Investigative Procedures
MOJ	Ministry of Justice
MSD	Management Sciences for Development
MSI	Management Systems International
NCCP	New Criminal Procedures Code
NGO	Non-governmental Organization
NJC	National Judicial Council
NP	National Police
PAUE	External User Assistance Platform
PJN	Participation and Justice Network
PM	Public Ministry
POA	Partners of the Americas
PRI	Institutional Reform Project (World Bank)
PTJ	Judicial Technical Police
REJAP	Judicial Register of Prior Criminal Records
ROL	Rule of Law
SENADEP	National Public Defense Service
SOW	Scope of Work
SUNY	State University of New York
SWOT	Strengths, Weaknesses, Opportunities, Threats
UAP	User Assistance Platform
USAID	United States Agency for International Development
USG	United States Government
VAS	Victim Assistance System
VMOJ	Vice Minister of Justice

EXECUTIVE SUMMARY

INTRODUCTION

Bolivia is a country that is larger than the countries of France and Spain combined. It has a population of about 9,700,000. USAID has sponsored administration of justice programs in Bolivia for more than 17 years. Rule of Law (ROL) projects in Bolivia have been among the largest in Latin America. One of the most important ROL endeavors was the new Criminal Procedures Code, enacted in 1999 and in effect in 2001. Implementation has been progressive.

The projects under evaluation were continuations of those earlier endeavors to reform the Criminal Procedures Code (CPC) and promote its implementation throughout all levels of the criminal justice system, promote public awareness and backing of the new Code, and greatly enhance public access to justice. This Checchi/USAID project began in 2005 and was budgeted at approximately \$14,000,000.

The project was developed at the request of, and in consultation with, the relevant judicial sector bodies, including the Constitutional Court, the Supreme Court, National Judicial Council, the Ministry of Justice, the Public Ministry, and the Office of Public Defenders. Checchi had two sub-contractors, the State University of New York/CID and Partners of the Americas to help meet project goals. Partners of the Americas received another separate award to work directly with CSOs in supporting justice system reforms as well as electoral observation and conflict management.

By the time of the evaluation, the projects had been closed at the request of the Government of Bolivia (GOB) and the Chiefs of Party were no longer in country.

ASSESSMENT METHODOLOGY

A team of three evaluators worked in Bolivia from April 23, 2010 through May 13, visiting project sites and interviewing host country counterparts and USAID staff. The team, along with the USAID COTR, visited La Paz, Sucre, Cochabamba, and Santa Cruz de la Sierra. The team interviewed 55 persons, including a past-president of Bolivia who, when he was President of the Supreme Court, was a staunch promoter of judicial reform. Also among the interviewees were the current President of the Supreme Court and the current Attorney General. Questionnaires were filled out by leaders of seven POA sub-grantee organizations.

In addition to reviewing dozens of quarterly project reports, annual reports, and final reports, the team interviewed important ex-employees of the contractors. Because the issue of justice is prominently featured in the local press, the team read dozens of newspaper articles that appeared while the team was in country.

There were some limitations in performing the evaluation. Originally the evaluation Scope of Work (SOW) called for five team members and four weeks for field work, but the time was compressed into three weeks for three team members. As noted above, the Chiefs of Party were not available in country for interviews, although one key person was available by telephone, and another key person was available for interviews. A third limitation was the inability to interview key persons in the Ministry of Justice whose schedules never cleared, as well as the Office of the Public Defender.

PROJECT BACKGROUND

This project was jointly conceived and put in place in cooperation with Bolivian officials before the general elections of 2005. There were significant consultations with Bolivian governmental institutions in developing the scope of work and activities to be undertaken with USAID financing. These project activities were follow-ons to all of the previous activities requested by Bolivian government institutions since the 1990s. After the elections, the personnel changes at the higher echelons in the Government of Bolivia (GOB) in 2006 completely changed the atmosphere in which the project was to work.

After the GOB requested that the US Ambassador leave in 2008, and expelled the Drug Enforcement Agency in 2009, the GOB requested the closure of the Democracy and Governance project.

CURRENT SITUATION – JUSTICE SYSTEM IN TRANSITION

The 2009 Constitution mandated new organic laws for the judiciary. At the time of the evaluation, none had been promulgated, although the Executive Branch, with the input from some interested groups, drafted them in closed sessions, and presented them to the Assembly for approval in mid-May, 2010. There was considerable speculation in the press about the content of the proposals.

The Executive Branch had made interim appointments of magistrates for the Constitutional Court, the Supreme Court, and the National Judicial Council (NJC). During the in-country portion of the evaluation, the NJC revoked the appointments of 22 judges, many of whom had more than two decades of experience. The evaluators were told that many judges would resign or retire due to, among other reasons, proposed new laws that would expose them to increased penalties for charges of *prevaricato* (basically ignoring the laws pertinent to the case before them). These charges could be brought by the prosecuting attorney.

Also concurrent with the evaluation period, more than 14 Prosecuting Attorneys had resigned due to a projected new anti-corruption law and career uncertainties.

The Bar Associations in Bolivia have been significantly weakened in the past few years by GOB policies that permit lawyers to practice without having to join a Bar Association. The lawyers merely must register with the Ministry of Justice (MOJ), and do not have to pay any financial dues to a Bar, thereby depriving the Bars of funds.

THE PROJECT

There were four technical components of the projects, and their subsequent goals:

1. Development and Passage of Law

Assist in drafting and passing complementary legal reforms to the regulations of the new Code of Criminal Procedure (NCCP).

2. Institutional and Administrative Reforms

Create an integrated and sustainable capacity of justice system institutions and relevant personnel to adapt to the needs of the NCCP.

3. Access to Justice

Promote understanding of the NCCP and create institutions for conciliation and arbitration.

4. Promotion of Legal Security

Promote and implement commercial and administrative law reform to enhance the transparency, consistency, and predictability of judicial decision-making and governmental action in the commercial arena.

At the same time, Partners of the Americas, a subcontractor to Checchi in the 2005 SOW, and concurrently a USAID grantee, was to assist in achieving the tasks by undertaking the following related tasks:

- Mobilize advocacy groups to generate inputs to the drafting and consultation processes;
- Monitor progress;
- Suggest improvements;
- Disseminate information to the general public; and
- Push for the selection of qualified justice sector leaders.

To achieve these goals, the contractors were assigned dozens of tasks, from comprehensively reviewing past project achievements, drafting legislation and regulations, working with judiciary agencies (i.e., the NJC, the Supreme Court, the Constitutional Court, the Public Ministry (PM), the Public Defender Office (PDO), and the National Police (NP) at both the national and departmental levels) to develop yearly work plans and strategies to increase budgetary allocations and improve internal agency management, developing proposals for “indigenous law” and its relation to the formal Bolivian codes, amplifying the use of Alternative Dispute Resolutions (ADR), effectuating better coordination between the Public Ministry and the National Police, and improving and extending automated case management and tracking in the courts, the PM, the PDO, and the NP.

Additionally, the contractors were to produce manuals for the institutions with which they worked to standardize procedures, as well as produce training plans in conjunction with the agencies and the Judicial Training Institute. They were to expand and institutionalize Integrated Justice Centers, train staff in conciliation and mediation techniques, construct buildings, and equip new Centers.

The contractors were to assess the Legal Security situation, develop a reform strategy, make recommendations for Administrative Law, Commercial Code, and Civil Procedure Code reforms, work with law schools for curriculum reform, and develop models for specialized Administrative and Commercial Courts, among other tasks.

At the same time, both Checchi and the Partners of the Americas were to form coalitions of Civil Society Organizations and Non-Governmental Organizations to mobilize society, to inform public opinion about the desired changes noted above, and to lobby the Assembly for passage of the changes. Of paramount importance was achieving Bolivian sustainability of the efforts.

PROJECT ACHIEVEMENTS

There were four major obstacles to completing all of the assigned tasks: changes in key GOB personnel, budgetary cuts that eventually eliminated the Legal Security component, unexpected ex-

penses for additional technical support personnel, and the early close down of the Project. Nevertheless, much was achieved.

Checchi:

- Did a prodigious amount of work, particularly in the PM, but also in the Judicial Branch, the PDO, and with the Police. Checchi helped develop a Strategic Plan for the PM, introduced an updated case-tracking system, which was implemented in all nine departments, as well as with the Special Crime Fighting Unit. It helped develop and implement the Crime Prosecution Policy. It coordinated inter-institutional agreements to improve Case Handling, and the Inter-institutional Statistics and Information Systems Commission to obtain reliable statistics from all justice sector institutions. It also produced a Manual of Investigative Procedures.
- Introduced “Alternatives to Trial” procedures to help filter out 60 percent of less serious cases that were clogging the system.
- Helped design and implement Rapid Response Units, to lead to quick resolution of less serious cases, utilizing enhanced coordination of the PM and NP, which resulted in 40 percent of the cases resolved in less than 30 days.
- Designed and implemented Internal and External User Assistance Platforms in the PM and NP, and distributed over 250 computers and auxiliary equipment to various government offices, including the NP, the PN, the courts, and the Integrated Justice Centers. These innovations throughout the justice system led to increased efficiency in performing court administrative functions, provided easier access to the courts by the public, increased transparency, improved sector coordination, and reduced the opportunities for corruption among judicial sector employees.
- Helped establish modern Notification Systems that cut out most of the corruption and graft inherent in the old systems. They reduced the number of failed attempts to serve process from 2,456 to 299 in 2008, while at the same time, increasing by 28 percent the numbers of process served in Cochabamba alone.
- Helped to extend the IANUS case tracking system to all nine departments and four intermediate cities.
- Secured, along with POA an annual budget allocation for the Public Defender Office, and paid the fees for technical advisors for three months until the GOB appropriated funds. Checchi developed operating manuals and trained in their use.
- Set up a Public Defender Training Institute and helped train PDs. However, after mid-2007, the PDO preferred to suspend further training assistance. Checchi also helped design a transparent selection process for new PDs, which was then suspended in 2008.
- In increasing the number of Integrated Justice Centers, at the request of the MOJ, paid the fees of the technical coordinators of the Centers and Justice Houses until May 2009.
- Trained the coordinators and mediators of the IJCs, who were mostly replaced by the MOJ after May 2009.
- Paid for the design and construction of four IJCs, in some cases with the participation of other international donors.

- The IJCs and Casas de Justicia (Justice Houses) were instrumental in bringing Alternative Dispute Resolution mechanisms to a population that had had very limited access to the formal justice system. More than 23,000 persons benefitted from conciliation through them.
- Conducted an Assessment of the Legal Security situation, focusing on civil and commercial law cases, and published an excellent volume entitled (in its English translation) *Civil and Commercial Justice in Bolivia: Diagnosis and Recommendations for Change*.
- Trained judges and others in commercial and administrative law, and began developing curricula proposals with law schools before the component was closed for lack of budget.
- Conducted an assessment of mediation and arbitration centers and strengthened seven existing centers, but could not expand the number of centers for lack of time.

The Partners of the America grant project also had significant achievements. POA:

- Grew the Participation and Justice Network to 100 members, although after the project closed it was reduced to only a few functioning members.
- Qualified network members for sub-grants and strengthened their internal organization and public projections.
- Propagated information regarding the NCCP to a large public audience, and worked with journalists to promote articles in the press on a variety of justice related issues.
- Created the Citizen Oversight Project to monitor entrance examinations for Prosecutors, and the selection process of Magistrates of the Constitutional Court, the Supreme Court, and the National Elections Court.
- Created and financed Bolivia Transparente, another coalition of NGOs, which recruited, trained and positioned over 3000 volunteer poll observers for three important national elections.

CONCLUSIONS

Even while being “overtaken by events,” principally the changes in GOB personnel beginning in 2006, many positive achievements were truncated. The Public Defender Office, the Legal Security initiatives, the replicas of the ADR Centers, and the IJCs were not fully institutionalized by the time the project ended.

The contractors reacted flexibly to the changes in the project’s political environment. Additionally, there are questions about the sustainability of projects. Many of the POA network organizations are not sustainable without continued international funding. They have not found local Bolivian funding sources.

