



USAID | **EL SALVADOR**
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EL SALVADOR MEDIATION PROJECT

FINAL REPORT

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TABLE OF CONTENTS

ACRONYMS.....	I
EXECUTIVE SUMMARY.....	II
HISTORICAL CONTEXT OF DEVELOPMENT OF MEDIATION IN EL SALVADOR.....	III
RESULTS BY ACTIVITY	
ACTIVITY 1.1.....	2
ACTIVITY 1.2.....	4
ACTIVITY 1.3.....	11
GENERAL CONCLUSIONS	13
RECOMMENDATIONS FOR FOLLOW UP.....	15
RECOMMENDATIONS FOR EXPANDING INTO OTHER AREAS.....	18
PERFORMANCE MONITORING AND EVALUATION DATA UPDATED THROUGH MARCH 2010.....	19

ACRONYMS

ADR	Alternative Dispute Resolution
DPK	DPK Consulting, a division of ARD, Inc.
FGR	Office of the Attorney General (Fiscalía General de la República)
FUNPRES	Fundación Pro Educación Especial para El Salvador
LOPGR	Legislative Decree promulgating the Organic Law for the PGR (Ley Orgánica de la PGR)
MINED	Ministry of Education
NGO	Nongovernmental organization
PGR	Office of the Public Defender (Procuraduría General de la República)
UFRAC	Prosecutor Units for Alternative Dispute Resolution in criminal proceedings (Unidades Fiscales de Resolución Alternativa de Conflictos en materia penal)
UMC	University Mediation Centers (Centros de Mediación Universitarios)
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

I. Project Overview:

The USAID Mediation Project (the “Project”) has been implemented under a contract with DPK Consulting, a division of ARD, Inc., Task Order No. DFD-I-02-04-00173-00 and builds upon the USAID’s ongoing efforts in alternative dispute resolution that date back to 1997. The current Project was designed within the following framework:

- a. **Implementation Period:** May 2007 through April 2009. Given the Project’s success, particularly in criminal and school-based peer mediation, the Project period was extended from April 2009 through March 15, 2010.
- b. The Project covered three main areas of implementation: (a) harmonizing the legal framework for ADR in El Salvador; (b) consolidating, expanding and disseminating information on the available mediation services in the country, and (c) monitoring the impact of mediation.
- c. **USAID funding:** \$ 1,429,441. Averaging about \$500,000 per year plus counterpart contributions and support leveraged from civil society organizations through universities and the private sector, the Project achieved synergistic results and generated social commitments from counterparts, thereby maximizing the effects of the combination of USAID funding and contributions from the Salvadoran public sector.

II. Achievements:

- a. **Trained personnel:** 682 mediators were trained nationwide, 25 trainers were developed, and three orientation modules were created for both the Office of the Attorney General (FGR), as well as for the National Civilian Police.
- b. More than 30,000 individuals were made aware of the use of mediation within the public school system.
- c. Mediation was institutionalized within both the Office of the Attorney General (FGR), as well as at the Office of the Public Defenders Institute (PGR).
- d. A process was initiated, then followed up on, to insert the use of mediation into the new Criminal Procedure Code that will come into effect in June 2010.
- e. With support from other interested parties and related organizations, a legislative decree was passed to establish September 3rd as “National Mediation Day” in El Salvador.
- f. Under the auspices of the local universities, a network was established on ADR. This led to at least five of the universities adapting their study programs to include mediation as part of the coursework within their law schools.
- g. A savings of approximately \$7.98 million was generated for the Government of El Salvador through the implementation of mediation within public administration. In addition, even greater savings can be identified when considering other costs within the justice sector if cases had come to trial.
- h. **Indicators:** Generally speaking, all of the contractual indicators were either met or surpassed and will be described in detail throughout this report. Two of the previous examples encompass 87.5% of the milestones achieved by the legislative reform process that led to the recent legislative decree promulgating the organic law for the PGR, in addition to inserting the concept of mediation into the new Criminal Procedures Code.

III. Obstacles encountered during Project Implementation:

- a. One of the obstacles we encountered was the lack of resources available to adequately implement an awareness and civic education program that would allow for the widespread understanding and application of mediation at all levels.

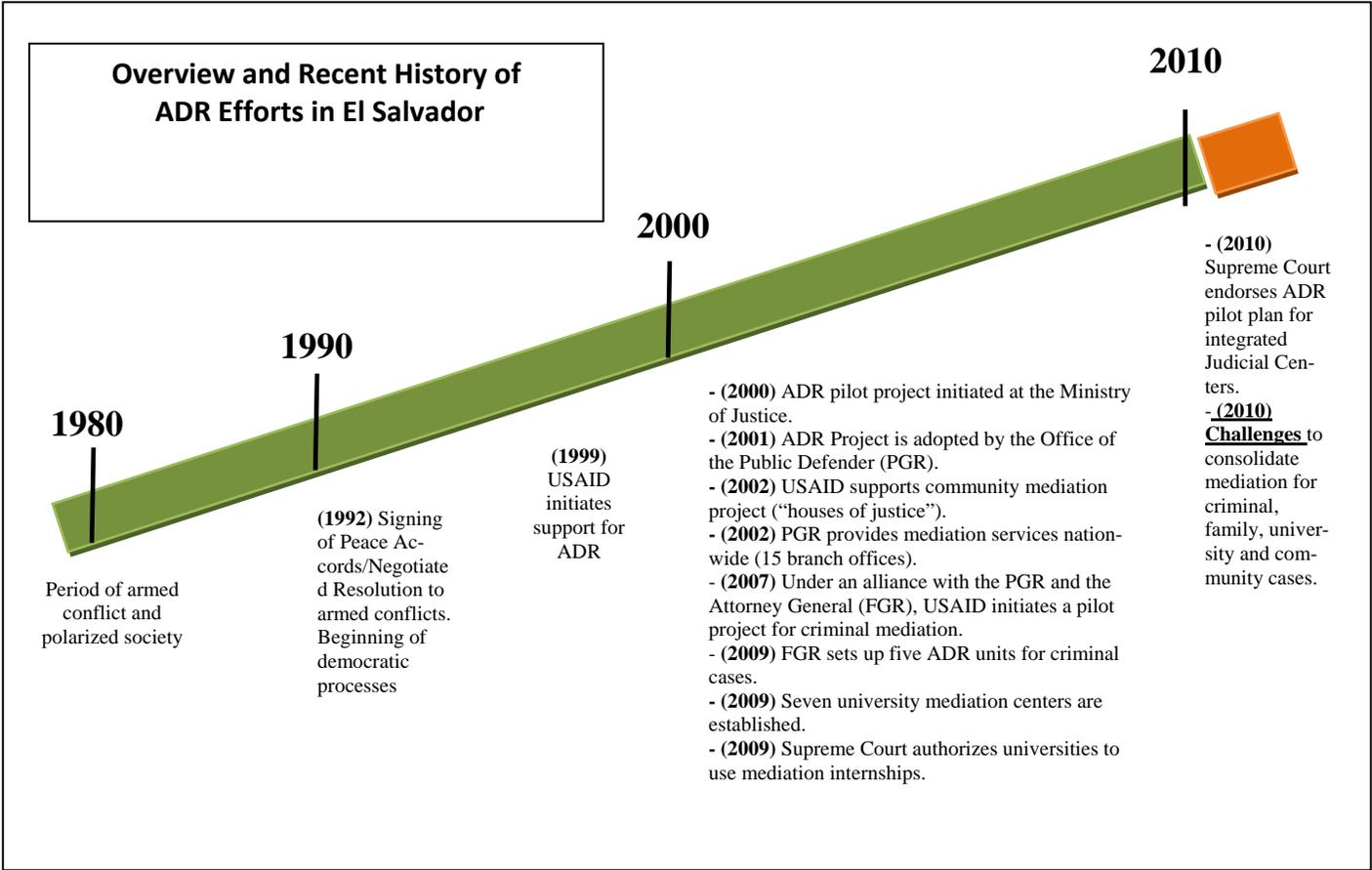
- b. The Project continuously faced unusual political circumstances that hindered political consensus or agreements required to elect candidates to fill the positions of Attorney General and Public Defender. It is worth noting that, in the latter, the delay extended six months beyond the scheduled date and the situation undoubtedly affected the outcomes of the Project since both the FGR and the PGR were direct counterparts in ADR.

