

USAID/Peru Strategy Supplement

SO 1: Democratic Processes and Institutions Strengthened in Critical Areas

Following the 2001 free and fair elections for the presidency and the Congress in Peru, USAID/Peru has a historic opportunity to help rebuild democratic institutions and processes that had been weakened during the ten-year Fujimori regime and support the consolidation of the democratic system. Although recent polls show Peruvians are more supportive of a democratic governing system than their neighbors and have a higher degree of confidence that the government can help them solve problems, these trends will not be sustained if the new Toledo government is not able to dramatically change the way in which the government operates and relates to its citizens. Sustaining and rebuilding citizen confidence in the governing system will be challenging. These same polls show that Peruvians have the lowest confidence level in their judiciary in all of South America (81% were not very or at all confident in the judiciary) and low levels of confidence in their Congress as well (with 74% not very or at all confident).

The Toledo government has highlighted the importance of the decentralization of authorities and resources to lower levels of government, increasing governmental accountability and transparency, and strengthening the independence and efficient operation of the justice sector as top priorities in the current democratic transition. Through this strategy, USAID/Peru will build on current opportunities and support the development of relationships and mechanisms to strengthen the governing system as a whole, as well as key components of the system which are necessary for the evolution of a more participatory and balanced democratic governing system. Key components of the system are expected to include local government, Congress, and the justice sector. Fulfillment of the objectives outlined in the strategy will require a minimum of \$65 million over the five-year strategy period.

Rationale for expanding USAID assistance efforts to include public institutions

Although USAID is currently working with selected public institutions (such as the Ombudsman, the Ministry of Justice, electoral institutions and local governments in coca-growing areas), the 2002-2006 strategy proposes a more extensive relationship with other parts of the Peruvian government, including the justice sector and the Congress. The primary rationale for this shift is the current political transition. The transition has provided both the opportunity and the apparent political will (if early statements and government actions can be seen as signs of the future) to strengthen government institutions that had been purposefully weakened under the Fujimori regime. These institutions should play a critical role in ensuring a more accountable and transparent governing system, and limiting abuses of power by the executive. Their reinstatement as significant parts of the governing system are key to restoring citizen confidence and building a more participatory democracy, as well as providing checks and balances within the governing system.

In addition, if societal demands for democratic governance are not matched by government capacity to deliver on those demands, levels of disappointment and dissatisfaction will grow. For that reason, the Mission is proposing an integrated strategy that combines work with civil society institutions to demand more accountable and responsive government, with targeted support to key government institutions to enable them to better respond to these increased demands in a more open, transparent, and accountable manner.

Selection criteria for government institutions and areas of reform

The exact nature and extent of support to government organizations will depend upon a number of factors, including opportunities, and commitment to the same reform goals, among others. Specifically, USAID will use the following criteria to identify partner institutions and areas of reform:

- the degree to which the institution and the intervention contributes to achieving a better balance and separation of powers in the governing system;
- whether there is a current opportunity for the provision of support, including a stated and demonstrated commitment to reform on the part of the GOP;
- how potential assistance relates to other USAID, USG and other donor activities, and whether it is in an area where USAID has a comparative advantage and/or could leverage other assistance; and
- the likelihood of achieving results, given the level of resources expected to be available and projected needs.

In prioritizing areas for intervention for the beginning of the strategy period, USAID has preliminarily identified justice sector reform, work with Congress on key legislative issues, electoral reform, and decentralization as the most critical areas. Building on the Mission's work with local civil society organizations, USAID will plan to begin its activities through policy dialogue, citizen awareness, and advocacy campaigns supported by these organizations which directly relate to reform of the justice sector, policy debate in Congress on critical democratic reform issues, and policy discussions on decentralization. As progress is made on specific policy and other operational reforms, the program will expand to include more extensive assistance to and work with the justice sector, Congress, and local governments, focused on the development of institutional capacity in areas of strategic importance.