RECOMMENDATIONS

A well-functioning, fair and accessible Justice Sector is critically important to the future of a democratic Bolivia. Some key actors in the Justice Sector expressed their desire for continued cooperation with USAID, but permission given by the GOB, and clear operating rules, still would be required. USAID should respond positively to any future request from the GOB.

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Future involvement should focus on the kinds of technical issues which have been successful so far, rather than advocacy issues. Expansion of the IJCs and CdJs is required to provide more access to justice for the poor.

At the same time, USAID must be certain that there is Bolivian institutional ownership of any project before USAID commits resources, and that it does not develop “turn key” operations that Bolivia is expected to take over at some undefined future date, with some undefined financial obligation that was not clearly spelled out. At a minimum Bolivian institutional ownership should include a commitment to pay and maintain key trained personnel on staff, as well as maintain and/or replace key equipment and systems elaborated after USAID involvement ends. The best way for this to happen is that Bolivian institutions be required to put up financial resources at the beginning of the program, and that they budget for continuation of the program after USAID finishes its commitment.

USAID could put “on-line” many of the manuals and procedures developed with justice sector institutions so that they would be available to any interested parties.

If Bolivia wants to attract foreign investment, as stated, then it will need Legal Security for investors. Should there be an opportunity to continue the work in this area, it would be an important contribution to the development of Bolivia.

I. Introduction

Bolivia is a country that is larger than the countries of France and Spain combined. It has a population of about 9,700,000. USAID has sponsored administration of justice programs in Bolivia for more than 17 years. Rule of Law (ROL) projects in Bolivia have been among the largest in Latin America. One of the most important ROL endeavors was the new Criminal Procedures Code, enacted in 1999 and in effect in 2001. Implementation has been progressive. The projects under evaluation were continuations of those earlier endeavors to reform the Criminal Procedures Code, promote its implementation throughout all levels of the criminal justice system, promote public awareness and backing of the new Code, and greatly enhance public access to justice. This Checchi/USAID project began in 2005 and was budgeted at approximately \$14,000,000. Checchi had two sub-contractors, State University of New York/Center for International Development and Partners of the Americas to help meet project goals. Partners of the Americas received another separate award to work directly with CSOs in supporting justice system reforms as well as electoral observation and conflict mitigation.

The project was developed at the request of, and in consultation with, the relevant judicial sector bodies, including the Constitutional Court, the Supreme Court, National Judicial Council, the Ministry of Justice, the Public Ministry, and the Office of Public Defenders.

By the time of the evaluation, the projects had been closed at the request of the Government of Bolivia (GOB) and the Chiefs of Party were no longer in country.

ASSESSMENT METHODOLOGY

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In addition to reviewing dozens of quarterly project reports, annual reports, and final reports, the team interviewed important ex-employees of the contractors. Because the issue of justice is prominently featured in the local press, the team read dozens of newspaper articles that appeared while the team was in country.

There were a few limitations in performing the evaluation. Originally the evaluation Scope of Work (SOW) called for five team members and four weeks for field work, but the time was compressed into three weeks for three team members. As noted above, the Chiefs of Party were not available in country for interviews, although one key person was available by telephone, and another key person was available for interviews. A third limitation was the inability to interview key persons in the Ministry of Justice whose schedules never cleared, as well as the Office of the Public Defender.

BACKGROUND IN WHICH THE PROGRAM WAS CONCEIVED AND IMPLEMENTED

The origin of the evaluated project is to be found in a Bolivia that had begun important judicial system innovations in 1994, under the leadership of the Ministry of Justice (MOJ), which were further elaborated in the early 2000s as a joint effort of the Supreme Court, Judicial Council, Public Ministry, and Investigative Police. USAID had promoted those reforms through contracts with Management Sciences for Development (MSD) and grants to the Partners of the Americas (POA). This project was conceived, and elaborated in 2004 and contracted in early 2005, before the country's general elections of December that year. There were significant consultations with Bolivian governmental institutions in developing the scope of work and activities to be undertaken with USAID financing. These project activities were follow-ons to all of the previous activities requested by Bolivian government institutions since the mid-1990s. There was a short overlap of MSD and Checchi in early 2005. After the elections, it can be said that the program was "overtaken by events" that were unforeseeable when it was developed.

After the 2005 presidential elections, over time there were quantum changes of the personnel in the principal judiciary organizations. The persons with whom the previous contractors, MSD and POA, and subsequently Checchi itself, had worked to elaborate the program were no longer in place. Members of the Constitutional Court, the Supreme Court, the National Judicial Council, the Ministry of Justice, and the Attorney General's Office all were replaced with persons who originally had not been parties to the project development and who had not bought into it or signed-off on it, as it were.

At the same time, during the period of the program, a new constitution was being formulated, discussed, and ratified in elections. The latest constitution of 2009 required changes in the Organic Laws of the Judiciary which would substantively alter the relationships between the three branches of government.

After the GOB requested that the United States Ambassador leave in 2008, and expelled the Drug Enforcement Administration, the GOB then requested that USAID close down the Democracy and Governance project in 2009. This cut short the program by several months, affecting in some measure the contractor's ability to meet all projected goals. The GOB and the Government of the United States at the time of the evaluation was discussing a new bi-lateral framework agreement for foreign assistance. The current agreement dates from the 1950s.

At the time of the program's enactment, there were several international cooperation agencies collaborating to various degrees with the Government of Bolivia to achieve justice system reforms. These included the German GTZ, the Spanish Development Agency, the United Nations Development Program, the Danish Development Agency, and the Swedish Development Agency, among others. Some of these agencies had worked jointly with the previous USAID efforts and some worked in parallel efforts for judicial sector reform.

CURRENT SITUATION- JUSTICE SYSTEM IN TRANSITION

At the time of the in-country portion of the evaluation, none of the new Organic Laws mandated by the 2009 Constitution affecting the judicial system had been promulgated. The executive branch developed the laws, with some input from interested groups, drafted them in closed sessions, and presented them to the Assembly in mid-May, 2010.

The Executive Branch made interim appointments of magistrates for the Supreme Court, the Constitutional Court, and the National Judicial Council. The proposed organic laws would change the relationship of these three institutions to each other.

The Judicial Council, during the evaluation period, revoked the appointments of 22 judges, many of whom had more than two decades of experience. Many judges, as well, indicated that they would retire due to proposed new laws that would expose them to increased penalties for charges of *prevaricato* (basically ignoring the law pertinent to the case before them). The *prevaricato* charges can be brought by prosecuting attorneys and there have been cases in which such charges have been formulated when the judge has found against the government. The Judicial Council, whose members were appointed by the Executive Branch, will appoint replacement judges.

At the time of the in-country portion of the evaluation, more than 14 Prosecuting Attorneys had resigned. A proposed new anti-corruption law and career uncertainties prompted the resignations.

The Constitution grants the “customary law” practiced by indigenous communities equal recognition as formal law, but as yet no clear reconciliation law for the two completely different systems has been promulgated.

The Bar Associations in Bolivia have been significantly weakened in the past few years by GOB policies that permit lawyers to practice without having to join a Bar Association. The lawyers merely have to register with the Ministry of Justice, and do not have to pay any financial dues to a Bar, depriving the Bars of funds.

And finally, neither judges nor prosecutors nor police members are held in high esteem by the general public, as demonstrated by public opinion surveys. Some think that neither pay nor prestige is sufficient to attract the best legal minds of the profession. Nevertheless, at the same time, there is tremendous popular interest in what is happening in the judicial sector as evidenced by the many articles about the proposed changes to the organic laws printed daily in the press.

II. Analysis of Project Components

There were four technical components of the projects, and their subsequent goals:

1. Development and Passage of Law

Assist in drafting and passing complementary legal reforms to the regulations of the new Code of Criminal Procedure (NCCP).

2. Institutional and Administrative Reforms

Create an integrated and sustainable capacity of justice system institutions and relevant personnel to adapt to the needs of the NCCP.

3. Access to Justice

Promote understanding of the NCCP, and create institutions for conciliation and arbitration.

4. Promotion of Legal Security

Promote and implement commercial and administrative law reform to enhance the transparency, consistency, and predictability of judicial decision-making and governmental action in the commercial arena.

At the same time, Partners of the Americas, a subcontractor to Checchi in the 2005 SOW, and concurrently a USAID grantee, complementary to the four goals, was to undertake the following related tasks:

- Mobilize advocacy groups to generate inputs to the drafting and consultation processes;
- Monitor progress;
- Suggest improvements;
- Disseminate information to the general public; and
- Push for the selection of qualified justice sector leaders.

INITIAL ACTIVITIES

During the initial period of the project, the Contractors were supposed to carry out a number of baseline activities, and engage their Bolivian counterparts in dialogue regarding the existing situation and the implementation of tasks and activities under the contract. Checchi was to undertake the following activities:

- Conduct a baseline comprehensive study of the first four years of experience under the New Code of Criminal Procedure (NCCP), which entered into effect in 2001 (including statistical analyses of case flows, compliance with procedural deadlines; exercise of the right to counsel, costs of the system's operation; the quality of sentences; and the functioning of the jury system);
- Review studies done by previous contractors of particular aspects of the NCCP, such as public opinion; pre-trial detention; plea bargaining, and basic numbers of cases and judicial sentences;

- Evaluative sessions with key groups of stakeholders (including the main justice sector institutions, the VMOJ and civil society), using a highly participatory SWOT (strengths, weaknesses, opportunities and threats) based methodology;
- Hold inter-institutional sessions (following sessions in each institution), to share experiences and develop joint strategies; and
- Hold a well-publicized assessment and design seminar, at which the results of the foregoing would be presented and discussed.

Checchi, acting through its subcontractor SUNY/CID, was also charged with the following tasks in the legislative area:

- Prepare, implement and monitor a legislative reform strategy, prioritizing law reform proposals based on the assessment of CCP implementation referred to above;
- Provide technical and logistical assistance on legislative initiatives (to consolidate the reform of the legal and regulatory framework of the criminal justice system;
- Identify congressional committees to work with in targeting each law to be reformed, organize workshops and seminars on laws need to be reformed, and congressional seminars and retreats, with the participation of national and/or international experts, in order to seek consensus among the members of the Judicial Council and/or other *ad hoc* or permanent congressional committees;
- Assist the technical staff at the VMOJ in organizing and prioritizing the congressional agenda;
- Organize meetings, forums and joint working groups with civil society actors to work on themes to address in the legislative reforms; participate in activities to engage civil society and Congress to support legislative reform in the drafting and the approval process; and
- Assist in coordinating the legal reform work in the Congress with the work of the Justice Commission of the Constitutional Assembly to ensure that constitutional provisions are consistent with the legal reforms adopted or under discussion.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above:

- The political environment in 2005 was unstable, with the President of the Supreme Court, Eduardo Rodríguez Veltzé assuming the Presidency of Bolivia for seven months, and then resigning his position of President of the Supreme Court shortly after his return to the Court.
- The Contractor reported that the baseline assessment of the operation of the NCCP during its first four years was completed (see, e.g., Checchi Final Report, p.1)
- The Contractor reported that it completed an evaluation of the NCCP in 2009 “as required by the contract”, but has also explained that due to early termination of technical work under the contract the final work of the NCCP Evaluation systematizing the data (collected in La Paz, Cochabamba and Santa Cruz) was not prepared. (Checchi, Final Report, Executive Summary, p. ii)
- Evaluative sessions were held with key justice sector leaders and officials.

- Proposals were made to enlist departmental officials in conducting evaluations of the operation of the NCCP at the departmental level.
- It was not possible to establish a Legislative Strategy during the first year of the project, when legislative action was put on hold. The Contractor did attempt to work with the VMOJ in developing a legislative agenda, but during the first year most efforts were focused on continuing activities that were already underway
- Checchi did not activate its subcontract with SUNY/CID, but instead absorbed the entire legislative work itself.