IV. Recommendations for Follow Up:

- 1- The option of mediation should continue to be reinforced as a cross-cutting theme as El Salvador strengthens its democratic society. Likewise, the number of organizations and issues that can be subject to mediation should be increased.
- 2- Another important aspect is to invest in the future of mediation directly annexed to the courts. The approach and the methodology are perfect matches for the new institutional policy in place at the Supreme Court of Justice under the “Integrated Justice Centers”. Special attention should be placed on implementing a pilot project within the family and criminal courts.
- 3- We recommend developing strategies within civil society to build upon the awareness and dissemination efforts surrounding the use of the existing mediation network services, as well as those that will originate from the reforms under new national regulations.
- 4- Based on the proven success that the school-based peer mediation model (RCC) has had in 40 schools, we recommend that it be replicated nationwide.

HISTORICAL CONTEXT IN DEVELOPMENT OF MEDIATION IN EL SALVADOR

Seventeen years after the end of El Salvador’s civil war, the legacy of war continues. High levels of social and economic inequality, joblessness, and violent crime threaten the peace process initiated to stabilize post-civil war El Salvador. El Salvador remains one of the most violent countries in the Western Hemisphere with an average of 10 murders committed daily according to the Overseas Security Advisory Council (OSAC). The strong presence of street gangs and drug trafficking is a major problem throughout the country with polls indicating that 15 percent of the population considers crime their top concern. Findings by the North American Congress on Latin America (NACLA) suggest the security situation in both urban and rural El Salvador will continue to deteriorate unless interventions targeted to decrease social and youth violence continue. In this context, the development and expansion of mediation for applicability throughout Salvadoran society and state institutions has been a key donor effort.



Activity 1.1: Support Current Efforts to Revise Existing ADR Legislation

Special legislation has been passed in El Salvador to address alternative dispute resolution (ADR) dating back to 2001. The effort was initiated by the private sector, mainly to address issues of a business nature, and introduced a legal innovation in the form of mediation and arbitration within a “technical” approach.

Beginning in 2007, the Project supported an evaluation of the existing legislation that led to a unanimous decision within the “Coordinating Commission for the Justice Sector” in favor of joint efforts to review legislation currently in effect regarding ADR, as well as to make specific proposals.

A draft technical proposal for new legislation was the result of those initial efforts. The document presents regulations to govern conflicts of a social nature and was approved by the members of the Coordinating Commission. It was then delivered to the PGR which was the agency assigned responsibility for the issue by the Coordinating Commission.

The PGR reviewed the draft legislation and adapted it to its institutional needs, followed by requesting the Project to provide support in submitting it to the Legislative Assembly. The PGR’s efforts resulted in having various members of the Assembly sponsor the bill and, at the request of the PGR, the Project supported several public events to introduce the document and create awareness among various political factions within the Legislative Assembly.

The PGR submitted the bill to the Legislative Assembly in October 2008. Despite the PGR’s numerous attempts to date, no activities have been held to generate public debate on the issue, nor has consensus been reached regarding the draft legislation, nor has it been passed into law.

In 2009, the Project assisted the PGR by providing an international consultant to evaluate the possible causes underlying the failure in passing the above-mentioned legislation. The consultant, Janet Murdock, recommended that the evaluation should be broad and participatory, as well as encompass the entire ADR legal framework and not limit itself to just the draft legislation awaiting approval. This would also serve to renew efforts in that regard. To that end, arrangements were made in December 2009, through the Coordinating Commission for the Judicial Sector, to consider holding an open forum to discuss the issue based on the recommendations made by the consultant.

In light of the fact that candidates had not been appointed to the positions of Attorney General and Public Defender (which was common knowledge), the Project was informed of the difficulties faced in setting up regular and permanent meetings and establishing a quorum of the Coordinating Commission. In this context and in order to reinvigorate the debate surrounding ADR legislation prior to the end of the Project, we opted to hold a public and participatory consultation to involve justice sector actors, as well as NGOs and universities. This led to commitments from the participants to redouble efforts in each of their areas to support the process initiated by the Project. Based on this result and on the analysis, discussion and proposal to improve ADR legislation, we affirm that 71.5 percent of the contractual indicators pertaining to this issue have been met.

“Mediation should permeate our culture and customs to the point that it becomes one of social ores...”



Ximena Paredes, ESEN intern



Another one of the activities generated under the Project was to provide logistical support for internal discussions surrounding the new “Legislative Decree promulgating the Organic Law for the PGR (*Ley Orgánica de la PGR -LOPGR*)“. The decree was passed in December 2008 by the Legislative Assembly according to the judicial budget priorities and institutional vision in place at the time within the PGR under the leadership of Licenciado Marcos Gregorio Sánchez Trejo.

In light of approval of the decree promulgating the LOPGR and corresponding regulations, we affirm that 87.5 percent of the contractual indicators pertaining to this issue have been met. The new LOPGR establishes mediation as the first step that the user should take in accessing the various services provided by the PGR. This is a significant change and represents a challenge to the organization in terms of restructuring all of its current procedures in place regarding family, labor and property disputes to comply with the new organic law. The change should begin in January 2011.