As a matter of priority, the Mission will support those reforms that are expected to have the most direct impact on increasing the transparency and accountability of key government organizations; that increase opportunities for citizen participation in policy reform, decision-making, and oversight; and that support the exercise of rights provided to citizens in a democracy. Critical democratic reform issues which are expected to be on the Congressional agenda in the near term include decentralization, justice sector reform, electoral reform, freedom of information, strengthening Congress itself, constitutional reform, and establishing an anti-corruption program.

Although there are other reform areas identified in the strategy that are important for Peru's democratic transition (such as improved civil-military relations and elections administration), additional assistance from the Mission at this point is not considered to be as high a priority. In the case of civil-military relations, the Office of Transition Initiatives (OTI) is expected to provide needed support through fall 2002. This could be supplemented by assistance from other U.S. Government agencies that have existing relationships with the military structure. In the case of electoral assistance, the Mission is providing ongoing assistance to GOP electoral institutions to support municipal recall elections in November 2001, as well as distilling the lessons learned from the 2001 presidential and congressional electoral process. Although regional and municipal elections are scheduled for November 2002, it is not clear that substantial additional USAID support

for elections administration will be needed or should be provided. The Mission will continue to provide immediate support for the policy debate on the structure and function of the electoral system, as well as on the overall system of representation.

Another issue that was not identified in the strategy but is a critical current need in the short term is support for the newly constituted Truth and Reconciliation Commission, which is expected to contribute to coming to terms with human rights abuses which occurred between 1980 and 2001. OTI is providing targeted support to the Commission, but the Mission may also provide financial support through a fund managed by the United Nations Development Program (UNDP) during the next fiscal year for the Commission's operations, as well as complementary support to human rights and other organizations whose assistance is critical for the Commission's success. In recognition of the importance of the Commission's work to strengthening democratic processes and institutions, support in this area has been specifically included in the results framework for this objective. [See attached revised results framework.]

Strategic approaches within each area

The Mission's strategic approach to each area will be tailored to the needs and opportunities in each, and will be designed in such a way that it can be implemented in components to accommodate OTI commitments in certain areas, GOP priorities, other donor programs and a rapidly changing political environment. The initial approach in each area will generally be to support policy and operational reform, working closely with civil society organizations. These types of interventions will maintain a focus on critical policy issues, while broadening participation, as appropriate, in the debate. In addition to supporting policy and operational reform, the Mission will also focus on increasing mechanisms for access to information, citizen oversight of government institutions, and citizen involvement in policy reform and decision-making. By opening new opportunities for informing the public and for public interaction with government institutions, the accountability and transparency of government institutions is expected to increase. As the Mission establishes relationships with public sector institutions and their own priorities become clearer, the Mission will expand its work to include a focus on direct capacity development of key public institutions. Although in some cases support for institutional development will be linked directly to prior policy or operational reforms, in other cases, it will be necessary to provide this support to promote the adoption of reforms.

Civil Society

All of the activities with civil society organizations will support achievements related to other intermediate results, by promoting the structural changes within the local government system, the Congress, the justice sector and, in some cases, the government in general, that increase access to information and allow for greater involvement in and oversight of government institutions. Conceptually, activities with civil society will generally involve advocacy by civil society or other governmental groups for changes, while work with public institutions will focus on the consideration, adoption and implementation of those changes. Civil society will also be a key partner in supporting targeted-information campaigns on key issues related to other results areas, promoting informed decision-making and providing input related to critical policy reforms, and engaging in oversight in key strategic areas.

Decentralization / Local Government Development

In the area of decentralization, the most important policy reform issues will be clarifying and rationalizing the roles and responsibilities provided to various levels of government, especially in

advance of planned regional governmental elections in November 2002. Reforms are necessary to reduce the role of the Ministry of the Presidency, which has supplanted a number of local government functions, and increase the availability of financial resources and authorities for fulfillment of local government responsibilities. As the role of local governments change, it will be equally important to support the development of local government capacity to assume new responsibilities and functions.