Conclusions

These initial activities, some of which were more than initial in scope (particularly in the legislative area), set forth the central organizing concepts of the project. Checchi was to conduct a baseline assessment of the operation of the NCCP in the previous four years, and engage justice sector actors in joint sessions where the assessment would be discussed with a view toward developing consensus and support for reforms. Implicit in the formulation of initial activities was that Checchi would then assist in implementing agreed-upon reforms.

Conceptually, this approach made good sense in terms of developing and maintaining a real partnership with counterpart institutions, in which the latter would develop real “ownership” of the project and its planned activities. Whether this conception of the project was consistent with the very large number of different tasks Checchi was also called upon to perform during the life of the contract (2005-2010) is an important question, and one to which we shall return below.

The CCP Assessment of the first four years of operation of the NCCP was to be the lynchpin for the joint discussions with Bolivian Justice Sector leaders and with leaders from civil society which would determine the implementation nature of jointly-agreed activities to be carried out under the project.

The foregoing approach, laid out in the description of Initial Tasks, was in fact largely challenged by the vast number of tasks and activities that were laid out for the Contractor to perform under the SOW. In part, these extra efforts may perhaps be understood as a product of the good working relationship USAID, Checchi and the previous contractor had established with the Supreme Court, the Judicial Council, and other justice sector leaders.

In any event, the strategy for the project set forth in the Initial Activities Section was greatly stressed by the very large number of different tasks the Contractor was to perform under the SOW, and this was made more difficult when a new government and a new set of Justice Sector leaders took over.

Generally, Checchi reacted nimbly and very well in adapting to events during the first several years of the project, and thereafter, under challenging circumstances. Detailed consideration of the tasks and activities under each component and subcomponent of the project follow. These generally include the initial activities outlined above.

COMPONENT I: DEVELOPMENT AND PASSAGE OF LAWS

The purpose of Component I was to work to complete and consolidate the NCCP reform and the effective functioning of justice sector institutions under its provisions: development and passage

of laws and regulations still necessary for full implementation of the new criminal system. \$1.57 million dollars was budgeted for this activity. Checchi was to undertake the following activities:

- Develop and execute strategies to increase justice sector budget allocations by working with the National Judicial Council, Public Ministry, the Supreme Court, the Public Defender Office, the Vice Ministry of Justice, and the National Police, in close coordination with civil society to exercise pressure for reform;
- Develop and help secure passage of laws and regulations necessary for full implementation of the new criminal justice system;
- Develop Law Reform Strategy for presentation to Congress;
- Complete a Criminal Procedure Code (CCP) assessment to identify possible corrective measures, e.g., legislation, for implementation;
- Recommend reforms to the Criminal Code, the Misdemeanor Law, and the execution of sentences; the Organic Laws of the Judicial Branch, the Public Ministry, and the National Police, and their regulations; and a Law Regarding Impeachment, and constitutional legislation and other laws as required;
- Develop legislative reforms that facilitate the application of indigenous law;
- Conduct a Community (Indigenous) Justice Law Assessment;
- Develop a plan of action with Vice Minister of Justice (VMOJ) for implementing an Arbitration and Mediation Law Supreme Decree;
- Secure active participation of civil society organizations in the process of consolidating criminal justice system reforms; and
- Develop in coordination with Criminal Justice Network a Civil Society Participation Strategy, and report on the coalitions established including monitoring and evaluation of justice reforms (see component IV).

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above:

- During 2005 the political events in the country and the preoccupation of Congress with other matters led to a postponement of work with Congress.
- SUNY/CID was not asked to perform tasks under the contract. Eventually, Checchi took over direct management of the Legal Strategy component.
- Some of the tasks in the law reform area appear to be outside the SOW.
- Over the term of the contract provided assistance to the VMOJ with the preparation of a draft Criminal Code and a draft Misdemeanor Law; in the development and drafting of a national Criminal Policy, the design of a Victims Assistance System (VAS).
- Assisted in drafting and reforming the Organic Law of the Judiciary to consolidate the Integrated Justice Centers, and to recognize the competence of judges in the IJCs.
- Assisted a joint GOB and USG task force in drafting a Law to Combat the Trafficking and Enslavement of Persons, and the Law against Corruption and Money Laundering.

- Carried out significant work with congressional committees on the interface between the formal legal system and Indigenous Law working through its sub-contractor Partners of the Americas.
- Assisted in drafting the regulation for the Conciliation and Arbitration Law No. 1770, which recognized the conciliation services provided by the IJCs. The regulations make clear that the Conciliation Agreements may be directly executed in court, without being subject to a prior recognition and enforcement proceeding.
- Assisted the Special Commission on Indigenous Issues and Original Peoples of the Congress in evaluating the draft law on Citizen's Identity without Social Exclusion.

Conclusions

Following Checchi's decision to take over direct management of the Law Reform component of the project, various important activities were undertaken in the area of law reform, but a coherent Law Reform Strategy was never developed due to the changing nature of counterpart institutions.

Working directly with the legislature to lobby for specific reforms is a tricky area, and wherever possible, activities must be carried out in close coordination with government institutions.

COMPONENT II: INSTITUTIONAL AND ADMINISTRATIVE REFORM

\$5.8 million dollars and 1,414,000 Bs. were originally budgeted for Component II. However, after the Legal Security Component (Component III) was shut down in 2007 and funds were reprogrammed, the total amount budgeted for this Component was \$10.4 million dollars and 1,414,000 Bs.

Subsequent to its in-country work and preparation of the draft report, USAID supplied the evaluation team with the following disaggregated information: "(A) significant amount of funds was spent to strengthen the Judicial Branch and the Public Ministry, as well as in activities to improve access to justice through the creation of Integrated Justice Centers (IJCs) and Justice Houses. For example, the Program spent approximately \$4.8 million dollars in institutional strengthening activities with the Judicial Branch and the Public Ministry, which includes an investment of approximately \$1.2 million dollars in the establishment of Users Attention Platforms and Judicial Notification Centers. The Program's investment in the IJCs and Justice Houses is estimated at \$3.4 million dollars, which includes infrastructure, equipment, technical assistance and training. USAID also contributed to strengthening SENADEP (approximately \$940,000) and the IDIF (approximately \$350,000) through the provision of technical assistance, training and equipment to improve the services provided by these institutions. Additional USAID funds were utilized to carry out other activities and to cover operational expenses and administrative support to Program counterparts."

Public Ministry

Checchi was to undertake the following activities directed at the Public Ministry:

- Work with Attorney General and PM officials to develop a Strategic Plan, and then negotiate with USAID and the PM to determine which aspects Contractor shall assist in implementing;

- Include focus in the strategic plan on improving management structures, and providing training in management techniques and use of case-tracking software;
- Conduct an assessment of the PM to determine key problem areas and priorities as part of the study of the CCP implementation, to inform a comprehensive strategic planning process;
- Assist in developing and implementing agency regulations, reengineering administrative and operative procedures, and preparing practice and policy manuals;
- Enhance existing case-tracking system, procuring essential commodities and equipment to expand it to the national level, and encourage its integration into the same system used by the (FELCC) offices;
- As a high priority, develop and implement a strategy to improve coordination between the PM and the National Police through pilot and other activities;
- Improve Quality of Criminal Investigations by developing criminal investigations training modules, and an improved Manual on Joint PM/Police investigation procedures;
- Develop a National Anti-Crime Policy; and a PM Crime Prosecution Policy;
- Ensure Anti-Crime Policy in Place;
- Assist the justice sector (including VMOJ, the PM, the PDO, the Judicial Branch and the Police) in developing and implementing a National Anti-Crime Policy, to set priorities and guide prosecutors and police in their investigations and prosecutions;
- If national policy unfeasible, at least develop with PM an internal Crime Prosecution Policy;
- Create a Policy and Planning Unit within the PM;
- Strengthen Crime Policy Unit within the VMOJ;
- Facilitate the Forensic Investigative Institute's (IDIF) operation as the principal forensic laboratory in the country, developing sustainability strategy and recommendations for implementation;
- Conduct an assessment and then execute a strategy for providing necessary technical and logistical support;
- Develop and produce revised forensic organizational manuals;
- Secure agreement with the police to use ANAPOL equipment and premises as a complementary regional training center attached to the IDIF; and
- Develop training materials on forensic subjects, with recommendations for implementation.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above. The Contractor:

- Did a prodigious amount of work, particularly in the PM, but also in the Judicial Branch, the PDO, and with the Police.

- Met or exceeded virtually all of the benchmarks for the Public Ministry contained in its SOW.
- Conducted the PM Assessment, follow-up workshops, and other participatory activities, did an excellent job developing the Strategic Plan at the PM, and ably assisted with a number of activities in its implementation.
- Introduced an updated case-tracking system known as “i3p” in the PM that was implemented in all nine departments and also extended to the Special Crime Fighting Unit (FELCC) in all nine.
- Assisted in the development and implementation of the PM Crime Prosecution Policy.
- Assisted in developing inter-institutional agreements, first at the departmental level and then later at the national level. These included the Inter-Institutional Agreements to Improve Case-Handling (2008).
- Developed a Manual of Investigative Procedures (MIP) through a process which facilitated PM and NP cooperation and coordination.
- Assisted in creation of an Inter-Institutional Statistics and Information Systems Commission (IISIS), resulting in the regular production of reliable statistics from automated systems in all four justice sector institutions.
- Supplied equipment needed for the implementation of case-tracking and other statistics systems (including computers, and related hardware and software), and training in their use.

In addition to the above achievements, the Contractor also implemented other innovative solutions. Checchi:

- Developed, while meeting its other benchmarks with the PM, in close cooperation with the PM and various departmental PMs, innovative solutions to congestion of the criminal docket with less important cases, the need for closer cooperation between the police and the prosecutors, and the need to attend to the public, lawyers and other users of the system with modern, efficient solutions to a number of serious problems.
- Helped to implement “Alternatives to Trial” to help filter out an estimated 60 percent of cases which were of a less serious nature and which were clogging the system.
- Designed and implemented User Attention Platforms (UAPs) in the PM and in the National Police. UAP/USTs in the PM were implemented in eight department capitals (except Santa Cruz where they were implemented in the FELCC).
- Introduced the Cochabamba Pilot Project to Strengthen the Accusatory System in (2008-2009), which included design of a simple information system to define the status of detained persons (SIAPP). This model was incorporated into the PM proposals for reforms to the CPC.
- Designed Rapid Response Units (Unidades de Solución Temprana) (USTs) to lead to quick resolution of less serious cases, utilizing enhanced coordination between the MP and the NP. Forty percent of cases handled by the UST’s were resolved using “Alternatives to Trial” in less than 30 days.

- Designed and implemented Flagrancy or *In flagrancia* Units to deal with cases where the accused was caught in the act or other immediate and convincing proof was available.
- Distributed over 250 computers to various government offices, including the police, Public Ministry and the courts in an effort to share important case processing information throughout the system.

Conclusions

The Contractor reacted flexibly in the face of a changing political situation (impacting counterpart interactions), and did an outstanding job working in particular with the PM at the national level and in the pilot program in Cochabamba.

Contractor-led development and implementation of Platforms represent successful innovations to resolve fundamental problems in the processing of criminal cases. The Platforms also constitute significant advances in Police and PM coordination.

The Manual of Investigative Procedures, and the process that led to it, represent a significant advance in PM-PN cooperation and coordination.

The recipients of USAID computers and accessories wonder how the GOB will be able financially to replace the equipment after it becomes obsolete. The sustainability of the systems without outside funding is an open question.

The Judicial Branch

Originally it was anticipated that a World Bank-financed Institutional Reform Project (PRI II) would provide substantial assistance to the Judicial Branch. Consequently, the BAOJ placed a relatively higher priority on assisting the Public Ministry and the Public Defender's Office, which had very limited resources. The strategy was for the Contractor to target specific needs identified in coordination with USAID and the Judicial Branch. Such activities were to be consistent with the World Bank's project and closely coordinated with PRI II implementing entity or entities. However, the World Bank project did not materialize. Nevertheless, the following specific tasks were identified:

Assessment and Expansion of IANUS

- Ensure IANUS case-tracking system is institutionalized within the Judicial Branch and is being used in an effective and strategic manner by criminal courts, leading to increased effectiveness and efficiency in case processing.
- Conduct initial assessment of advancements in IANUS case-tracking implementation
- Based on assessment, determine needs for equipment and technical assistance to expand the system to the national level, and develop plan to expand to all nine judicial regions.
- Assist in expanding IANUS and support training in its use by judges and court staff, administrators and planners.
- Ensure production of updated and accurate judicial statistics on a regular basis.