In addition, the Project worked jointly with the PGR during the first half of 2009 to design a roadmap for LOPGR implementation. The process includes a number of activities to be held at specific times, including that of testing a “pilot case” at one of the PGR offices in order to perfect the application of new procedures in place that are now governed by the recent legislation and regulations.

Due to the legislative impasse over a seven-month period in electing a person to head the PGR, neither the implementation of the roadmap nor the pilot test case test was feasible. These issues were discussed at length with USAID. The results listed below specifically reflect the period through which the Project was extended since these activities are the ones worthy of immediate follow-up actions.

Results	Current Situation	Recommendations for Follow Up
1. National coordination of the PGR is reorganized in light of the new responsibilities governed by the LOPGR	Pending implementation	PGR requires timely technical assistance in order to complete institutional restructuring process under new LOPGR and regulations.
2. FGR creates new ADR Unit	Completed	Careful assistance should be provided in transitioning the application of mediation under the new Criminal Procedures Code.
3. Internal PGR regulations are adapted in response to new role as the governing agency for mediation nationwide	Completed	PGR requires timely technical assistance to carry out institutional restructuring under new LOPGR and regulations.
4. Internal PGR regulations are adapted for the institutionalization of criminal mediation where applicable	Completed	Careful technical assistance should be provided in transitioning the application of mediation under the new Criminal Procedures Code.
5. At least three organizations from academia or civil society are involved in public discussions surrounding the law called “Ley Mas Paz”	Completed	Recommend promoting and facilitating public dialogue with civil society in order to provide continuity for the

		<p>process. Recommend working with the network established among the seven universities that set up mediation centers in order to encourage debate on the subject.</p>
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Activity 1.2: Strengthen the Existing Mediation Network and Expand Access to ADR Services

In order to strengthen and expand mediation services, the Project brought together a number of counterpart organizations. These included the PGR, the FGR, the National Civilian Police (PNC), the Supreme Court of Justice, the Ministry of Education (MINED), and a network of 15 public and private universities, as well as the mayors of Concepción Batres in Usulután, Santa Rosa de Lima in La Unión, and Acajutla in Sonsonate.

Working with one or more of the counterpart organizations, existing mediation services were strengthened in:

- a) Family, property, and neighborhood mediation cases within the PGR;
- b) University mediation; and
- c) Municipal mediation.

In addition, the creation of mediation services in new areas allowed for expansion in:

- 1) Criminal mediation;
- 2) School-based mediation;
- 3) Court-annexed mediation; and
- 4) Strengthening knowledge about mediation among the PNC.

The following section describes the progress made in each one of the areas listed above.

Strengthening Mediation Services

a) Family, property, and neighborhood mediation cases within the PGR

The PGR’s mediation services were supported and strengthened along the following lines:

- **Reviewed the professional qualifications of PGR staff working in mediation.** The Project provided the PGR with technical assistance under a specialized consultancy to review standards, professional skill sets, and legal expertise among the employees working in mediation services. The consultancy was firmly supported by the Institutional Quality Unit. As a result, the job descriptions and personnel qualifications for existing positions were reviewed and modified, and the tools and legal skills required by mediators were strengthened. The position descriptions were approved by the PGR for the job titles of National Coordinator, Local Coordinator, and Mediator.
- **Provided technical assistance in follow up and monitoring statistical data, as well as creating indicators to assess the impact of the PGR’s mediation service.** The Project deployed two consultants to improve the quality of mediation services provided by the PGR. One of the consultants was a Colombian expert, Sara Helena Llanos, who focused on the qualitative aspects of the process. This consultancy was then complemented by another expert, Dr. Cesar Rivera, who assessed the quantitative aspects by reviewing the PGR statistical system, as well as by proposing a battery of indicators to monitor impact. The findings from both consultancies continue to be valid, but will

need to be put in place within the PGR. Implementation of the new LOPGR provides an ideal opportunity and will require significant support to be placed behind the improvements that were described by both consultants.

The Project worked jointly with the PGR to assess the amount of funds invested in ordinary or trial procedures, as well as in mediation procedures. In addition, studies based on user surveys were the basis for assessing the various aspects involved, such as: user satisfaction, compliance with agreements reached among the parties, and improvements in relationships among the individuals involved following mediation. This was geared towards encouraging and training PGR staff in the use of tools that enable the PGR to evaluate the services provided.

- **Utilized international experts to train 30 mediation trainers.** The PGR has a team of experts in mediation training that has provided key support in raising awareness of mediation among a wide range of target audiences and organizations. The PGR now has the capacity to train more mediators in general areas, although it lacks specialized trainers for more specific subjects.
- **Trained 42 individuals in community mediation.** In 2008, the PGR requested an introductory training session on community mediation that would enable it to improve its mediation efforts through the use of mobile units. This training was successfully provided by a specialized consultant from Colombia, Sara Helena Llanos. The training also included individuals from FUNPRES, a Project sub-contractor working on school-based mediation. The training was subsequently replicated for staff from MINED.

b) **University Mediation**

- **Strengthening and expanding the mediation network in universities.** Throughout the life of the Project, strengthening and broadening the mediation network among universities can be described as a successful undertaking. Expectations were surpassed, as were the training plans for academia. The University Mediation Center Network grew from three members to seven, as follows:
 1. Alberto Masferrer University (USAM)
 2. El Salvador Catholic University (in Santa Ana) (UNICAES)
 3. El Salvador University (UES)
 4. El Salvador Pedagogical University (UP)
 5. El Salvador Polytechnic University (UPES)
 6. Technological University (UTECH)
 7. Gerardo Barrios University (San Miguel and Usulután Campus) (UGB)

The Project trained 68 mediators at 14 universities. In addition to those listed above, the following universities also participated:

1. Eastern University (UNIVO)
2. University of Sonsonate (USO)
3. Dr. José Matías Delgado University (UMD)
4. University of Higher Learning in Business and Economy (ESEN)
5. Evangelical University of El Salvador (UEES)
6. Open Modules University (UMA)
7. José Simeón Cañas University of Central America (UCA)

The mediator training for universities was developed entirely by the participants. It included orientation, basic training, and internships at the Unit for Conflict Resolution within the FGR.

The Project's strategy centered on two key aspects: a) strengthening the existing University Mediation Centers (UMC), and b) establishing new UMCs using the existing centers as the standard to apply in terms of operations and quality of the service provided to the public.

We also held workshops to strengthen the legal framework of the recently-formed mediation centers. The Project signed cooperation agreements for that purpose. In January 2010, the Project organized a conference entitled "*Alternative Dispute Resolution and the Paradigms for Attorneys in the XXI Century.*" Representatives from all 14 university mediation centers participated.

The Project also hosted four university student internships from the University of Higher Learning in Business and Economy (ESEN) during the Project's final quarter. The interns enthusiastically supported Project activities and benefitted from valuable experience and mentoring applicable to their professional development.