The Toledo government has taken a number of actions to promote a renewed debate on decentralization. In addition to naming a decentralization commission charged with supporting a consultative process for policy reform, a technical secretariat in the Ministry of the Presidency is also working on proposals to transfer authorities, responsibilities, and resources from the Ministry of the Presidency to other lower levels of government. There are a number of proposals being considered within Congress to clarify and improve the current legislative framework for regional and local government operations, including modifications to the law on decentralization and the organic law for municipalities. Key issues include overlapping and unclear division of responsibilities among central, regional, provincial and district levels of government; limited financial resources (both from central transfers or from locally-generated sources); weak management capacity; limited differentiation in the authorities and responsibilities of various sized local government units; and the general lack of mechanisms for citizen participation in local governance. USAID will support the renewed policy debate by increasing local exposure to successful local government models in other countries in the region, providing technical expertise, and including local input (from local governments themselves, but also from citizens) in the discussion of critical issues.

Under other Mission programs, particularly those related to alternative development and the border region, the Mission is strengthening the capacity of partner local governments to develop strategic plans, account for resources, and respond to citizen demands. In sectoral programs, such as those in education and health, promoting the decentralization of service provision is an important part of the Mission's approach. Following regional and municipal elections in November 2002, the Mission will expand its support for local government capacity development in selected geographic and subject areas, most likely through cooperation with national or regional-level local government associations. This work will be designed to be complementary to other Mission programs and objectives, focusing on those geographic areas where weak local government capacity is impeding achievement of other Mission goals.

Congress

With the Congress, the most important areas for intervention will be strengthening the Congress' application of existing oversight mechanisms, increasing linkages with their constituencies, and improving the technical quality, participatory nature and transparency of the legislative development and review process. Because this Congress was elected based on a multiple rather than a single district system (as was the case since 1992), it will be particularly important to strengthen Congressional linkages with constituents. Key issues facing the Congress as an institution include increasing the transparency and participatory nature of the legislative development and review process; strengthening the technical capacity of congressional committees to draft, review and modify proposed legislation; the effective application of existing mechanisms for exercising oversight of the executive and the judiciary; and improving relationships with their constituents. Because the majority of members of Congress are new and specialized technical or legal (as

opposed to administrative) support from within the congressional staff structure is minimal, these challenges are even more daunting.

The initial focus will be on supporting internal Congressional reforms designed to increase transparency and citizen access, while at the same time providing targeted technical support to the Congress as key democratic policy reforms are debated. Congress has already taken important steps in this area, modifying its internal regulations to require publication of information on legislation being considered, clarify procedures for requesting information from the executive, and restrict the use of extraordinary sessions, among other initiatives. As the Congress takes additional steps supportive of institutional reform, the Mission will expand its assistance for the development of the Congress' legislative, representative and oversight functions.

Justice Sector Reform

The main issues affecting the justice sector at the current time are the lack of independence in exercising its constitutional functions and problems with inter and intra-institutional coordination. Although the transition government and the new Toledo government have taken measures to partially address these issues¹, other reforms still need to be made. A number of critical reform measures have been identified in a June 2001 UNDP analysis of the judiciary, in the July 2001 National Anti-Corruption Commission report, in analyses produced by Catholic University under a current USAID grant, and in a diagnostic produced by the *Grupo de Trabajo de Alto Nivel* supported by the Inter-American Development Bank (IDB). These include moving to a merit-based judicial recruitment and retention process, strengthening internal controls and disciplinary proceedings within the justice sector, improving mechanisms for cooperation among justice sector institutions, increasing the financial independence of the judiciary, and reducing the subjectivity in the case assignment system. Other constraints to effective justice sector operation relate to a complex and overly hierarchical judicial structure, as well as deficiencies in equipment, staffing and physical space.