Constitutional Court

- Assist in systematizing the Constitutional Court's jurisprudence in the criminal, commercial and administrative law areas.

Trial Courts (Criminal)

- Conduct workshops with judges, prosecutors and defenders to assist in preparing rules and an Evidentiary Bench Manual (EBM) to provide guidance on evidentiary issues during trial.
- Plan to incorporate EBM in institutional training plans; provide training on as needed basis.
- Assist in preparing and implementing docketing instruments.
- Design Pilot court docketing system.
- If Justice of the Peace Courts jurisdiction were created by the Judicial Branch, assist in designing and implementing model courtrooms, and with plan for implementing this jurisdiction (JP's could hear misdemeanor cases, facilitate mediation of conflicts, and form an integral part of Integrated Justice Center Model).

Training

- Ensure sustainable justice sector training institute (Judicial Training Institute) functions under long-term needs-based training plans.
- Develop Judicial Branch Needs Analysis and Training Plan (with participation of the Judicial Training Institute).

GOB Budget Support

- Facilitate increased priority given to Budget Allocations to Justice Sector by GOB.
- Include CCP financial recommendations in CCP Implementation Assessment, for presentation to relevant justice sector, legislative and executive decision-makers.
- Develop strategy to promote annual increase in GOB Budget Allocations for Judicial Branch, PM, and PDO.
- Prepare annual studies regarding GOB Budget Allocations to Justice Sector.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above:

- The IANUS case tracking system was extended from Cochabamba, Santa Cruz and La Paz to the national level covering all nine departments and four intermediate cities.
- The Contractor with counterpart cooperation developed and introduced in selected courts User Attention Platforms (Plataforma de Atención al Público and Plataformas de Atención al Usuario) and Notification Centers. These innovations led to increased efficiency in performing court administrative functions, provided easier access to the courts by the public,

and by increasing transparency and automating various decision points significantly reduced opportunities for corruption among Judicial Branch employees.

Innovations

- External Users Attention Platform (PAUEs) were developed and implemented in Santa Cruz, Cobija, Trinidad, Sucre and Cochabamba. The model has been accepted by the National Judicial Council for replication in other cities. These Platforms are modern, single-level centers which facilitate citizen access to the courts. They eliminate the necessity of users climbing the stairs to different courts to obtain travel permits for minors, submit briefs, and secure other permits and authorizations.
- The PAUEs, most importantly, have greatly increased transparency with respect to the administrative processes included in them.
- Significantly, the PAUEs have greatly reduced the time required to obtain a record of criminal conviction history (priors) under the Judicial Register of Prior Criminal Records (REJAP) system. Such records are often a requirement for employment.
- The Contractor assisted in the development and implementation of Judicial Notification Centers in the departmental capitals of Santa Cruz, Cochabamba and La Paz. Software was integrated with the IANUS system. Results have been significant, reducing the number of failed attempts to serve process from 2,456 to only 299 in 2008 in Cochabamba and increasing the number of notifications effected by 28 percent during the same period in Cochabamba.
- Introduced a pilot Flagrancy or special hearings section in the Cochabamba courts, where flagrancy cases are heard within 24 hours of the arrest.
- These innovations were successful, and highly appreciated by judges and other judicial staff interviewed by the team, in visits to the Public Attention Platforms in Santa Cruz and Cochabamba.
- The project worked with the agencies early on in the project to develop annual work plans, with budgetary implications.
- The project, along with others, secured a budget for the Public Defender Office, as noted below.
- As the project progressed, relations with the institutions did not permit further planning involvement with them.

Conclusions

The Contractor reacted flexibly in the face of a changing political situation (impacting counterpart interactions), while mostly meeting its benchmarks, and did an outstanding job particularly in developing the External User Attention Platforms (PAUEs) and the Notification Centers.

Police

The initial approach to strengthening the National Police as an institution was to focus on improving cooperation and coordination between the Police and the PM in criminal investigations, and on increasing knowledge of the CCP on the part of the Judicial Technical Police (PTJ) and other National Police components. Later, after resistance to change diminished, the Contractor was to

assist with other structural reforms in line with the new Organic Law. In addition, the following specific tasks were identified:

- Encourage negotiations and assist in implementing joint investigation policies and protocols;
- Produce best practices for criminal investigation coordination of activities, and assist in developing Manuals or Instructions (regulations) at the central level;
- Assist in developing and facilitating the conclusion of national level coordination agreements between PM and NP, and support these at the regional and district levels through committees and /or working groups;
- Support implementation of national level policies and coordination agreements. If high-level agreement were not possible, using a more bottom-up approach, work through allies within the National Police to select teams of prosecutors within local police offices to improve coordination;
- Work through improved coordination mechanisms at Integrated Justice Centers;
- Assist in producing practical manuals (including model forms and reports) to improve quality of initial police reports and chain of custody over evidence;
- Conduct a Police Academy assessment, produce a Training Plan in cooperation with the Police Academy, and assist in preparing and delivering training modules on the CCP and criminal investigations procedures;
- Facilitate sustainable training institute (Police Training Institute) that functions under long-term needs-based training plans; and
- Work with civil society to build pressure for meaningful reform.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above. The Contractor:

- Assisted in developing a long-term strategic plan.
- Established User Attention Platforms (USTs) and Rapid Response Units (Unidades de Solución Temprana (USTs) in the FELCC, in La Paz, Oruro, Cochabamba, Chuquisaca Tarija and Santa Cruz.
- Introduced “i3p” case tracking software into the PM/FELCC UAP units, where all cases are now registered on a mandatory basis by FELCC and the PM, eliminating much of the “cifra negra” or ghost numbers of unregistered complaints which had previously plagued the system.
- Donated information technology equipment.
- Distributed over 250 computers to various government offices, including the police, Public Ministry and the courts in an effort to share important case processing information throughout the system.

Conclusions

As pointed out in the Public Ministry Conclusions above, the Contractor reacted flexibly in the face of a changing political situation (impacting counterpart interactions), and did an outstanding job working in particular with the Police at the national level and in the pilot program in Cochabamba.

Contractor-led development and implementation of Platforms UAPs, USTs, and Flagrancy Units, coupled with integrated case tracking systems in the PM and the FELCC, represented highly significant advances in PM and Police coordination and cooperation.

The Manual of Investigative Procedures, and the process that led to it, also represented a significant advance in PM-PN cooperation and coordination.

COMPONENT III: ACCESS TO JUSTICE

The component Access to Justice focused on increasing access to the judicial process and provision of justice services, especially for the marginalized and disenfranchised, and had three different thematic areas:

1. Strengthening the Public Defender's Office by means of the development of a training school for public defenders, and the aid to set up four support offices for public defense in regions with large vulnerable groups.
2. Building and setting up Integrated Justice Centers (IJC) and Casas de Justicia (CdJ) in order to provide a variety of legal and social services, with several different national and local institutions serving the population.
3. Promoting the use of ADR (alternative dispute resolution) in order to provide more effective and cost-efficient resolution of disputes by strengthening the skills of conciliators and mediators in all justice institutions.

Of the above-mentioned thematic areas, the building and running of the IJCs was the most important.

Assistance to Public Defender Offices

A Public Defender's Office (PDO) is an integral part of access to justice, especially for the poor who cannot afford to mount an expensive legal defense against criminal charges brought by the State. The PDO, at the time the project began, was seen to be the weakest institution and least supported by the GOB, but was to be a principal counterpart institution. It is part of the MOJ. Frequent changes in leadership in the MOJ and consequently the PDO itself had left the institution with few well-motivated and experienced Defenders. When the project began, the MOJ was planning to privatize the services.

Checchi was to develop the PDO, helping to institutionalize it within the MOJ, by:

- Helping with the planning process;
- Securing an appropriate budget;
- Developing a training capacity;
- Automating the PDO information systems for case management, and

- Developing operating manuals.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above:

- Checchi helped develop and disseminate a long-term strategic plan for the PDO.
- Checchi/USAID paid fees and administrative expenses of the technical personnel supporting the Public Defenders (PDs) for a three month period because there were no GOB funds available.
- Checchi and POA successfully helped lobby for a 6,000,000 Boliviano annual budget.
- Checchi set up a Public Defender Training Institute and helped train PDs in courses developed by the project. However, after mid-2007, the PDO preferred to suspend further training assistance, even though there was no other backstopping available to the Institute.
- Checchi helped design a transparent selection process for new PDs, which was suspended in 2008.
- Checchi automated the PDO information systems, the i3d, in 7 of the 9 Departments of Bolivia.
- Checchi developed operating manuals and trained PDs in their use.
- A change in MOJ and PDO leadership at mid-point of the project significantly altered the relationship between the PDO and the Checchi/USAID project.
- The evaluation team was unable to interview anyone in the MOJ or PDO regarding this component of the project.

Conclusions

This component is a prime example of parts of the project being “overtaken by events” that were completely outside the control of Checchi/USAID.

It is entirely unclear if some, any, or all of the cooperation given to the PDO will have any enduring value. Even though there is now a six million boliviano budget, there is no guarantee that the poor caught up in the web of the criminal justice system will have a better defense in court.

When project circumstances change, it is better to wait and see how the circumstances evolve rather than try to mold them to project goals and desires.

Integrated Justice Centers

Checchi had the responsibility for obtaining the following results:

- Integrated Justice Center (IJC) model strengthened, consolidated and adopted by key justice sector and civil society actors as an important access to justice mechanism, functioning in part, with its own funding, with steps taken to ensure its sustainability at the national and local levels;

- Eight existing IJCs and at least four new IJCs strengthened and consolidated, increasing access to justice, facilitating coordination with and the participation of the civil society in the local justice sector in the communities where they function; and
- Increased use of ADR and promotion of customary indigenous law in regions where IJCs function.

In order to achieve the above-mentioned results Checchi had to produce a series of deliverables including: IJC Assessment; IJC Model; IJC Expansion Strategy; IJC Sustainability Strategy; IJC Long-term Planning Strategy; draft of IJC policy, law or decree, for possible enactment; participatory long-term action planning strategies in each existing IJC; inauguration of at least 4 additional IJCs; IJC Manual; plan to incorporate and monitor ADR and indigenous law activities in the IJCs; and strategy for active engagement of civil society in ADR activities in all IJCs.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above:

- The IJC concept was developed from models in Colombia and other countries such as Peru and Guatemala, and creatively adapted to the Bolivian context. IJCs were generally built in marginalized communities, serving populations that only with great difficulty could approach a formal court. The IJCs were to be staffed by several different national and local institutions, including judges from the court system, prosecutors from the Attorney General's Office, public defenders, forensic doctors, and trained conciliators from the Ministry of Justice. Law students provided voluntary free legal aid in Legal-Aid-like clinics. Some IJCs also provided some social services, providing social workers and psychologists. The municipalities provided land and some operating costs while USAID provided construction costs, equipment, and technical assistance.
- Early on there was a major change in the project when the MOJ required Checchi/USAID to pay the fees and operating costs of the IJCs, which was a marked departure from how the program was originally conceived by USAID and agreed to by the MOJ. Checchi/USAID paid the coordinator, mediators, and legal services attorneys in each IJC until May, 2009. Checchi/USAID also paid the fees of MOJ legal assistants and coordinators in the Casas de Justicia from May 2006.
- Checchi/USAID paid for the design and construction of four IJC buildings, following the MSD pattern, in Yapacani and Plan 3000 (Santa Cruz), as well as in Coroico, and Max Paredes (La Paz.)
- Checchi/USAID also provided assistance in constructing and equipping shelters for women victims of violence in Plan 3000 (Santa Cruz de la Sierra). Although there was an agreement that the MOJ would provide staff and pay on-going expenses, so far personnel and other necessities have not been provided. The structure sits unused.
- Some of the physical infrastructure of the IJCs was built in collaboration between USAID and the British development group. In Plan 3000, the British donated the materials and USAID provided the labor. However, building repairs to leaking roofs have not been provided by the MOJ or municipality, as visually noted by the evaluators at the time of the visit.
- Very importantly, one law, 3324, promulgated in January 2006 and two decrees, 28471 (November 2005) and 28586 (January 2006), were issued institutionalizing the IJCs.