One of the most outstanding achievements in support of ADR at the university level is the fact that *five universities have already included courses on ADR within their study programs towards a law degree.* This implies that future law school graduates will have benefitted from an integrated approach to the matter. In addition to this new development, the Supreme Court of Justice has modified the way in which law students carry out their internships prior to graduation. It now enables the interns at legal clinics from the various universities to submit up to five mediations that qualify towards their graduation requirements.

c) Municipal Mediation

The Project focused on strengthening the existing municipal mediation centers rather than on creating new ones. This reflected the political and electoral situation at the time the Project was implemented. There are two types of municipal mediation centers currently:

- a) Mixed mediation centers that operate using PGR staff located in municipal offices. These are in place at the municipalities of Ahuachapán, Cojutepeque, and San Salvador (District No.1).

The Project held interviews and performed several site visits to each one of the centers and then followed by submitting observations for the consideration of the PGR National Mediation Coordinator. The new authorities taking office at the PGR should be provided with the observations for their consideration.

- b) Municipal Centers operate independently of the PGR and provide free mediation services to the public using community mediators that are either on staff or contracted out. These are found in: Concepción Batres, Santa Rosa de Lima, and Acajutla.

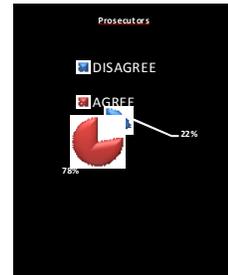
The Project performed an evaluation assessment in October 2009 which included interviews with incoming municipal administrations. The purpose was to ascertain their commitments to continuing mediation services within their municipalities. In all three cases, the responses were very positive and agreements were reached to enable the Project to provide training to reinforce skills among the current mediators, as well as to provide basic training to new mediators, thereby strengthening the role of the centers.

In addition, the Project donated basic office furniture for the mediation centers, thereby enhancing the service improvements sought by the mayors. The Project also facilitated cooperation among local universities and university mediation centers to organize training sessions that led to greater coordination and mutual cooperation. In January 2010, a training session was organized in San Miguel that included the participation of Gerardo Barrios University and staff from two municipal centers: one in Santa Rosa de Lima, and the other in Concepción Batres. We also held a training session in the same month for the staff from the Acajutla Mediation Center together with the University of Sonsonate.

Expanding Mediation Services

1. Criminal Mediation

Implementation of ADR pilot project for criminal cases (mediation) and subsequent institutionalization at the FGR. The Project supported expanding mediation for criminal matters as an innovative and creative effort to reach agreements between parties affected by minor criminal acts such as threats, bodily harm, traffic accidents, misappropriations, damages, fraud, robbery or unlawful seizures. In order to implement mediation as an option for criminal matters, we supported a strategic working alliance between the FGR and the PGR. This enabled us to tailor the use of mediation within the current budgetary context in terms of criminal procedures already in place. It also fostered the continuity of mediation as a permanent alternative for the use of mediators and public defenders from the PGR, as well as for the prosecutors (FGR).



Rate of cases reaching agreement following the use of mediation



Prior to implementing the pilot project, we held activities leading up to it by raising awareness and training 517 individuals in the basic concepts. The groups included prosecutors, public defenders, and mediators. We also trained a staff of 30 mediators from the FGR and 5 mediator trainers from the Prosecutor's Training Institute. Jointly with the five mediator trainers, we developed and circulated an "*Instructional Module for Training in Criminal Mediation*" which allows for expansion of the knowledge base among the rest of the FGR personnel, as well as for national replication.

The pilot program began in December 2007 and ran until April 2009. At that point, the success and impacts on access to justice, as well as the overall reduction in violence among parties in conflict and subsequent streamlining of the judicial system, led the FGR to create five *Prosecutor Units for Alternative Dispute Resolution in Criminal Matters* (known by the acronym in Spanish, "UFRAC"). The Units are located in the Prosecutor Offices in San Salvador, Soyapango, Apopa, Mejicanos, and Santa Ana. Stemming from the original pilot program and its subsequent institutionalization, the Project has provided direct and regularly-scheduled technical assistance on a weekly basis to assess improvement and expected results. This technical assistance has been enhanced by the very effective relationship developed among the designated contacts within each one of the institutions.

One of the most encouraging milestones achieved through expanding mediation into criminal matters is the insertion of mediation in criminal matters as an innovative alternative under the new Criminal Procedures Code approved in October 2008. It constitutes a watershed moment opening up a new era in applying the ADR methodology and presents a challenge to continue strengthening and adjusting implementation to meet future needs.

2. School-based Mediation

One of the Project's most successful activities was the implementation of school-based mediation programs across 40 public schools in the greater San Salvador area. This builds a very effective bridge between the justice sector and the school system.

Using a local subcontractor (Foundation for Special Education -FUNPRES) , the Project implemented a school-based mediation program in 40 public schools selected by the Ministry of Education (MINED) among the schools included in their "Effective and Solidarity Schools" program. MINED targets those schools for inclusion based on their vulnerability to youth violence. The program was structured to build upon and provide training through the neighborhood committees already in place at the schools, and includes parents, students, and teachers.

The main successes attributed to this effort include the following:

- 30,903 members of the school communities were made aware of mediation (principals, assistant principals, teachers, students, and parents);
- 344 mediators from school communities were trained;
- 619 students were appointed as "Mediation Leaders", and
- 538 mediations took place in 2009.

The Project supported a strategic alliance between MINED and the PGR which led to the signing of bilateral agreements among the organizations in 2008 and again in 2009. As a direct result of the agreements, the mobile PGR units are providing permanent support to the 40 schools that participated in the school-based mediation program.

The mobile units developed the following support activities:

- a) Disseminating, promoting, and raising awareness of the mediation services provided by the PGR;
- b) Providing advice regarding family rights, and
- c) Orientation and follow up on issues regarding mediation.

These activities by the mobile units led to the following results:

- a) 204 consultancies
- b) 109 sessions to raise awareness
- c) 2,370 persons made aware
- d) One field day and two mini field days on mediation, and
- e) 446 orientation sessions during field days.



"It's great to have mechanisms in place as alternatives for resolving problems...I've learned that people can work things out and discuss their differences, especially in a country like ours that has a history of conflict"



3. Court-annexed Mediation (Supreme Court of Justice)

As of October 2009, the Project submitted a report on the progress and results achieved in mediation to Magistrates Mirna Perla and Miguel Ángel Cardoza. They showed support for the creation of a pilot experience on ADR to begin initially at the San Salvador Integration Center to address family issues. Once the draft proposal was presented to them, they opted to widen the scope to include the Soyapango Integration Center and include the entire range of issues. From that point on, the Magistrates appointed their representatives to participate in developing the proposal, as well as to generate a work plan. This took place in conjunction with the Supreme Court Implementation Committee. The proposal for the pilot project was submitted and approved. The work teams and family court judges expressed their obvious support for the initiative, as well as indicating support for ensuring the application of the program within their courtrooms. The Project agreed to provide technical assistance in designing the monitoring and evaluation indicators for the pilot program, as well as for assessing the physical infrastructure designated for the pilot program. As a result, we provided USAID with an estimate of what is required to equip the pilot program.