This program will predominantly focus on activities designed to restore the justice sector's ability to function as an independent and equal part of the governing system. As a result, the majority of program interventions will focus on policy or structural changes related to the internal functioning of parts of the sector, or on the way in which the various justice sector institutions relate to each other. This program will also include the development of the capacity of selected components of the justice sector to operate more effectively. Specific types of courts or components of the justice sector will be selected for inclusion in the program based on the degree to which their effective functioning contributes to the achievement of other Mission objectives. Support for the development of court capacity could include training, technical assistance and the provision of limited material resources, as needed, to all actors involved in efficient court operation. Depending on the type of courts that are selected and the relationship of USAID assistance to other support being provided, justice sector actors could include prosecutors, judges, justices of the peace, administrative court staff, police (within certain limits), attorneys, and public defenders. The selection of specific activities in this area will partially depend upon other donor commitments (especially the World Bank and IDB), which both have expressed interest in re-engaging and/or expanding their work in the sector.

¹ Including significantly increasing judicial salaries, reinstating Constitutional Tribunal judges to allow the Tribunal to function, eliminating the executive reform commissions, initiating a judicial recruitment process, and dismissing a number of provisional judges.

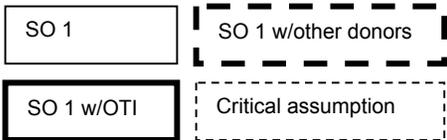
This program is not expected to support general reform of penal institutions or of the police. Other U.S. Government institutions have indicated an interest in supporting organizational changes and capacity development of the police. USAID will closely coordinate its work in the justice sector with other U.S. Government organizations and other donors to ensure that programs are as complementary as possible, and that overall justice sector reform is appropriately linked with police reform efforts.

Other donor programs and likely approach for helping shape other donors' assistance plans

In addition to working through the local "good governance" donors group to design complementary programs, USAID is coordinating directly with the IDB and the World Bank on potential justice sector and decentralization / local government programs. Most other donors are in the process of defining their plans for future democracy-related assistance, following the inauguration of the new government. USAID is expected to remain the largest bilateral donor for democracy programs.

With the justice sector, USAID is coordinating closely with the World Bank as it begins to implement a \$500,000 grant to design a new justice sector program. USAID has also been involved in detailed planning meetings with the German Agency for Technical Cooperation (GTZ) related to a new three-year \$2.5 million justice program expected to begin in mid-2002. In addition, USAID is part of a small donors group evaluating justice sector needs, and determining how to best coordinate efforts. Based on early discussions, donor efforts may be coordinated through the *Grupo de Trabajo de Alto Nivel*, which was established with IDB support.