- The IJCs and CdJs were instrumental in bringing Alternative Dispute Resolution mechanisms to a population that had very limited access to the formal justice system. More than 23,000 persons benefitted from conciliation through them.
- Some 107,409 cases were given attention in the 11 IJCs from January 2005 until June 2009, with an average national total of 119 cases every day. Of these cases, some 86,529 were resolved.
- The services provided during the first six months of 2009 in the IJCs were: Legal Orientation – 36.9%; Mediation – 28.2%; Legal Advice or Sponsorship – 27.9%; and Forensic Medicine – 7%.
- Currently the IJCs appear to be functioning with funds from the justice sectors involved as well as some of the municipalities in which the IJCs are located, helping to assure their sustainability, even if some might be functioning at a reduced level of service.
- Some benchmarks (e.g. the consolidation of 11 IJCs) were not completely achieved due to adverse circumstances outside of Checchi’s control, such as the requests for withdrawal of USAID’s projects from conflictive zones. Some of the interviewed persons considered that some preventive steps might have been adopted by USAID and Checchi to involve the municipalities more, as was done in Caranavi, to keep them open under municipal auspices. Given the complexity of the circumstances, however, there is no evidence that any effort could have prevented the closings described above. At the same time, USAID reports that due to Checchi and USAID’s preventative steps, all 11 IJCs are working under municipal auspices, with funding from both the national and the municipal levels. The evaluation team, which visited one IJC in El Alto and another in Santa Cruz, was not able to determine the degree to which and the manner in which the other IJCs function.
- After the Checchi handoff to the MOJ, the IJCs that the evaluation team visited (El Alto District No1 and Plan 3000) appear to have adapted to the circumstances that changed during the period under analysis. For example, i) each center emphasizes attending to the requirements of their respective target-populations, and ii) in view of the judicial workload in the IJCs, the judicial and the mediation/conciliation personnel in both IJCs, promoted the application of ADR mechanisms in matters generally handled by judges in geographic areas that did not have IJCs.
- Notwithstanding the above, a number of the interviewed persons reported that some of the judicial authorities in some of the IJCs tend to be inflexible, ritualistic and excessively restrictive in the interpretation of the law and, consequently, become an obstacle to the implementation and execution of mediation/conciliation as a mechanism to reduce the judicial workload. For example, some judges are reported to put obstacles to a swift recognition of the mediation agreements in Family Law, in spite of the existence of a specific regulation –instructive 04/09- on the matter that permits them to do so.
- Both IJCs visited had used volunteers from the community to help orient the public at the Centers. The Center’s reported different experiences: interviewees at one Center said that sometimes the Volunteers siphoned-off the “clients” for their own personal gain; respondents at another Center reported that the Volunteers very much helped the Center.
- Even given the obstacles mentioned above, persons interviewed unanimously highlighted the paramount importance of mediation/conciliation as the major component in the IJCs.

- In that vein, according to some interviewees, one of the immediate threats to the sustainability of the impact of the IJCs was the dismissal in 2009 of a large part of the mediators trained by Checchi. This training represented considerable effort and funds which have been lost to the IJCs. In the opinion of some interviewed persons, the new mediators are not as well trained as the former. Nevertheless, although it is risky to generalize from so little data, team interviews with a new mediator appointed by the MOJ and with a former mediator, conclude that the new mediators have been trained well to assume their functions. It is worth noting that the massive dismissal of personnel is not uncommon in Bolivia with changes of governments.
- The Danish Development Agency has committed to help the MOJ in building new IJCs (or Integral Justice Services as they call them), with an emphasis on infrastructure. At least the concern regarding equipment may be addressed by such cooperation. The Danes have a pre-start agreement with the MOJ as to exactly what each part will provide. The Danes will provide salaries for some personnel for a defined period of 18 months.
- Adequate performance monitoring systems are in place and those systems include the disaggregation of data by gender, socio-economic status and ethnic groups. In that regard, statistics show that the disadvantaged groups are the most benefitted by the services provided by the IJCs.

Conclusions

For the most part, given the political upheavals and considering that the program was shutdown prematurely, Checchi met the benchmarks. So far, the IJCs and CdJs continue to be adopted by the key justice sectors: Judiciary; Public Ministry; Ministry of Justice and civil society actors as an access to justice mechanism. The laws and decrees to perpetuate them are in place.

The impact of the IJCs and CdJs on access to justice is substantial since the number of cases handled by the IJCs grew consistently over time, with the unique exception of the period during which the mediators/conciliators were let go and new mediators were appointed by the MOJ. USAID-approved statistics from Checchi show that there were 106,962 users who visited the Centers for a variety of reasons. Of those, nearly 60 percent were women, and 65 percent were indigenous. Nearly 23 percent of the users were provided with legal aid services, 21 percent were provided with mediation/conciliation services, and more than 7 percent with forensic services. In addition, the studies cited in the Memoria (2005-2007) and the Final Report of Checchi show that the perceptions of the target-populations towards the IJCs and CdJs are overwhelmingly positive. During the team visits to two IJCs, the team witnessed the positive results of conciliator work and how it affected the lives of those who almost certainly could never get relief in a formal court.

If all the MOJ mediators are as well trained as those interviewed, the negative impact of the abrupt replacement of mediators will be diminished as the new mediators gain experience.

The use of Volunteers needs to be monitored carefully so as not to hamper the reputation of the Centers themselves.

One of the major risks for the IJCs is their very success since the number of personnel assigned to them by the GOB may not be able to handle all the requests made by the population, especially if the number of cases continues to increase and the number of IJCs and/or personnel continues the same. For example, there are only two judges in the Plan 3000 IJC, and their case load is stagger-

ing. That is the only IJC for a population of 300,000 persons, while El Alto, with a population of about a million, has 6 IJCs.

The main obstacle to guarantee the sustainability of the IJCs is GOB budget limitations. The team found that some key positions (e.g., Legal Advisors) are vacant. In addition, a number of the persons interviewed in the IJCs manifested their concerns that the MOJ budgetary capacity to replace the USAID donated equipment (computers and printers) that is currently deteriorating will not be sufficient.

COMPONENT IV: PROMOTION OF LEGAL SECURITY

A third component of the BAOJ Project aimed at promoting and implementing commercial and administrative law reform to provide “Legal Security” by enhancing the transparency, consistency, and predictability of judicial decisions in the commercial or business law arena. By enhancing legal security, it was hoped that the business and investment climate in Bolivia would be improved. In this area, USAID was the principal donor, with the Supreme Court and the Judicial Branch fully involved. Under the Contract with Checchi, this component was budgeted at \$3,899,137 dollars for the first 4 years of the program, with an option of \$921,349 for the fifth year that was not exercised, for a total of \$4,820,486.

Checchi had the responsibility for obtaining the following results:

- Checchi, with its Subcontractor, SUNY/CID was to assist in consolidating legal framework reforms in the commercial and administrative law areas, to the extent possible within the first two years;
- Conduct an assessment of the Legal Security situation, develop a Legal Security Law Reform Strategy and through an ad hoc Congressional Committee, secure government support from Judicial Branch and VMOJ, and present the Strategy to Congress;
- Provide business organization assistance (Corporate Registry and Government Authority for Companies), and training;
- Make recommendations regarding reforms of the Commercial Code, the draft Civil Procedure Code (incorporating oral procedure), the Arbitration and Conciliation Law (as needed), and the Administrative Procedure Law;
- Establish a Commercial/Administrative Law Network (CALN) and coalitions, and jointly develop a Civil Society Participation Strategy (largely to be accomplished through its subcontractor POA);
- Work with selected law schools offering civil, commercial and administrative law courses, developing a Law School Action Plan, a civil, commercial and administrative law curriculum, and recommendations for its implementation in at least three law schools;
- Conduct Assessment of commercial and administrative law jurisdictions;
- Develop Model for specialized Administrative Law and Commercial Courts, and design of pilot model courts;
- Develop training in Commercial and Administrative Law areas, and evaluate training; and
- Develop Public Information and Dissemination Plan regarding the Commercial and Administrative Law Jurisdictions, evaluate same, and conduct annual public opinion survey reports.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above. The Contractor:

- Vigorously pursued the achievement of its benchmarks under the Legal Security Component of the project. Although there was a dynamically changing political environment and changes at the Supreme Court, Checchi did an excellent job in carrying out the tasks it was charged with performing under the Contract, up to and until March, 2007, when USAID informed it that activities were to cease because of budgetary limitations.
- Provided, at the request of the President of the Supreme Court, in a very short period of time a revised draft Administrative Procedure Law (Ley de Jurisdicción Contencioso-Administrativo), which was endorsed by the Court and submitted to Congress. Unfortunately, the Congress did not give the bill a high priority, and it had not been passed by the end of the project.
- Assisted in the presentation of draft amendments to the draft (1997) Code of Civil Procedure which was before the Congress, and assisted in drafting of a new Notary Law.
- Reviewed the draft Commercial Code prepared by the Cámara de Industria y Comercio (CAINCO) and recommended changes; this activity was not completed.
- Conducted an Assessment of the Legal Security situation, focusing on civil and commercial law cases, and an excellent volume entitled, “La Justicia Civil y Comercial en Bolivia: Diagnóstico y Recomendaciones para el Cambio,” (in English, “Civil and Commercial Justice in Bolivia: Diagnosis and Recommendations for Change”) was published by USAID and the Supreme Court and widely distributed. The study contains important empirical information, contains a chapter on Bankruptcy, and also recommends the introduction of orality in civil and commercial proceedings, creation of a specialized Commercial Law jurisdiction, reform of laws governing bankruptcies, the greater use of conciliation in judicial proceedings, and greater training in the commercial law area.
- Started forming by 2006, the CSO network and a number of organizations and NGOs had expressed a desire to join.
- Trained judges and others in the commercial and administrative law areas, and was engaged in developing curricula proposals with law schools.
- Published, through POA, a handbook for use by citizens in asserting their rights against the State.

Conclusions

Checchi achieved a great deal in a relatively short period of time, and was largely meeting its benchmarks when the Legal Security program was halted.

This component was important to the overall success of the BAOJ project due to the fact that it enlisted enthusiastic support from many private sector actors, while also furthering the goal of improving the investment and business climate in Bolivia, which may be shared by the GOB.

It may be unrealistic to assume that the criminal courts can be reformed while ignoring the civil courts. As designed, this component added to the project a balanced approach that may have built broad support in civil society for both criminal and civil court reforms in the Judicial Branch.

Alternative Dispute Resolution - Tasks (Arbitration and Conciliation)

Under the Legal Security component, Checchi also had the responsibility for obtaining the following results:

- Work with partner organization, the National Chamber of Commerce, to develop plan to replicate/strengthen arbitration centers (expanding beyond existing centers in La Paz, Santa Cruz and Cochabamba (to Oruro, Tarija, Potosi, Chuquisaca, Beni and Pando), through local Chambers of Commerce;
- Develop administrative procedures following UNCITRAL rules, train arbitrators, publicize and monitor activities, and evaluate three strengthened arbitration centers;
- Conduct assessment of Cochabamba court-annexed mediation model;
- Acting with Mediation Working Group in the Supreme Court/Judicial Council, encourage replication to seven other judicial districts (at rate of two per year);
- Conduct evaluation of three court-annexed mediation centers;
- Working primarily through IJCs, support mediation centers and activities;
- Conduct assessment (part of IJC assessment), and develop action plans for existing and new IJCs;
- Facilitate and track increase in number of cases resolved through ADR. Design and implement automated data bases; develop and evaluate implementation of data base;
- Develop National Level Dissemination Plan regarding arbitration and mediation. and
- Develop dissemination plans regarding community-based mediation in existing and four new IJCs.