4. Strengthening Comprehension of Mediation within the National Civilian Police

In October 2009, the National Civilian Police (PNC) asked the Project to strengthen and broaden the ADR methods (mediation) within the agency. Joint working sessions led to identifying the main needs, then prioritizing them into implementation phases. Our project focused on Phase I and the subsequent phases will be submitted for other donor consideration in the future.

Assistance Phase	Individuals Trained
Phase I. Awareness and training in basic key concepts for principal leaders within PNC	90 (Completed)
Phase II. Awareness and training in basic concepts for PNC operational staff	For future development by PNC.
Phase III. Training sessions for mediators (selected key personnel)	For future development by PNC.
Phase IV. Higher learning program on mediation	For future development by PNC.

Aware of the implications stemming from the new Criminal Procedures Code coming into effect, the Project developed an “*Instructional Module on Mediation for the National Civilian Police.*” The material includes visual aids as well as a bibliography to allow for replication at the Public Security Academy (Academia de Seguridad Pública) in training police recruits. In addition to the material described above, the course participants and key units within the PNC were provided with material for monitoring and information on the existing network of mediation centers. The latter exchange arose from meetings between the coordinators of the conflict resolution units within the FGR and the PGR that will enable enduring linkages and working relationships on ADR.

5. Campaigns to Disseminate Information on Mediation Services

With support from the PGR, the Project developed two public outreach campaigns on mediation services. They were held in the month of September in both 2008 and 2009. The Project provided consultants with broad experience in mass communication through television, radio and print media. Private companies pro-

vided financial support for both campaigns in the amount of approximately \$200,000. The awareness campaigns achieved the objective of increasing understanding among the public at large regarding the availability of existing mediation services and their applications. In addition, the PGR benefitted from the capacity-building opportunities through developing the campaigns.

The following table summarizes the results during the Project’s extension period. We consider these to be the ones requiring immediate follow-up action.

Results	Current status	Recommendations for Follow up
1. Monitoring shows increased quality of service provided by PGR mediators compared to established baseline data.	In progress	The PGR will require timely technical assistance following restructuring of the mediation centers upon LOPGR implementation.
2. Awareness campaign leads to active private sector, university, and NGO involvement.	Completed	We recommend supporting initiatives with civil society that will promote the use of mediation leading up to National Mediation Day (September 3).
3. The criminal mediation services expand to at least two FGR branches.	Completed and surpassed: five (5) offices were set up at national level.	The FGR will require technical support throughout transition period once new Criminal Procedure Code comes into effect.
4. Instructional module on criminal mediation is built into the prosecutor training school program.	Completed	Next steps should include follow up to ensure that the instructional tool is being appropriately applied at the Prosecutor Training Institute.
5. Forty (40) schools have well-established school-based peer mediation programs in place.	Completed	We recommended that FUNPRES and MINED counterparts request support from USAID youth violence prevention program (implemented by RTI) to consolidate current programs over the next two years and expand the program to additional schools.
6. New mediation centers are created in at least two universities.	Completed and surpassed. Seven (7) university mediation centers are in operation.	The centers require technical assistance during their first years in operation. They may be able to access private funding or set up agreements with the PGR.
7. At least two universities add mediation to their degree programs.	Completed and surpassed	We recommend strengthening undergraduate programs and/or clinical education exchanges regarding alternative dispute resolution.
8. A mediation pilot project is set up within the Supreme Court.	Completed	We recommend building on the political will generated at the Supreme Court to develop court-annexed mediation.

Activity 1.3: Measure the Impact of ADR Programs on a Conflictive Society and on the Justice System – Performance Monitoring and Evaluation Plan

This component turned out to be a strategically important element throughout the life of the Project in terms of the decisions made by the heads of counterpart institutions, as well as in terms of the commitment and ownership generated at the technical levels in those organizations.

With support from two interns doing post graduate work at Georgetown University in 2008, the Project created a document that summarized the research showing the impacts of mediation on violence prevention and on the justice system. The study’s main findings were endorsed by both the PGR and the FGR. In January 2010, it led to using local consultants for follow-up analysis specifically in the area of criminal mediation. We have included a summary of the findings of the above-mentioned studies in this report’s section on general conclusions. In addition, complete copies of the studies were included as annexes to the respective semi-annual reports submitted during the life of the Project.

Additionally, we worked very closely with the PGR and the FGR in developing or reviewing their self-evaluation tools. It is worth mentioning that in the PGR’s case, their national mediation coordination already included appropriate site visits to each one of the mediation centers to self-assess their services. In light of this, the Project’s international consultant, Sara Helena Llanos, provided training for the members of the assessment team to help make qualitative improvements to the results and to increase the internal impact of the evaluation process. In addition, the same team was provided technical assistance through a local expert, Cesar Rivera, who specifically focused on reviewing the statistical follow-up system to allow for a quantitative assessment of the results based on the institutional goals. Under this report’s section on recommendations, we have included some of the most relevant technical aspects. We recommend considering the feasibility of implementing some of the timely technical advice provided by these two consultants when the new PGR leadership takes office (e.g., consider installing a new computerized system for case follow up).

In the FGR’s case, evaluation assessments were held during the last quarter of 2009 and the first quarter of 2010 to review the services provided jointly with the PGR in mediation. The latter assessment was carried out through on-site visits to the Prosecutor Units for Alternative Dispute Resolution (UFRACs). The assessments took into consideration the following issues:

- A) Looking at the technical and legal aspects submitted by the defense, the prosecutor and the mediators in specific cases;
- B) Logistical issues; and
- C) Issues affecting teamwork.

Both assessments included working closely with the UFRAC team director, including the FGR and PGR supervisors, in training them to ensure that they can replicate it without assistance in the future.

The following table summarizes the results during the Project’s extension period. We consider these to be the ones requiring immediate follow up action.

Results	Current Status	Recommendations for Follow up
1. Impact and quality assessment regarding services provided in criminal mediation.	Completed	We recommend that the evaluation tool be applied every two years.
2. PGR develops self-	Completed	The PGR will need support in rede-

assessment tool.		signing self-assessment tool once new LOPGR comes into effect.
3. FGR develops self-assessment tool.	Completed	The FGR will need support in reviewing its self-assessment tools once the new Criminal Procedures Code is in place.

GENERAL CONCLUSIONS

Based on preceding information contained in this report, we make the following general conclusions regarding the Project's contribution to mediation in El Salvador.

I. Mediation, as an alternative dispute resolution method, can lead to a number of positive effects; yet their relative importance is subject to the prism through which they are viewed. Our analytical overview is framed within the precepts of strengthening justice, of transparent governance and of the ability to respond to the needs of the citizens. That said, we can succinctly state that mediation, as an ADR method, impacted on Salvadoran society in two significant areas: a primary impact made up of two distinct effects: **a) access to justice**, and **b) efficiencies in the justice system**. There was, likewise, a secondary impact based on separate effects: **a) the prestige/credibility of the institutions providing mediation services**, and **b) building up social capital through dialogue and peaceful solutions to the conflicts at the center of society**.

1. Primary Impacts

a) Access to Justice

Mediation, as a method, allows for access free of obstacles based on gender, educational background, or type of dispute. This is evidenced by the fact that, given research indicating a 78 percent success rate, and in light of being a service provided free of charge¹, 92 percent of users report that they would use mediation again if they were faced with resolving a dispute at some future date.

b) Efficiency

Project studies confirmed that the period of time required for conflict resolution from the moment one of the interested parties requests the service is much shorter when compared to the time required for a traditional administrative or judicial solution. On one hand, we have information showing that an average mediation took 15 days at the FGR. On the other hand, official data from Project counterpart agencies indicate that it costs the State about \$97 or \$98 to use mediation rather than the average \$6,000 it takes to resolve a case using traditional channels.²

2. Secondary Impacts

¹January 2010 Study by Project consultant Rolando Aguirre based on cases from the five UFRACs; see document annexed to this Report covering the last semester reporting period.

1. The tendency to use mediation cannot be distinctly attributed to a gender-based preference.
2. More than half the people requesting mediation have little or no formal education beyond 9th grade. The remaining users have a high school or college degree. Unlike the situation in 2008, the Mediation Project gained popularity and acceptance in 2009. It is perceived as an opportunity to access justice for those segments of the population with a limited formal education.
3. The rate of cases able to reach an agreement has remained stable from 2008 to 2009 despite the fact that the complexity of the cases has increased (78 percent of the cases reach an agreement, and 22 percent remain in disagreement).
4. A significant percentage of individuals (92 percent) using mediation services would use the service again and would recommend it to others.

²The expediency that the mediation process offers in conflict resolution is a determining factor for the users. The average period is about 15 days or two weeks, which compares very favorably to the average 52 weeks it takes for a case to be resolved in the traditional justice system. Mediation is a low-cost alternative. The average cost to the State for a mediation process remains below \$100, which is much lower than the average cost using traditional legal means adding up to about \$6,000.

a) Institutional Prestige /Credibility

There is no question that an organization's prestige is directly linked to the speed and quality of the services provided. Once mediation services were included, the users held the institutions in much higher esteem and perceived the innovation as a positive change compared to the services provided in the past.

b) Social Capital

In light of the violence plaguing the Salvadoran social context, mediation has proven to have the ability to capitalize on recent trends in society to resolve disputes through innovative means. This fact was apparent in the results of studies conducted by the Project in which more than 50 percent of the individuals that reach an agreement through mediation detect an improvement in their interpersonal skills. This is also evidenced in the fact that 66 percent of the individuals comply with the terms of the agreement they negotiate. In conclusion, mediation prevents violence among the parties and, in fact, evolves into a building block for peaceful coexistence.

II. The key to expansion of mediation services in El Salvador lies in the inter-institutional efforts that enabled the Project to expand mediation to a number of users through a variety of organizations, i.e., the Ministry of Education, municipalities, the PGR, the FGR, and universities. From a practical perspective, mediation was described as a catalyst that "increased the speed of a chemical reaction without being destroyed by the reaction." If we take the analogy a step further, mediation can be described as a method that generates a positive chain reaction and, when used in conjunction with traditional justice channels, does not wear out the components, but rather extends and strengthens them by filtering out conflicts according to their severity or impact and enables judges to address the cases of greatest importance.

III. Mediation has reached high levels of sustainability within El Salvador's institutions. Nevertheless, efforts should continue to permeate popular culture so as to ensure that the benefits of the method continue to contribute to a more democratic society.

RECOMMENDATIONS FOR FOLLOW UP

In order to maintain sustainability of the outcomes achieved during the life of the Project, we list the following timely recommendations. Greater detail was provided at the time when we submitted the relevant semi-annual reports and annexes to USAID.

- a) **School-based Peer Mediation.** Given demonstrable success at the 40 schools in which school-based peer mediation programs were implemented and given the fact that they now have PGR political and technical support, we recommend:
1. Build upon the efforts and success achieved at the 40 schools in which the Mediation Project was implemented. This can be achieved through the “*Community-Based Crime and Violence Prevention Activity*” and taking advantage of the experience gained by subcontractor Fundación Pro Educación Especial para El Salvador (FUNPRES).
 2. Support follow up for the agreements signed between MINED and the PGR in school-based mediation in order to generate greater sustainability and coverage for future initiatives.
- b) **Municipal Mediation.** The three municipal mediation centers have been sustainable to date and owe this to the determination and initiatives of the mayors themselves, as well as to the acceptance and requests that the community has made for the services and benefits they provide. We recommend:
1. In the western part of the country in the Department of Sonsonate, the UNDP program has expressed interest and is established and available to strengthen the ties made during our Project with the mediation center at Acajutla and at the University of Sonsonate, as well as with other local stakeholders that received training during the Project.
 2. In the eastern part of the country, specifically Concepción Batres in the Department of Usulután and Santa Rosa de Lima in the Department of Unión, existing relationships with the University Mediation Center at the Gerardo Barrios University (UGB) (with campuses in Usulután and San Miguel) should be considered as a strategic alliance to benefit those municipalities.
 3. As a general rule, we recommend an information exchange regarding the experience gained by the mayors in each municipality with other mayors and donor agencies in order to encourage expansion of the services at all community levels. This mediation model has legal basis in the Conciliatory Mediation and Arbitration Law currently in effect.
- c) **Mediation at the PGR.** Having created a national network of their own and combined mediation centers, and facing the implementation of the new organic law, the current PGR authorities will face challenges in their internal restructuring, qualifications and staffing needs pertaining to mediation. These challenges are in addition to the other challenges that have been identified by the Project’s local and international consultants. The following list includes our timely recommendations:
1. Seek technical assistance for appropriate implementation of the new organic law as well as for budgetary reinforcements for its development.
 2. Systematically review inter-institutional agreements in order to assess their technical and strategic feasibility in order to make them operational during the current administration.

3. Continue with institutional efforts and financial management to improve data gathering and management of statistical information in order to make informed decisions to ensure that quality of service levels remain high and take advantage of the assistance provided throughout the life of the Project.
 4. Given the fact that the PGR has an excellent training team in place, continuing education should be a priority and should take into consideration the new legislative challenges facing the country, i.e. both the PGR's own organic law as well as the new Criminal Procedures Code that are coming into effect.
 5. Take advantage of the experience gained at the PGR when they developed the public awareness campaigns in 2008 and 2009 so as to enable them to continue to lead the way in the dissemination of mediation services.
- d) Criminal Mediation.** Having achieved a significant impact over two years of implementation at the PGR, this approach has been institutionalized within the organization and has support from the PGR leader. The next stage will require strengthening and expanding the service to adapt it to the demands of the new Criminal Procedures Code. The following lists some timely recommendations:
1. The model for joint efforts between PGR-FGR through the five Prosecutor Units for Alternative Dispute Resolution (UFRACs) should be evaluated at the one-year mark in April 2010. Our Project carried out a diagnostic assessment and submitted it to the authorities from both institutions at the time our Project was closing down. In addition to that, the political and technical sustainability of the alliance should be evaluated given the changes taking place within both organizations over the last few months of the life of the Project and the challenges presented by the new legislation.
 2. We recommend monitoring the appropriate use of the mediation tool within the FGR in terms of the quality of service currently provided, as well as respect for the willingness of the parties to use it and keep up the tempo regarding agreements, compliance with the terms, and user satisfaction with the services provided. This recommendation is made in light of the demands that will be created by the new Criminal Procedures Code coming into effect in widening the applicability of the tool in a greater number of situations, yet avoid it being used as an indiscriminate filter for services that would jeopardize the use of the tool. This statement is made based on negative experiences identified in other countries.
 3. We recommend an appropriate design be created to build criminal mediation into the judicial branch and confirm its applicability through a pilot case in one location. This would enable replicating the FGR successful experience which was based on a *gradual* insertion of the use of the tool within the organization, considering the paradigm shift required throughout, while inserting a new and participatory approach to the administration of justice. Being able to demonstrate specific and successful results in one location is key to then being able to expand them successfully to a larger number of locations.
 4. In terms of expanding criminal mediation within the FGR, it is not necessary to set up a UFRAC unit at each one of the offices in locations throughout the country. Rather, it is preferable to set up a geographic approach for the expansion strategy that ensures capturing key cases and providing quality service. The same recommendation applies to expanding court-annexed criminal mediation.
- e) Court-annexed Mediation.** In compliance with the terms of our contract task order, we consulted with the Supreme Court of Justice about the area where the greatest backlog is occurring within the judicial system, as well as where violence prevention could impact the justice sector. We identified family law as the area where the greatest strategic impact could be achieved through a pilot project. Over the last six months of the project, we worked closely with civil courts and with the Implementation Commission for the integrated justice centers along with family court judges from San Salvador

and Soyapango to design an ad hoc mediation model attached to the family courts. The following recommendations are the result of our findings:

1. In a joint effort with the Supreme Court of Justice civil courts, we recommend assessing the feasibility of developing the models using joint funding from USAID and the Supreme Court.
2. Use the baseline data generated by the Supreme Court with Project technical assistance to monitor results and indicators from the onset and the impact of the pilot project, and then share the results with stakeholders from within the Supreme Court, as well as with those outside the organization. The results should reflect primarily the impact mediation has on violence prevention, as well as on reducing the backlog of cases.

f) University Mediation. Following the successful training for mediators at 14 local universities leading to the creation of a network of seven university mediation centers, as well as to adjustments to study programs and coursework towards law degrees in five of those universities, we have the following suggestions for follow up:

1. Encourage meetings for information exchange among the university mediation centers that would generate cross-cutting assistance.
2. Support technical assistance and training in clinical education applied to ADR within those universities that include mediation centers at their legal aid facilities.
3. Provide follow up to the inter-institutional agreements (memoranda of understanding) in place in order to extend the periods or broaden the scopes to ensure the sustainability of ADR in El Salvador.

RECOMENDATIONS FOR EXPANDING INTO OTHER AREAS

Mediation has proven to be a useful tool for the justice sector but we feel it would be worthwhile to expand its use in both government and non-governmental applications. It could facilitate communication in other spheres of social interaction in which disputes are constantly generated, as follows:

- a) environmental
- b) health care
- c) economic growth
- d) democratic development
- e) education

A significant impact could be attained by disseminating and applying ADR methods as a cross-cutting theme throughout all of the development programs that USAID manages and/or as a component to be factored into donor coordination.

PERFORMANCE MONITORING AND EVALUATION DATA THROUGH MARCH 2010

PERFORMANCE MONITORING AND EVALUATION DATA THROUGH MARCH 2010									
SO1 RULING JUSTLY: MORE RESPONSIVE, TRANSPARENT GOVERNANCE									
EL SALVADOR MEDIATION PROJECT									
Task Order No. DFD-I-02-04-00173-00									
Context Indicators: (1) Freedom House MCA, JSP; (2) Control of Corruption MCA, JSP; (3) Voice & Accountability Index MCA & JSP; (4) Rule of Law MCA & JSP.									
SO Performance Indicators: (5) Corruption Perception Index Score; (6) Level of perceived Government responsiveness.									
Baseline: Status quo achieved with USAID support to the relevant counterpart as of the start date of the Mediation Project task order.									
1. Number of cases filed in mediation centers*									
Indicator Description	Source	Base-line as of FY06	Cumulative Target FY07	Actual FY07 & Actual Cumulative since 2006	Cumulative Target FY08	Actual FY08 & Actual Cumulative since 2006	Cumulative Target FY09	Actual FY09 & Actual Cumulative since 2006	Actual FY March 2010 & Actual Cumulative since 2006
This indicator measures the cumulative number of cases filed for mediation at the PGR, target municipalities, and other partners.	PGR Statistics	13,667	22,300	27,067 (FY07: 13,400)	41,807	44,806 (FY08: 17,739)	61,020	60,173 (FY09: 15,367)	67,252 (FY March 2010: 7,079)
2. Number of USAID-supported mediation centers*									
Indicator Description	Source	Base-line as of FY06	Cumulative Target FY07	Actual FY07 & Actual Cumulative since 2006	Cumulative Target FY08	Actual FY08 & Actual Cumulative since 2006	Cumulative Target FY09	Actual FY09 & Actual Cumulative since 2006	Actual FY March 2010 & Cumulative since 2006

<p>Number of centers supported by USAID (USAID provides training and/or technical assistance or, as an exception, provides basic equipment). Comment: The 34 centers are: 15 PGR centers, 3 Mixed municipal mediation centers (PGR-Municipality); 5 Mixed criminal mediation units (FGR-PGR); 1 Mobile PGR Unit (with 2 vehicles); 3 municipal mediation centers; 7 University Mediation Centers.</p>	<p>DPK Consulting</p>	<p>26</p>	<p>29</p>	<p>26 (FY07: 0 centers)</p>	<p>28</p>	<p>28 (FY08: 2 centers)</p>	<p>30</p>	<p>30 (FY09:2 centers)</p>	<p>34 (FY March 2010:4)</p>
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3. Number of schools participating in peer mediation programs*									
Indicator Description	Source	Base-line as of FY06	Cumulative Target FY07	Actual FY07 & Actual Cumulative since 2006	Cumulative Target FY08	Actual FY08 & Actual Cumulative since 2006	Cumulative-Target FY09	Actual FY09 & Actual Cumulative since 2006	Actual FY March 2010 & Actual Cumulative since 2006
Cumulative number of schools in which a mediation program for students has been established and is functioning (i.e. receiving cases)	DPK Consulting Reports	0 (base-line taken in 2005)	2	2 (C.E. Arrue in Guazapa & C.E. Rep. Colombia in San Salvador)	16	32 (FY08: 30 schools)	40	40 (FY09:8 schools)	40 (FY-March 2010:0 schools)
4. Number of justice sector personnel who have received mediation training with USG funding									
Indicator Description	Source	Base-line as of FY06	Target FY07	Actual FY07	Target FY08	Actual FY08	Target FY09	Actual FY09	Actual FY March 2010
Number of justice sector personnel trained per year (judges, magistrates, prosecutors, advocates, inspectors, and court staff)	DPK Consulting Statistics	0	200 (120 men/80 women)	979 (490 men/489 women)	720 (432 men/288 women)	1,116 (477 men/639 women)	N/A	2,284 (1,354 men/1,630 women)	559 (283 men/276 women)
5. Percentage of stages accomplished for the reform of Mediation and Arbitration legislation*									

Indicator Description	Source	Base-line as of FY06	Target FY07	Actual Cumulative as of FY07 since 2006	Target FY08	Actual Cumulative as of FY08 since 2006	Target FY09	Actual Cumulative as of FY09 since 2006	Actual Cumulative as of FY March 2010 since 2006
Completion of milestones in the reform process for the mediation and arbitration legislation, defined in steps: (1)Agreement with CCSJ; (2)Technical proposal drafted; (3)Public awareness campaign with key civil society actors; (4) Public awareness campaign and legislative lobbying; (5)Draft legislation presented to Legislative Assembly; (6)Legislative	CCSJ and DPK Consulting	0%	14.3%	42.9%	71.5%	71.5%	85.8% (STEP 6)	71.5%	71.5%

<p>Assembly holds technical and public forums; (7) Provided that reforms are passed by legislators, training and TA are provided to the PGR and key justice organizations to implement reforms. Note that each milestone has an equal value of 14.3%. Indicator is cumulative.</p>									
6. Institutionalization of mediation processes within the PGR									
Indicator Description	Source	Baseline as of FY06	Target FY07	Actual Cumulative as of FY07 since 2006	Target FY08	Actual Cumulative as of FY08 since 2006	Target FY09	Actual Cumulative as of FY09 since 2006	Actual Cumulative as of FY March 2010 since 2006
Completion of milestones in the reform process for the new PGR	PGR Technical Staff and DPK Consult-	12.5%	25%	25%	50%	50%	87.5% (STEP 7)	87.5%	87.5%

<p>organic law, defined in steps: (1) Agreement within the technical team of the PGR; (2) Technical proposal drafted; (3) Draft organic law is presented to Legislative Assembly; (4) Internal procedures manual is drafted; (5) Legislative Assembly discusses the law; (6) Organic law is approved; (7) Internal Procedures Manual is approved; (8) Training is provided to implement the new organic law and</p>	<p>ing</p>									
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internal procedures manual. Note that each milestone has a value of 12.5%. Indicator is cumulative.									
7. Knowledge/public awareness of mediation centers*									
Indicator Description	Source	Baseline as of FY06	Target FY07	Actual FY07	Target FY08	Actual FY08	Target FY09	Actual FY09	Actual FY March 2010
Percentage of respondents who have heard about the existence of mediation centers.	USAID biennial Democracy Survey. Question EB56: "Have you heard about the existence of mediation centers promoted by the PGR?"	30%	N/A	N/A	50%	27%	N/A (Project will develop an outreach campaign in 2009; however, independent IUDOP survey to evaluate people's knowledge will take place later in 2010.)	N/A	N/A
8. Number of cases that reached an agreement through mediation at the Public Defender's Office (PGR) mediation centers*									
Indicator Description	Source	Baseline as of FY06	Target FY07	Actual FY07 & Actual Cumulative	Target FY08	Actual FY08 & Actual Cumulative	Target FY09	Actual FY09 & Actual Cumulative	Actual FY March 2010 & Actual Cumulative

				tive since 2006		tive since 2006		since 2006	since 2006
Total cumulative number of cases in which parties reached an agreement during the mediation session by signing a letter of commitment. Annual increase targets are shown in parenthesis.	PGR Statistics	6,129	9,409 (FY07: 8,000* 41%= 3,280	8,767 (FY07: 2,638)	11,667 (FY08: 2,638*1.1 = 2,900)	12,330 (FY08: 3,563)	14,857 (FY09: 2,900*1.1= 3,190)	17,178 (FY09: 4,848)	20,602 (March FY10: 3,424)
9. Impact of mediation in reducing social violence									
Indicator Description	Source	Base- line FY07	Baseline FY08	Actual FY08	Cumula- tive Tar- get FY09	Actual FY09 & Actual Cumula- tive since 2008	Comment	Actual FY March 2010 & Cumula- tive since 2008	
Cumulative number of criminal cases that utilized mediation or conciliation and reached settlement for both parties.	Attorney General's Office (FGR)	N/A	0	252	598	1,150 (FY09: 898)	Number of actual criminal mediation centers and cases received exceeded the expected amount.	1,726 (March FY10: 576)	

10. Impact of mediation in making the formal justice system more efficient								
Indicator Description	Source	Base-line FY07	Target FY07	Actual FY08	Target FY09	Actual FY09 & Cumulative since 2008	Comment	Actual FY March 2010 & Cumulative since 2008
Cumulative cost savings to the justice system per year due to increased use of the Attorney General's Office criminal mediation project	Attorney General's Office (FGR) (based on public information about judges' and court personnel salaries)	N/A	N/A	\$1,265,404 (206 cases w/ agreement reached multiplied by average savings of \$6,143)	\$1,645,026 (calculating a 30% increase in the number of cases resolved)	\$6,781,585 (\$5,516,181 FY09) (206+898 cases multiplied by average savings of \$6,143)	Number of actual cases exceeded the expected amount.	\$10,602,369 (March FY10: \$3,538,218 (576 cases multiplied by average savings of \$6,143))
	*		Indicators PMP/USAID					
			Indicators M&E Mediation Program					

U.S for International Development

1300 Pennsylvania Avenue, NW

Washington, DC 20523

Tel: (202) 712-0000

Fax: (202) 216-3524

www.usaid.gov