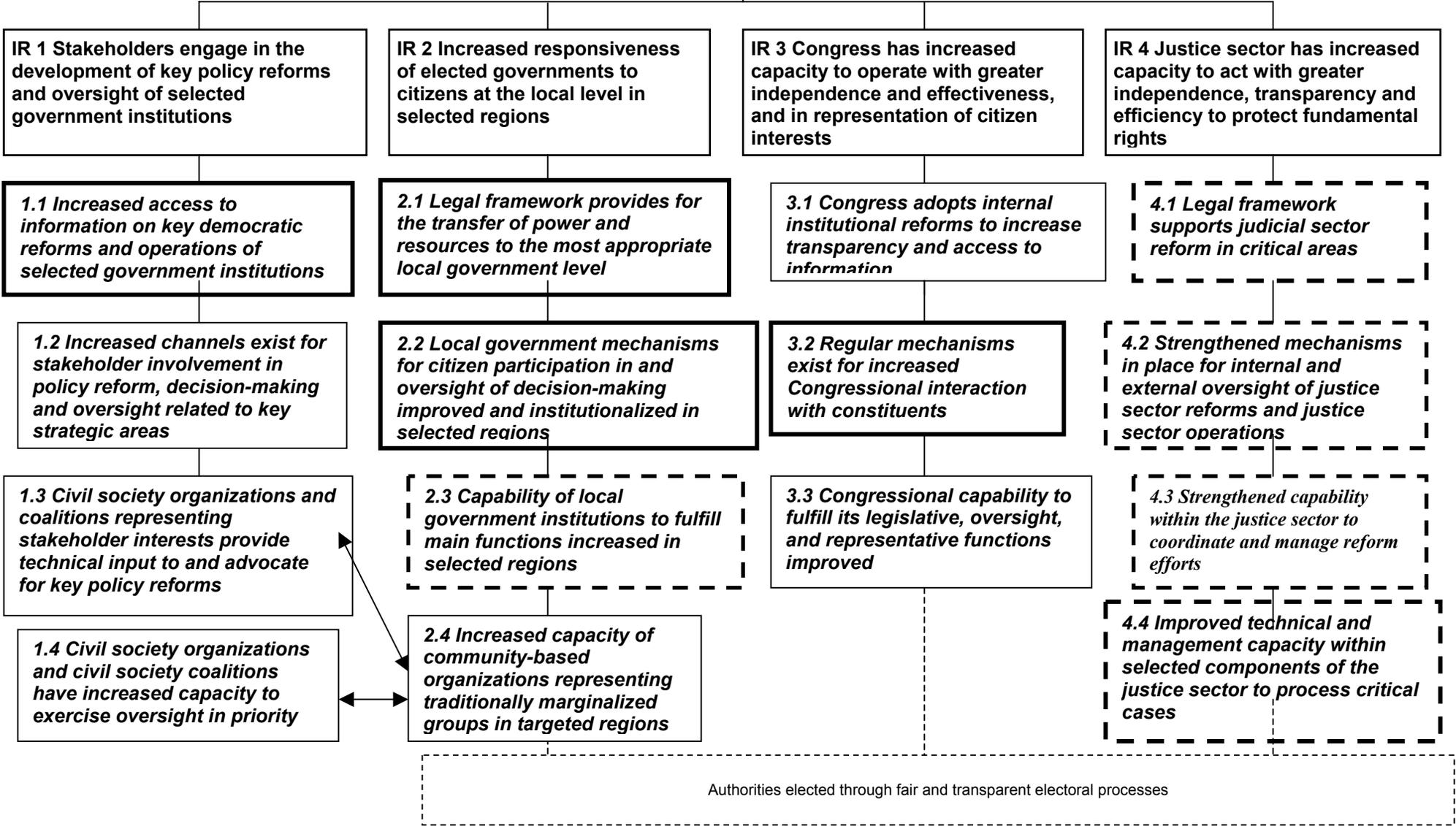
The World Bank and IDB are planning a joint assessment mission in October for a potential decentralization / local government program, and USAID is coordinating with this effort as well. No other donors have expressed interest in strengthening Congress. A number of donors are interested in supporting the work of the Truth and Reconciliation Commission, with the Canadians providing assistance at the current time.



IR 5 System in place for reconciling past human rights abuses (2003)

Traducción Preliminar

**Strategic Objective N° 1:
Democratic Processes and Institutions Strengthened in Critical Areas**



SO 1

SO 1 con/sin donantes

SO 1 c/OTI

Presunción crítica

IR 5 Sistema para reconciliar los abusos cometidos contra los derechos humanos.

Traducción Preliminar

**Objetivo Estratégico N°1:
Procesos e Instituciones Democráticos fortalecidos en Areas Críticas**

IR 1 "Stakeholders" involucrados en el desarrollo de reformas políticas claves y fiscalización de las instituciones seleccionadas del gobierno.

1.1 Mayor acceso a la información sobre reformas democráticas claves y actividades de las instituciones del gobierno seleccionadas

1.2 Más canales para que la ciudadanía participe en la reforma política, toma de decisiones y fiscalización de áreas estratégicas esenciales.

1.3 Las organizaciones y coaliciones de la sociedad civil que representan intereses de los ciudadanos proporcionan información técnica y defienden reformas políticas claves.

1.4 Organizaciones y coaliciones de la sociedad civil han aumentado su capacidad para ejercer fiscalización en áreas prioritarias.