Findings

Below are summarized the most important findings relating to activities undertaken to reach the broader tasks set forth above:

- Checchi conducted the assessment of mediation and arbitration centers.
- Expansion of the number of arbitration centers was not possible in the time available.
- This project sub-component was halted when the Legal Security Component was suspended for budgetary reasons.
- Support for conciliation (mediation) in the IJCs was highly significant, including training of conciliators/mediators, as reported above.
- Strengthened seven existing conciliation and arbitration centers.
- Currently projected laws, at least in draft form, seem to require court supervised arbitration

Conclusions

Mediation and arbitration are important ways to unclog dockets and relieve the caseload of over-worked judges. It was unfortunate that the number of arbitration centers could not be increased during the life of the project, although significant arbitration and mediation was provided in the IJCs.

COMPONENT V: INCREASED CIVIL SOCIETY PARTICIPATION IN JUSTICE REFORM

Partners of the Americas (POA), a United States NGO, when the project ended had had a seven year relationship with USAID/Bolivia. POA was first an independent grantee, and later a sub-contractor to Checchi. Nevertheless, even as a sub-contractor, POA presented grant proposals independent of Checchi to USAID which were funded. Given that both organizations closed their offices before the evaluation began, it is difficult to assess their true working relationship. It is clear that they both worked generally toward the same goals, but had differing activities in trying to reach them. POA also had completely separate administrative staff and procedures. POA grants totaled more than \$3,000,000.

The POA program rubric was: (The) Citizens Working for Justice Program (PCTJ). In the two years prior to the evaluation period, POA goals were to develop, train and mobilize a network of civil society and other organizations. By 2004, POA had already created the first of these networks, the Participation and Justice Network (PJN). Thus, this focal group already existed before the Checchi contract was signed. A second goal was to implement massive public information campaigns allowing citizens to know and benefit from the judicial reforms, specifically the reforms to the Penal Process Code that had also gone into effect before the contract was let. A third goal was to create and mobilize coalitions of civil society and other organizations to influence public discourse on the justice system generally. Yet a fourth goal was to create a method for civil society groups to monitor judicial sector institutions and the implementation of criminal justice reforms.

As with the larger Checchi project, the quantum change in the justice sector scenario after the 2005 presidential elections significantly affected POA activities. Beginning in 2006, according to project reports, the GOB began to question the cooperation given by USAID to the executive branch, i.e., the Ministry of Justice and the Prosecuting Attorneys (Fiscales). As a result, POA concentrated more on transparency in the judicial branch, including the National Electoral Court which supervised three national elections during the course of the project.

Tasks Proposed in the Grants (2005-2010)

Generally, the tasks fall within the Strategic Objectives and Intermediate Results set forth in the USAID/Bolivia Country Strategic Plan 2005-2009. These tasks were to:

- Promote an independent, inclusive and capable Justice system;
- Strengthen Democratic Institutions and practices;
- Support a process that identifies key issues at the heart of needed justice reforms, especially as it related to improving access to justice of the more disadvantaged;
- Create a dialogue process that would advance the discussion on indigenous community justice within the judicial branch and the population in general;
- Educate citizens on human rights and the limits of indigenous justice to reduce lynching and increase the respect for human rights;
- Improve access to justice for women victims of violence; and
- Support efforts to eradicate corruption by increasing transparency within the judicial branch and citizen oversight in democratic processes

Findings

Below are the most important findings relating to activities undertaken to reach the broader goals set forth above. While documents and respondents generally ascribe the activities to the Participation and Justice Network, (PJN) the activities were all undertaken with POA/USAID funding. Additionally, POA key staff personnel were members of the PJN Board of Directors. Thus, the findings here appear as POA contributions. POA:

- Created the Participation and Justice Network as a result of a grant previous to this project period. Some of the network organizations had a long history of advocacy and financial backing before participating in the Network. About 80 percent of the groups joining the JPN were NGOs, about 3 percent were universities, and the rest other civil society organizations. However, as a founding member and holder of the purse, POA was “first among equals.” POA key employees not only sat on the Board of the Network, but were also responsible for organizing competitive bids for sub-grants to Network member organizations. At its peak, the Network included more than 100 institutional members, but at the end of the project, the number had been reduced to about 30. Of those, only seven or eight were active at the time of the evaluation, according to some interviewees. Also, according to interviewees, the largest and strongest groups rarely participate now.
- Interviewees stated that the process of obtaining grants was not too burdensome, but that in at least some cases POA financial supervision bordered on the ridiculous. For example, one group reported that it had to turn in receipts for expenses as low as 2 bolivianos, and if seeking reimbursement for taxis had to report the point of departure to the point of arrival, with the exact mileage and signature of the taxi driver on the receipt.
- Worked diligently with individual organization members of the network, both to qualify them for sub-grants and strengthen their internal organization and public projection.
- Propagated information through the networks regarding the new Penal Procedure Code to a large public audience. As part of its efforts, POA worked with journalists to promote articles in the press on a variety of justice related issues.
- Created the Citizen Oversight Project (Veedurias Ciudadanas) which monitored the entrance exams given to 283 candidates for Prosecutor positions as well as monitored the promotion exams of 48 Prosecutors. In 2007, the Citizen Oversight Project was invited by the Congress to monitor the selection of judges of the Constitutional Court, the Supreme Court and the Elections Court.
- Instituted the Voluntary Transparent Courts Program, through which 211 judges voluntarily make available to the public on a website their decisions. This activity involved Courts, law professors and many law students.
- Created and financed Bolivia Transparente, a group of NGOs that had as its main focus judicial and electoral process transparency. This group recruited, trained, and positioned over 3000 volunteer poll observers and reporters for three very important national elections, including in 2006 for Constituent Assembly, in 2008 presidential recall plebiscite and 2009 for the adoption of a new Constitution. Many of these observers were university students.
- Began a data collection process to determine the extent of violence against women. Preliminary data, while incomplete and unverifiable, was shared with justice sector institu-

- tions and other organizations interested in the topic. The final statistical study was suspended when the grant was stopped by USAID in 2009.
- Funded an Anti-lynching program which won the attention of the Ombudsman and the UN High Commission for Human Rights, to work together to promote lynching prevention.
 - Fomented discussion, as a sub-contractor to Checchi, about indigenous law, and its relationship with formal codes and procedures, at the national level, holding a conference for proponents of both systems in order to promote understanding of each other's opinions. As well, POA presented information about indigenous law to the Constituent Assembly which was used by it in formulating the new Constitution. As part of the national debate, POA collaborated with the Konrad Adenauer Foundation in publishing a series of papers on the subject.
 - Developed multi-lingual jingles promoting understanding of the indigenous legal system broadcast on two radio stations, and gave workshops for over 100 journalists about formal and indigenous legal themes.
 - The administrative budget of the Participation and Justice Network, with the explicit permission of the GOB, will be paid by the Danish Development Agency for the next 18 months, when the Danes plan to close their justice sector programs in Bolivia. At that point, the Network will need to seek funding from other sources.
 - At the time of the evaluation, Bolivia Transparente has not found funding to replace that which it received from POA, although it hoped to receive some funding from other international organizations. Nevertheless, even after the project was closed, Bolivia Transparente continued some poll observations for the municipal and regional elections, at a much reduced level, on its own.
 - As in other components of this evaluation, many stakeholders opined that the situation between the Government of Bolivia and the Government of the United States severely hampered completing projects, even before the program was closed.

Conclusions

It is clear that a number of worthwhile activities were developed and financed by the POA project.

The involvement of thousands of ordinary citizens in public activities, such as election monitoring and conciliatory activities was important in helping them to appreciate their citizen responsibilities for Bolivia's future. The involvement in election and judicial transparency of hundreds of law students helps them understand the need for transparency and accountability in public institutions.

It is less clear that the institutions created by POA will be sustainable even in the near future. While POA worked with its Network associates on how to build internally their own organizations, POA does not seem to have educated the NGOs, either alone or in the Network as a group, to raise funds both in Bolivia and through other international donors for long-term viability. The short-term financial aid from Denmark will not be renewed if, as planned, Denmark stops its development aid to Bolivia. In the long-run, Bolivian NGOs will need to find funding from local sponsors.

III. Cross-Cutting Project Issues

One of the cross-cutting project issues is that of improved popular perceptions of the judiciary. Two studies financed by USAID in 2004 and 2006 (Auditoria de Bolivia) show only a slight improvement in the public perception of the judiciary. Additionally, a Gallup poll published in 2010 shows that corruption in the judicial sector, including judges, prosecutors, and police is still seen as rampant. For example, from 2004 to 2010, the levels of confidence in the judiciary have remained basically constant. Some 67 percent of the persons interviewed had paid a bribe to a policeman to avoid a traffic violation ticket, and 41 percent had said that they had paid a bribe in the Public Ministry to avoid indictment.

The impact of the projects on women and children has been dramatic in terms of individuals who have used the conciliation/mediation services of the IJCs. They have benefited from the ability to rapidly get to agreement on child support payments from delinquent fathers. Additionally, the work on Gender Based Violence against women, promoted by POA, while much remains to be done in the area, has fostered greater societal recognition of the problem and redressed many individual cases through the courts and the IJCs.

GENERAL CONCLUSIONS

Progress in Meeting Program Benchmarks

As indicated above in the sections corresponding to specific program components, Checchi and POA did a good job in meeting their benchmarks, in a dynamic environment characterized by ongoing and significant political change, including changes in the counterparts with whom the contractors needed to work. In a complicated project like the BAOJ project, forward progress always depends on the actions of counterpart institutions. The benchmarks, results, and timelines established for yearly implementation followed the requirements of the contract, which itself may have been overly ambitious in terms of the breadth and number of activities that the contractors were called upon to perform, especially when the Bolivian institutions changed project course.

Impact of Activities

The impact of the activities implemented under the BAOJ program has been significant, particularly in the area of Institutional and Administrative Reform and Access to Justice. Institutional and Administrative Reform has significantly strengthened the administrative capacity of the Attorney General's Office and the Public Ministry at the National Level, while making important advances in crime prosecution policy, investigative techniques used by prosecutors and the police (using a common manual), and inter-institutional coordination between the prosecution and the police through the integration of computer systems and close cooperation at the User Attention Platforms, FELCC, and Rapid Response Units, described in more detail above. At this point, sustainability is fully in the hands of the GOB institutions.

Checchi's help in the design and implementation of User Attention Platforms in the courts has had a significant impact on accessibility to the courts for the services those platforms provide, including importantly, a sharp reduction in the time required to obtain criminal record reports which are often required to obtain employment. An innovative program in Cochabamba has introduced rapid access to information on the status of detainees. Special courts have also been designated to receive cases from the FELCC/Flagrancy Units, allowing for rapid arrest and arraignment before a judge of suspects apprehended in flagrancy (*in flagrante*) cases.

The introduction of Notification Centers in various courts has improved the efficiency of notifying parties, while greatly reducing a significant source of corruption. Sustainability will in part require GOB funding to replace computer and other equipment when that provided by the project requires replacement.

While Checchi worked productively with the Public Defenders Office (SENADEQ), the sustainable impact of this work may have been lost, and in any event is difficult to assess, following the GOB decision to halt training activities in 2007.

A highly significant success of the program was the work done to expand and improve the Integrated Justice Centers and Casas de Justicia. By supporting conciliation (mediation) at the IJCs, providing legal orientation and guidance on what to do (and where to go if the IJC could not help), assisting users in formulating legal actions where appropriate, and having immediate access to a judge on the premises, the program greatly expanded access to justice for women and children (e.g., through child support) as well as men, and in general disadvantaged groups including those in rural and conflict areas, which otherwise would not have had access to legal services.

While mediation of conflicts in the IJCs provides room for the parties to formulate their interests and demands in a manner that reflects indigenous or community standards of justice, the IJC model is ultimately anchored to the formal legal system. It does not itself address the more fundamental issues which the society and the GOB must resolve relating to the integration of indigenous and community norms of justice with those of the formal legal system, including human rights protected by the constitution and international agreements. Importantly, these cover human rights protecting women and children. POA conducted some activities dealing with these broader issues, helping to lead the way to what will be a continuing examination of these subjects by the GOB.

The challenges associated with the IJCs and Casas de Justicia are primarily related to the requirements for sustainability and expansion of the IJCs to additional communities. As noted above, the Danish government is assisting in the expansion for the next 18 months. After that, it would appear that the GOB will be fully responsible for their sustainability.

Communication and outreach activities of the IJCs were impressive, and had a significant impact on awareness in the community of the existence of the centers and the services provided by them. Information on public attitudes showed that the IJC's were in general highly regarded by members of the community.

The Legal Security Component of the project, which encompassed both civil, commercial and administrative law reform, and the promotion and support of alternative dispute resolution (ADR) programs, made significant achievements until it was terminated in 2007 for budgetary reasons. Several assessments and two books were published by the project, while a number of workshops were held. What can be said is that Checchi did an excellent job in meeting its benchmarks in this area, laying the foundations for sustained achievements later in the project. While this component was halted in 2007, the work that has been done provides a good starting point for future work in this area. Since the establishment of a good business climate is essential to attracting foreign investment, this may be an area in which the GOB could express an interest at some point in the future.

The one area in which ADR did make very significant advances was in the IJCs, where training in mediation techniques was successful, mediation (conciliation) was effectively implemented, and decrees recognizing the immediate enforceability of settlement agreements were issued.

The Legislative Reform component (Development and Passage of Laws) was less successful than other components of the project. Significant advances were made, as with the decree recognizing the authority of judges in the IJCs to handle both family and criminal matters, and the decree recognizing conciliation (mediation) settlement agreements as immediately enforceable. However, the broader goals of this component were largely not achieved (e.g., passage of the Administrative Disputes Law). This was the result of the dynamic political and legislative environment in the country, and not directly attributable to Checchi or POA. Support for action in the legislative arena is by its very nature sensitive.

Public opinion surveys in general do not reflect a positive image of the courts or the justice sector institutions. More specific surveys targeted at IJC beneficiaries, or users of the User Attention Platforms in the courts, would probably show a significant improvement in perceptions of these institutions by individuals who had actually used them.

Training provided by Checchi has been aimed in large part at training the personnel who will use new systems (e.g., IANUS, i3p, i3d, User Attention Platforms, Notification Centers, Public Ministry User Attention Platforms, Rapid Response Units, and FELCC Flagrancy Units) in the use of new procedures and computer systems integral to them. This is a highly focused and effective form of training. Beneficiaries are continuing to use the skills they have learned, though sustainability issues arise as a result of the replacement of personnel and equipment.

Program Sustainability

Significant sustainability issues have arisen as a result of the early termination of project activities in September 2009.

In the IJCs and Casas de Justicia, as described above, activities continue with the positions of coordinator and conciliators and administrative expenses being funded by a combination of central government and municipal government resources. As mentioned, the Danes are also assisting, primarily with the construction of new IJCs, over the next 18 months.

It is unclear how well the new personnel will succeed in transmitting the mediation skills and other processes introduced at the IJCs to new personnel, particularly over time as memories fade. Much will depend on the nature and amount of new and continuing training provided by the GOB and municipal sources.

A second area of concern is the issue of whether the IJCs will continue to have a clearly defined mission, or whether their functions will be expanded (as witnessed at Plan 3000 in Santa Cruz, where support of handicapped individuals and certain consumer protection functions were added), with the possible corresponding dilution of the central focus on dispute resolution and access to the judicial system.

The impact of training under the Institutional and Administrative Reform component of the project is likely to continue so long as trained personnel are retained. In the computer and statistics areas, in particular, sustainability appears to be in reach, as long as computer systems are updated and trained personnel are retained.

With regard to POA network groups, it appears that they will be significantly less sustainable. Some had not identified sources of continuing financial support, and the Participation and Justice Network had administrative funding promised for only a few more months.

Performance Measurement Systems

As reflected in the reports and information available to the evaluators, the Performance Measurement Systems give good data on project results. The data reflect the numbers of persons affected by the projects, and appear to be disaggregated by gender, rural populations, conflict areas and other population segments. However, because there were no project offices still open, it was impossible to review the original documents from which the reports were prepared.

The same is true about the monitoring systems effectively tracking, monitoring and reporting on results attributable to program activities.

The Public Ministry and MOJ, through the IJCs, maintained statistics relevant to the program and those appear to have been available and used by the contractors.

LESSONS LEARNED

A number of the lessons learned in implementing and evaluating the project have been discussed in the previous sections. Lessons learned of particular importance include the following:

- The initial activities were developed to facilitate the collaborative agreement on project elements and activities and strategies for their implementation with Bolivian institutions. Given the very detailed and ambitious list of results and deliverables agreed upon, particularly after changes in government, it was important to have a sharp strategic focus in the most important project elements and activities, and to not attempt too much.
- No one project itself should attempt to solve all of the problems of Bolivian Judicial institutions.

Directions the GOB and USAID Might Want to Consider in the Future

Areas in which the GOB might wish to consider cooperation with USAID and/or other donor agencies include the following public administration areas:

- Maintaining the computer systems that have been developed for IANUS, i3p, i3d, and the refinements that permit the Special Attention Platforms in the courts and the Public Ministry, Rapid Response Units, the FELCC flagrancy units, and the work of the IJCs and Casas de Justicia, and helping to replace aging equipment.
- Assisting the government with the extension of these innovative solutions to other parts of the country, helping to provide computers and related equipment, updated software, and training of officials in its use.
- Consideration of how some of these case tracking and management solutions might be extended to the civil courts. Ultimately, there may be a limit to the extent criminal courts and the criminal justice process can be modernized if civil courts are not also improved.
- USAID could undertake, if the GOB desired, completing the write-up of the 2009 NCCP evaluation, which could provide the GOB with important diagnostic information which would help it in identifying major problems and devising solutions.

- Explore the desirability of assisting in the area of business law, which is important to attracting foreign investment, not only from Europe, North America and Asia, but also from other MERCOSUR countries. Reform to civil, commercial and administrative laws may be indicated in order for Bolivia to keep up with developments with other countries in the region, and to maintain and improve its competitiveness. Bankruptcy reform is one area where there appears to be a particular need. The Legal Security component of the project has laid the groundwork for future projects in this area, including strengthening the ADR systems, which would reduce court caseloads and improve dispute resolution in ways which enhance the investment climate of Bolivia.

IV. RECOMMENDATIONS

A well-functioning, fair and accessible Justice Sector is critically important to the future of a democratic Bolivia. Some key actors in the Justice Sector expressed their desire for continued cooperation with USAID, but permission given by the GOB, and clear operating rules, still would be required. USAID should respond positively to any future request from the GOB.

Future involvement should focus on the kinds of technical issues which have been successful so far, rather than advocacy issues. Expansion of the IJCs and CdJs is required to provide more access to justice for the poor.

At the same time, USAID must be certain that there is Bolivian institutional ownership of any project before USAID commits resources, and that it does not develop “turn key” operations that Bolivia is expected to take over at some undefined future date, with some undefined financial obligation that was not clearly spelled out. At a minimum Bolivian institutional ownership should include a commitment to pay and maintain key trained personnel on staff, as well as maintain and/or replace key equipment and systems elaborated after USAID involvement ends. The best way for this to happen is that Bolivian institutions be required to put up financial resources at the beginning of the program, and that they budget for continuation of the program after USAID finishes its commitment.

If Bolivia wants to attract foreign investment, as stated, then it will need legal security for investors. Should there be an opportunity to continue the work in this area, it would be of high importance for the development of Bolivia.

Significant gains have been made in establishing new mechanisms that enhance citizen access to justice, while reducing opportunities for corruption and increasing the efficient use of justice system resources. USAID might consider ways to assist the GOB and counterpart institutions in maintaining these achievements. One way to do this would be to find a way to maintain a website where current operators of the system would have access to the books, manuals, guidelines and other materials developed during the life of the project reviewed. This could be done simply as a goodwill gesture.

ATTACHMENT A: SCOPE OF WORK

C.1 BACKGROUND

Bolivia in the Current Juncture

Poverty and inequality continue to present major challenges to sustainable development in Bolivia. Data for 2005 show the nearly 60 percent of the population is still poor, and this figure reaches 80 percent in rural areas. Extreme poverty currently afflicts 37 percent of the population nationwide, and 55 percent of the rural population, with indigenous people suffering most from the lack of education, health, sanitation and other basic services. In 2005, Bolivia's Gini coefficient was 0.60 placing the country among the most non-egalitarian in Latin America.

Bolivia is experiencing significant democratic and political reforms via the development of a new constitution. The Bolivian Congress, agreed on changes to the draft Constitution on October 21, 2008, and promulgated a law calling for a national level referendum to approve or reject the draft Constitution, to be held January 25, 2009. If the new Constitution is approved, Bolivia will almost immediately initiate the complex process of redesigning democratic institutions and the elections of leadership at the national, prefecture and municipal levels. This process will have significant implications for the justice sector.

The USAID Bolivia Program (2003-2008)

Under its current strategy, USAID has assisted Bolivian efforts to strengthen democratic institutions and, public confidence in them. As part of this process, significant support has been provided to help modernize the justice sector. USAID seeks to help Bolivian stakeholders in their efforts to make the justice system more effective and responsive to citizens' needs, to help to reduce crime and improve security, to improve access to justice, and to help reduce violence. A functioning justice system is an integral part of the criminal justice system, and access to justice is an essential human right.

Due to a decision made by the GOB by mid July 2009, the Democracy and Governance component of USAID program in Bolivia, including Justice Sector projects, was suspended and led to a close out process.

The Administration of Justice Program (2003-2010)

USAID's recent Administration of Justice Program was implemented by Checchi and Company Consulting, Inc. and Partners of the Americas, and ran from 2003 to 2010. The program assisted Bolivian justice sector institutions with their efforts to introduce and put into effect the oral-based accusatorial criminal procedure code (in effect since 2001). The Program also helped to build courtrooms for public hearings, improve public defense services, strengthen the Public Ministry and Investigative Police and establish Integrated Justice Centers and Houses (*Casas de Justicia*) in order to improve access to justice and related social services, particularly for low-income, rural and urban populations. All of these efforts were accompanied by support to civil society organizations to promote justice reforms and progressive ownership of these reforms by Bolivian citizens. Under both activities, a total of 11 IJCs and two justice houses were established, along with the construction and preparation of 27 courtrooms for oral trials. A network of more than 100 NGOs (the Justice and Transparency Network) was also organized in order to promote justice reforms and citizen education about the importance of said reforms.

The complete set of program activities and jointly-identified program benchmarks are provided in Annexes number I for Checchi and number 2 for POA. An evaluation of benchmarks should form the context within which the team assesses fundamental impact.

The BAOJ program focuses on five major technical areas:

- 1) Implementation of criminal procedure code reforms. The Bolivian criminal procedure code, adopted May 31, 1999, mandates transition to an adversarial, oral-advocacy system for criminal trials, replacing the prior inquisitorial system. The transition on a national basis was complete as of May 31, 2001 after two years' preparation (*Vacatio Legis*). Under this component, the BAOJ assisted with implementation of the code through training for judges, public defenders, prosecutors and police and institutional strengthening of the Judiciary, Public Ministry, Public Defense and Police to able to carry out their roles in the new system. In addition, the BAOJ worked to strengthen inter-institutional commissions tasked with strategic planning, implementation, and monitoring of the new procedures.
- 2) Strengthened court, prosecutors and police administration and management. Under this component, the BAOJ improved case management and docket systems, reducing justice tardiness and judicial corruption, assisting with qualification for ISO 9000 certification for management of justice institutions, constructing and equipping oral courtrooms, and extending the presence of some state justice institutions to rural and/or conflict areas.
- 3) Access to justice. This component focused on increasing access to the judicial process and provision of justice services, especially for the marginalized and disenfranchised. There were three different thematic areas:
 - a) Strengthening the Public Defender's Office. The BAOJ developed a training school for public defenders, and helped to set up new support offices for public defense in regions with large vulnerable groups. The program aimed to develop a total of four such offices.
 - b) Integrated Justice Centers (IJC) and Casas de Justicia (CDJs). These activities represented the cornerstone of the program. In the current programs, 11 IJCs and two justice houses were built, mostly in underserved rural and urban centers. The IJCS and the justice houses provided a variety of legal and social services, with several different national and local institutions serving the population, including judges, prosecutors, public defenders, social workers, psychologists, forensic doctors, trained conciliators, and law students who provide voluntary free legal aid. The municipalities provided land and some operating costs while BAOJ provided for construction costs, equipment, and technical assistance. More IJCs and JHs are expected to be built by the Ministry of Justice with support of the Danish cooperation.
 - c) Promoting use of ADR (alternative dispute resolution). This element of the project focused on strengthening the skills of conciliators and mediators in all justice institutions to provide more effective and cost-efficient resolution of disputes.

4) Promotion of Legal Security (reforms to civil and commercial legislation to improve business environment).

This element of the program worked with the MOJ and the Judiciary to introduce new or reformed commercial, administrative and civil procedures legislation and to strengthen the institutional capacity of courts to process commercial cases more effectively and efficiently. The overall objectives of this program were to promote a better legal and business environment in Bolivia. This component was suspended in September 2007, due to budget restrictions and due to programmatic difficulties.

5) Increase civil society participation in justice reform.

Through the issuance of grants, the BAOJ helped to establish and strengthen a network of civil society organizations (CSOs) to help sustain justice reforms, including public awareness campaigns, and expanded justice services. Grant recipients included grass roots regional organizations, universities, women's groups, indigenous groups, and other organizations focusing on disadvantaged or marginalized populations. This component of the program was implemented by Partners of the Americas.

The complete set of program activities and jointly-identified program benchmarks are provided in Annexes 1 and 2. An evaluation of benchmarks should form the context within which the team assesses justice reform progress, best practices, results achieved, impact and sustainability.

C.2 OTHER USAID AND USG PROGRAMS

Other USAID/Bolivia programs include support to promote decentralization and municipal strengthening, support to Congress and political parties. The BAOJ worked in partnership with the Department of State (NAS) and Department of Justice to carry out training for prosecutors and police where this training had been duly authorized. Checchi monitored other justice projects being implemented with international cooperation, exchanged information and coordinated efforts with other donors such the German GTZ the Spanish AECI and more recently with the Danish cooperation. While this evaluation is focused on performance of the BAOJ, the Evaluation Team should be generally familiar with these programs and the synergies among them, as well as potential redundancies, and should consider the BAOJ efforts as part of USAID's broader democracy portfolio and assess coordination among these distinct programs.

C.3 OBJECTIVES

The objectives of the evaluation are as follows:

1. Evaluate the progress made by Checchi and Co. and POA towards meeting their program benchmarks¹, along with other requirements of the contract between Checchi and USAID, and the Cooperative Agreement between POA and USAID.

¹ **MEETING BENCHMARKS:** Did Checchi and POA met their responsibilities under their contract and Cooperative Agreement? If not, why not? What were the primary obstacles to accomplishing the expected results? Which of those obstacles were outside of the contractor's and recipient's control, and what can be done to reduce them? Were the benchmarks/results/timelines established for their yearly implementation realistic?

2. Evaluate the impact² of the activities of the program, along with the coordination among the project partners and coordination with other USAID, USG and other donor programs.
3. Evaluate the sustainability³ of the program with respect to the progressive ownership (“Nationalization”) of the program by GOB and project counterpart institutions.
4. Assess the performance monitoring systems⁴ in place, including desegregation of data by gender, socio-economic status, ethnic minority and other disadvantaged population segments, and make recommendations for more effective means of verifying results.
5. Identify any significant findings, lessons learned and best practices from the BAOJ program, and directions the GOB may want to consider in the future

C.4 SCOPE OF THE TASK ORDER

The evaluation team will: 1) review key documents, develop a work plan including an interview list, and present its proposed methodology to USAID/Bolivia via an entrance briefing; 2) conduct interviews and field visits; 3) analyze the data and compile key findings and recommendations into a draft assessment report; 4) verbally present draft findings and recommendations to USAID/Bolivia; and 5) submit the draft assessment report to USAID/Bolivia for comments, followed by a final assessment/recommendations report.

² **IMPACT.** What has been the impact of activities implemented under the BAOJ program, including all aspects of the BAOJ elements? What are the results of public opinion surveys to compare changes over time in popular perceptions of the justice sector where BAOJ has had interventions? Has the program been flexible to changing circumstances? Has it capitalized on new opportunities or missed critical opportunities? Did communication / outreach components contribute to the program objectives?

The Evaluation Team should review not only the successes of the past IJCIJs and Justice Houses but also assess the most important priorities for the IJCIJs and Justice Houses towards sustainability. What are the challenges associated with the IJCIJs and justice house model (i.e. sustainability, scope of services provided, conflict of competences among participating institutions and/or actors? etc.) and how were those challenges being met?

Have program activities been targeted at the appropriate beneficiaries to ensure the greatest impact in support of USAID/Bolivia’s Democracy Strategic Objective: Increased citizen confidence in Democracy? Which aspects of the work plans have been most effective in terms of return? What should be continued or discontinued? What do beneficiaries think about the program’s impact thus far? Are they utilizing the knowledge and skills gained?

To what extent has the BAOJ supported or complemented activities sponsored by other international donors and/or multilateral organizations? The Evaluation Team should identify areas lacking coordination or program redundancy identified during the evaluation. What are the weakest elements of the program and what can be done to address weaknesses? What has been the impact of the program on women, children, indigenous and other disadvantaged groups, rural and conflict-area populations? How can the impact be improved? What is the appropriate role of community justice, and how was that role recognized by the project? Has the program acted upon opportunities for public policy reforms in this area? What improvements could be made to increase the program’s effectiveness in integrating these cross-cutting issues?

³ **SUSTAINABILITY.** Are processes, systems, and programs in place to ensure that the results and impact of BAOJ activities will be sustainable in terms of encouraging ownership by program counterparts (“Nationalization” of the program)? Does the program create institutional capacity and filled gaps on behalf of the programs of key beneficiaries? Did the Program trigger the creation of sustainable justice reform-oriented civil society networks?

What evidence is there of the GOB, and other Bolivian partners taking ownership of BAOJ activities? Is the role of local project staff increasing? What obstacles exist for achieving sustainability? What measures should be taken to increase sustainability?

⁴ **PERFORMANCE MEASUREMENT SYSTEMS.** Are there sound performance monitoring systems in place? Are they appropriately administered and accurate? Do the monitoring systems effectively track, monitor and report on results attributable to program activities? Do they utilize independently verifiable information? Is data appropriately disaggregated by gender, indigenous groups, rural populations, conflict areas, and other disadvantaged population segments? What outside sources of information are available, in particular from the Ministry of Justice, police, courts, Public Ministry and NGOs (i.e. statistics with respect to the number of cases rejected, tried, acquittals, convictions, appeals, results of appeals, sentences, etc.)? Did the project monitoring systems utilize these outside sources of information appropriately? How might they be improved?

The Evaluation Team will conduct this assessment in the following three phases: 1) Desktop review of key documents, initial analysis, and development of work plan; 2) Conducting interviews and field visits; 3) Development of Evaluation Report.

Phase 1: Desktop Review of Key Documents, Initial Analysis, and Development of Work plan

As a first step in the assessment process, the Evaluation Team shall review relevant USAID documents, as well as key documents from the Justice Reform and Modernization Program. As the following list is not exhaustive, the Evaluation Team will be responsible for identifying and reviewing additional materials relevant to the assessment. Documents for review will include, but are not limited to, the following:

- USAID/Bolivia 2003-2008 Strategy
- USAID/Bolivia Operational Plan (OP)
- Checchi's and POA's annual and quarterly reports during the current Administration of Justice program
- Program Summaries
- BAOJ Program Workplans
- Any other BAOJ Program reports
- Benchmarks
- Public opinion surveys pertaining to the justice sector
- Policies, reports and statistics available from public and private sources including the Prosecutor General's Office, the Inspector General's Office, the Judicial Council, the Courts, the Police, the Ministry of Justice and Justice, and NGOs, as appropriate, relating to the number of cases filed, withdrawn, rejected, tried, appealed, overturned on appeal, the number of convictions, acquittals, sentences, pretrial detention times, and other information relevant to measuring the progress of justice reform efforts.

The Evaluation Team shall use this literature to develop an initial response to the assessment questions, and to set forth hypothesized cause-effect relationships that can be tested through field research and interviews. USAID expects that the research design for interviews and fieldwork will be adequate to "test" these hypotheses, although it is understood that much of the evidence will be qualitative in nature.

Phase 2: Conducting Interviews and Field Research

The Evaluation Team shall conduct key interviews with USAID/Bolivia staff, Checchi and POA key personnel, sub-contractors, grantees, Government of Bolivia in the Justice Sector Officials, civil society, other international donors working in the justice sector and other relevant beneficiaries. In addition, the Team shall undertake field visits, as appropriate, including visits to some of the 11 IJCs and two Houses of Justice, and at least one customer service platform, to conduct interviews with various project stakeholders. USAID/Bolivia shall review and approve the Evaluation Team's work plan which should include an interview list and proposed field visits.

In selecting locations for field visits, the Evaluation Team should include rural as well as urban areas. Criteria for selection may include: a) the extent, depth, and nature of the program activities in the region/department/municipality; 2) amount of BAOJ investment in the re-

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gion/department/municipality; 3) coverage (the Team should select field visits with the objective of gaining an understanding of the depth and range of the BAOJ as a whole); 4) type of activities/stakeholders being evaluated (the Team should select field visits that will allow an evaluation of the various types of activities/stakeholders being supported by the BAOJ).

The following evaluation methods could be considered by applicants:

--Key Informant Interviews – to be held with beneficiaries; community leaders; local, regional, and national officials; other donors; other USG personnel in Bolivia; implementing partners; and academicians.

--Targeted focus groups – to be held with beneficiaries; community leaders; local, regional, and national officials; other donors; other USG personnel in Bolivia; implementing partners; and academicians.

--Document reviews – assessments, action plans, evaluations, and legal documents. Key documents on the program will be provided to the team by USAID, but the team is expected to research documentation from other sources/organizations as well.

--Observation – field work in at least 4 departments outside the capital over a 4-week period.

Interviews shall be conducted with civil society organizations (CSOs), non-governmental organizations (NGOs) and GOB, justice sector officials, as well as with other donors working on justice reform issues. USAID/Bolivia will provide input in the selection of these organizations and individuals.

Phase 3: Development of Evaluation Report

During the final phase of the assessment, the Evaluation Team shall analyze the data collected through documentation review, interviews, focus groups, and field visits and prepare a draft evaluation report including findings and recommendations for USAID/Bolivia. The Team should substantiate all findings and recommendations through citations of information sources. USAID will provide written comments on the draft report within 10 working days of receipt. The Evaluation Team shall in turn revise the draft report, reflecting USAID's comments/suggestions, within 5 working days of receipt of the Team's written comments. The Evaluation Team shall conduct a one-day workshop to discuss the results of the evaluation.

The task outlined in this Scope of Work is substantial and shall require significant pre-planning and team building prior to the conduct of field work. The evaluation shall require time both in La Paz, as well as in outlying areas, particularly under-served rural regions where access to justice institutions has been difficult. USAID will assist the team with the identification of appropriate field visits.

Findings from the field work should be compared to existing data available from several sources on justice sector performance, including GOB, judicial sector sources, international justice reform organizations and the Democracy Indicators Monitoring Survey supported by USAID.

ATTACHMENT B: PERSONS MET

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Dr. Julio Ortiz Linares, President, Supreme Court of Bolivia, Sucre
Dr. Mario Uribe Melendres, Fiscal General de la Nacion, Sucre
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Marcel Guzmán de Rojas, Neotec

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