IR 2 Gobiernos locales elegidos en regiones seleccionadas han incrementado su atención a

2.1 El marco legal establece la transferencia del poder y recursos, al

2.2 Mecanismos del gobierno local para la participación ciudadana y la fiscalización de la toma

2.3 Capacidad de las instituciones del gobierno local para cumplir sus principales funciones

2.4 Aumento de la capacidad de las organizaciones de base que representan grupos

IR 3 El Congreso ha aumentado su capacidad de actuar con mayor independencia y efectividad, y en representación de los intereses de los ciudadanos

3.1 El Congreso adopta reformas institucionales internas para aumentar la

3.2 Existen mecanismos regulares para incrementar la interacción entre los Congresistas y los

3.3 Capacidad del Congreso para cumplir sus funciones legislativas, de fiscalización y

IR 4 El sector Justicia ha aumentado su capacidad para actuar con mayor independencia, transparencia y eficiencia para proteger los derechos fundamentales.

4.1 El marco legal apoya la reforma del sector judicial en áreas críticas.

4.2 Mecanismos puestos en funcionamiento para la fiscalización externa e interna de las reformas y

4.3 Capacidad fortalecida dentro del sector justicia para coordinar y gerenciar los esfuerzos de la

4.4 Mejora de la capacidad técnica y de gerencia dentro de los componentes

Las autoridades deben ser elegidas mediante procesos electorales limpios y transparentes

Explanatory Notes on the Draft Revised Results Framework

USAID/Peru's strategy for FY 2002-2006 was approved in February 2001. This strategy included SO 1: Democratic Processes and Institutions Strengthened in Critical Areas, with an estimated life of funding of \$65 million over a five-year period. The objective included three intermediate results.

Based on an analysis of the areas in which Mission support is likely to have the greatest impact, the IRs have been re-formulated to more precisely define the main components of the government with which the Mission intends to work, and to specify the expected results within each set of public institutions. The revised IRs do not represent a change in expected activities under the SO as submitted in the strategy, but a reformulation to more precisely define the Mission's areas of emphasis. For example, work with both the justice sector and the Congress were conceptually included within the approved strategy, but under the former IR 3, which related to supporting selected public institutions.

The formulation of the IRs assumes full funding for program activities over a six-year period (i.e. including an initial small amount of funding provided in FY 2001), as well as additional support from other donors, particularly in terms of improving the efficiency of the justice sector. If less funding is provided than anticipated (either by USAID or other donors), the IRs will need to be reformulated to be less ambitious. The likely impact would be to focus the Mission program in the same number of areas (i.e. with civil society, decentralization/local government development, Congress and the justice sector), but only on policy, procedural and organizational reform efforts, and increasing access to information. More resource intensive institutional development activities or support for the full implementation of organizational reforms would either be significantly reduced or eliminated.

The framework's organization tries to take into account this hierarchy of interventions. The framework is generally organized horizontally into three types of interventions: 1) policy reform, 2) the establishment of mechanisms for interaction between government and citizens and 3) strengthening institutional capacity. As funding levels increase, Mission interventions under IRs 2, 3 and 4 are expected to increasingly focus on results further down the results framework. IR 1 is seen to be cross-cutting and supportive of the efforts under all of the other IRs.

IR 5 is time-limited, and focused on specific interventions supportive of the work of the Truth and Reconciliation Commission. IR 5 has a special place in the framework, since it is a different type intervention than the other IRs. Activities under IR 5 will focus on redressing past abuses, the successful resolution of which can be considered almost as a pre-condition for improving general citizen confidence in their government. Results of the Truth Commission's work are expected to lead to recommendations for policy and other changes that affect IR 3 and IR 4.

In many cases, the framework refers to smaller subsets of interventions (i.e. "key institutions", "main functions", "priority areas", and "selected courts) to clarify that the Mission expects to have an impact only in certain areas or with certain types of institutions. These terms will be specifically defined in the activity design.

Following is a comparison of the former and the proposed IRs:

