



USAID
FROM THE AMERICAN PEOPLE

REDUCING CORRUPTION IN THE JUDICIARY

OFFICE OF DEMOCRACY AND GOVERNANCE
USAID PROGRAM BRIEF

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DISCLAIMER

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ACRONYMS

ADB	Asian Development Bank
CEELI	Central European and Eurasian Law Initiative, American Bar Association
DFID	Department for International Development (United Kingdom)
IDB	Inter-American Development Bank
NGO	Non-governmental organization
OECD	Organization for Economic Cooperation and Development
ROL	Rule of Law
TI	Transparency International
U4	Utstein partnership of the development agencies of Norway, United Kingdom, Canada, Germany, the Netherlands, Sweden, and Belgium
UN	United Nations
UNODC	United Nations Office for Drugs and Crime
US	United States
USAID	United States Agency for International Development
WB	World Bank

Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. United Nations Convention Against Corruption, Article 11

I. INTRODUCTION

The linkages between poverty reduction, economic growth, and democratic governance are firmly established in current development thinking, backed by persuasive research.¹ Equally well established is the recognition by scholars, policy makers, and development practitioners of the central importance of the rule of law and the control of corruption for successfully addressing the related challenges of social, economic and political development.²

The broad international consensus on the importance of strengthening the rule of law and combating corruption has generated a number of policy responses:

- The rule of law and combating corruption now feature prominently in international development cooperation programs in virtually every sector. National plans of developing countries and programs of donors and multilateral development agencies include significant rule of law and anticorruption efforts and attract substantial foreign assistance resources. USAID has been a leader in this trend.
- A broad array of international agreements now obliges developed and developing countries alike to combat corruption and gives their obligations high visibility. Treaty commitments are given effect primarily through national laws,

What is Governance?

Governance consists of the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.

World Bank, Governance Matters, 2008.

What is the Rule of Law?

The “rule of law”...refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

Report of the UN Secretary General on the rule of law and transitional justice in conflict and post-conflict societies, August 2004.

implemented by national courts and national enforcement organizations, thus placing great reliance upon the integrity and competence of those institutions.³

- Rule of law and anticorruption standards have been established as determinants of eligibility for foreign assistance and other benefits. Examples include Millennium Challenge Account assistance, trade benefits, and membership in the European Union and other regional organizations. Several published indices that compare and rank national performance in these aspects of governance provide additional incentives for adherence to high standards.⁴

Against this background, judicial corruption is an especially pernicious phenomenon. When the judiciary – which is expected to serve as the guardian of the rule of law – is itself corrupt, anticorruption strategies are deprived of essential measures that are needed to increase the risks and reduce the benefits of corruption and to punish corrupt acts. The resulting distortions, including the impunity of corrupt individuals, undermine the rule of law, foster public cynicism about the integrity of government, and thus impair essential capacities for sound economic, social and political development. Conversely, strengthening judicial integrity and related capacities to combat corruption can have enormous benefits.⁵

This program brief complements the USAID Anticorruption Strategy⁶ and the USAID Rule of Law Strategic Framework⁷ by providing basic information for USAID officers about key concepts and best practices for combating judicial corruption. The brief proceeds from the Anticorruption Strategy's call for anticorruption goals and activities to be incorporated into sector-specific strategies and programs. And while it provides guidance based on

global lessons, it starts from the premise that efforts to combat corruption in the judiciary, like other development activities, need to be based on the circumstances of each country and be integrated into efforts to improve the performance of essential functions in this sector. The brief also reflects the guidance of the Rule of Law Strategic Framework that the rule of law incorporates five essential elements, all of which must be present for the rule of law to prevail, and that judicial integrity is an important issue that cuts across all five elements.

The brief specifically addresses efforts to reduce corruption in the judiciary. In its references to “judicial corruption” it includes corrupt acts by judges, prosecutors, public defenders, court officials, and lawyers who are intimately involved in the operation of the judicial system. It recognizes, however, that addressing judicial corruption requires attention to the broader context of corruption in the entire justice system, including law enforcement agencies, and in the society as a whole.

The principal elements of the guidance provided in the following sections of the program brief can be summarized as follows:

- It is not realistic to expect anticorruption efforts to achieve the complete elimination of all corrupt acts. Rather, the goal should be a judicial system that adheres to high standards of independence and impartiality, integrity, accountability, and transparency. A system that incorporates these qualities minimizes opportunities for corruption, exercises vigilance against risks, and responds decisively when corruption is detected. Such a system will also be more efficient, fair and effective.
- Corruption in judiciaries takes many forms and involves a wide range of actors. Efforts to combat it,

What is Corruption?

Corruption is defined as the abuse of entrusted authority for private gain.

USAID Anticorruption Strategy, December 2005.

Essential Elements of the Rule of Law

- Order and Security
- Legitimacy
- Checks and Balances
- Fairness
- Effective Application

USAID Rule of Law Strategic Framework, 2008

therefore, require thorough analysis and varied responses, taking into account:

- The legal, political, social, economic and cultural context within which the judiciary operates;
 - In-depth knowledge of the local legal system;
 - The readiness of leaders, the motivations of stakeholders, and the capacities of local institutions;
 - The importance of independence of judges, balanced by the need for judges to be accountable for their integrity, productivity, and sound management of public resources;
 - The need for a broadly participatory, locally owned program of sound policies, competent institutions, and transparent procedures; and
 - Harmonized international support for sustained improvement in achieving measurable results.
- Programming, based on careful diagnosis and analysis, should address judicial corruption in the context of broader efforts to improve the judicial system and instill qualities that minimize corruption and increase overall efficiency, fairness and effectiveness. Principal topics for consideration include:
 - Appointment and tenure of judicial branch personnel;
 - Case management and court procedures;
 - Ethics and institutional integrity;
 - Financing the judiciary;
 - Investigation and punishment of corrupt acts; and
 - Transparency and public participation.
 - Measuring the effectiveness of anticorruption activities in the context of overall judicial system

performance requires a well designed monitoring and evaluation plan. Monitoring and evaluation begin with the identification of program objectives, followed by the selection of indicators of progress toward those objectives. The importance of country-specific, in-depth knowledge of the justice system necessitates a participatory approach to establishing appropriate objectives and indicators.

II. THE GOAL OF EFFORTS TO COMBAT JUDICIAL CORRUPTION

Some corruption is found in the judiciaries of all countries – rich and poor, democratic and authoritarian. And corruption is found in all legal systems – whether state-based or non-state, formal or informal, applying civil law, common law, religious law, or customary law.⁸ The complete eradication of all corrupt acts is not a realistic goal. Rather, the goal should be a judicial system that adheres to high standards of independence and impartiality, integrity, accountability, and transparency.

Judicial systems that provide timely access to fair and impartial judicial services and uphold the rule of law consistently display qualities of independence and impartiality, integrity, accountability, and transparency. Judicial systems that respect these values minimize opportunities for corruption, exercise vigilance against risks of corruption, and respond decisively to corruption when it is detected. Principal measures include transparent and merit-based selection of personnel, reasonable compensation and working conditions, simplified procedures, internal controls, reliable statistics, objective performance

standards, vigorous ethical and disciplinary programs, adequate financing, public access to information, and civil society monitoring. As a result, corrupt acts are rare and isolated events. At the same time, such measures increase the system's overall efficiency, fairness, and effectiveness.

How a non-corrupt judicial system is achieved will depend on the particular facts of each system's operation. Yet, the qualities of independence and impartiality, integrity, accountability, and transparency are common attributes. These attributes interact and overlap to some extent. They can be summarized as follows:

Judicial independence and impartiality: The institution of the judiciary needs to be free from the undue influence of other institutions of government and society that might affect how cases are decided. Relevant factors include security of judicial tenure, assurance of adequate budgetary resources, and capacity for substantial self-governance. And within the judiciary, individual judges need to be free from the undue influence of the judicial hierarchy. This includes the freedom to decide cases on the basis of each judge's understanding of the law, subject to appellate review.⁹

Judicial Integrity: A positive self-image within the judiciary, built on belief in the values of individual honesty and professional ethics, is fundamental to combating corruption. As illustrated by the examples described in Section V, experience has demonstrated that judges, court personnel and lawyers respond positively to thoughtful efforts to establish high standards of ethical conduct, create expectations of behavior in conformity with those high standards, and maintain systems to motivate compliance. Elements of successful judicial integrity efforts go beyond mere opposition to the evil of corruption. They include committed leadership by example, transparent and

merit-based selection of judges and other personnel, clear codes of conduct and periodic ethics training, declaration of assets and income, information systems on court operations and case management, performance standards for judges, public complaint mechanisms, judicial mentors and peer pressure, independent inspectorates and disciplinary commissions, and denial of impunity for wrongful acts.¹⁰

Judicial Accountability: The independence of the judiciary and of individual judges needs to be tempered by the duty of accountability. Accountability has political, financial, and legal dimensions. Unpopular judicial decisions may give rise to efforts to change the law on which those decisions are based and a judge whose decisions are criticized by civil society monitors or frequently overturned on appeal may lose prestige and respect (political accountability). The judiciary's management of resources and internal administration should be subject to review and audit (financial accountability). Judges, court personnel and lawyers should be subject to disciplinary action under established rules of conduct and subject to prosecution and liable for damages under the same laws as anyone else for willful misconduct (legal accountability). However, broad immunity for official acts is also necessary to guard against abusive or vindictive suits and charges in response to good faith efforts to apply the law. For example, there should be a very high standard of demonstrable willfulness for allowing a suit or criminal proceeding against a judge who finds a defendant innocent or guilty.¹¹

Judicial Transparency: A transparent judicial system guards against corruption by exposing to public scrutiny the operation of the judicial system, including measures to promote independence, integrity, and accountability. Transparency means procedures that require evidence to be presented in public hearings and require

judges to give reasons for their decisions in published opinions. Transparency requires public access to information about judicial selection, assets and income of judges and other senior officials, and workloads, costs, and productivity of the courts so that there can be effective civil society monitoring of judicial performance. Systems for enforcement of professional ethical standards should be accessible to complaints from members of the public and the results of disciplinary complaints should be published. And transparency requires vigorous news media that disseminate information about the judicial system to inform the public.¹²

III. ANALYSIS OF JUDICIAL CORRUPTION

Corruption in judiciaries takes many forms and involves a wide range of actors. It may occur at national or local levels, or be concentrated in certain sectors or organizations. It may involve bribes, theft of public funds or property, favoritism for friends or family, political interference, criminal extortion, or hierarchical pressures within the judiciary. It may be petty or grand in its magnitude. And it may be isolated or deeply imbedded in a pervasive culture of privilege and inequality.¹³

Accordingly, efforts to combat varied forms of judicial corruption must include varied responses. While some measures can be taken on an institution-wide basis, such as codes of ethics, many interventions must be implemented at the operational level to be effective. In order to understand where and how to respond, it is important to start by identifying the type and scope of judicial corruption, as well as its locus within the justice system. At what stage and in what organization is the corruption happening? Who is involved and what are they doing?

Given its overarching importance to the operation of a justice system, judicial corruption should be among the issues considered in any country assessment of the rule of law. Where corruption is believed to be a significant impediment to the fair and efficient administration of justice, this issue merits special attention. The USAID *Guide to Rule of Law Country Analysis* provides a conceptual framework that recognizes corruption as a cross-cutting element. Additional detailed suggestions on how to carry out a justice sector assessment are provided in the World Bank's *Justice Sector Assessment Handbook* and the UNODC *Criminal Justice Assessment Toolkit* (especially the chapter on "The Independence, Impartiality, and Integrity of the Judiciary"), and the other assessment tools cited in Appendix A. While focused on Latin America, the Due Process of Law Foundation's *Guide to Rapid Assessment and Policymaking for the Control of Corruption* provides helpful matrices for organizing data and examples of good practice.

The assessment tools stress the importance of understanding the facts – the environment within which the judiciary operates, conditions within the judiciary, and factors relating specifically to corruption. For example, external conditions include issues such as the place of the judiciary in the structure of government, the security environment, and societal attitudes and expectations. Internal conditions relate to the governance structure of the courts, court administration, finance and management systems, public information and outreach policies, and ethical standards and their enforcement. Corruption factors include the nature and extent of corruption, the history of efforts to combat it, and the estimated costs and impacts. Understanding the facts requires consideration of how standards are articulated in laws and other normative instruments and also how those standards are applied *in practice*.

Because corruption is inherently clandestine, the methodology of an assessment is likely to require reliance on interviews, surveys, and observation in addition to press reports, published indices, and official records. The analysis needs to address what corrupt acts are taking place, the reasons why corruption is occurring, and likely solutions. As noted in the World Bank's assessment handbook, institutional weaknesses merit special attention. Programming to reduce corruption is most likely to focus on institutional issues such as those addressed in Section V of this program brief: appointment and tenure of judicial branch personnel, case management and court procedures, ethics and institutional integrity, financing the judiciary, investigation and punishment of corrupt acts, and transparency and public participation, taking into account both standards and their application as well as the incentives and disincentives for implementation. A checklist of issues and sample questions for use in assessments are set out in Appendix B.¹⁴

IV. LESSONS LEARNED ABOUT REDUCING JUDICIAL CORRUPTION

Careful analysis of the facts of corrupt activities and of the environment in which those activities take place, as outlined above, will inform judgments about what programmatic responses are most likely to be effective in particular situations. Knowledge of the lessons of experience is also important for informing programmatic judgments. A number of development organizations and NGOs have reviewed their

experience in published reports that reach highly consistent conclusions and contain helpful recommendations for programming.¹⁵ In general, these reports reflect the following as common features of successful efforts to reduce judicial corruption:

Address the legal, political, social, economic and cultural context within which the judiciary operates.

- Sustainable solutions take into account the social norms, economics, politics, institutional culture, and legal traditions of the country that can influence the supply, demand and tolerance of corruption.
- Anticorruption efforts should not be freestanding. Rather, they should be integrated into coherent programs to strengthen the capacity and effectiveness of the judiciary and should take into account broader issues of fairness and transparency throughout the multi-institutional and multi-stakeholder justice system.

Rely on in-depth knowledge of the local legal system, including its history, procedures, practices, institutions, and relationships that affect the administration of justice.

- An assessment, with input from a range of experts and disciplines, should document baseline data about the justice system, including prevailing kinds of corrupt activities, key actors, and apparent causes and consequences of corruption.
- Knowledge of the system can help determine the appropriate sequencing of actions. Strengthening corrupt institutions before reforms

are introduced might further entrench corruption in the judicial system. On the other hand, measures that depend on capacity (e.g., for producing accurate statistics about system performance) obviously cannot be implemented if the responsible institutions lack the necessary capacity.

- An assessment should include input from those who know the judicial system best – those who operate it (judges and court staff) and those who use it (lawyers and litigants).

Consider the readiness of leaders to take risks of confronting corrupt interests, the strength of motivations and incentives for change of various stakeholders, and the capacity of local institutions to implement change.

- Sustained commitment from senior levels of the judiciary and leadership by example are especially important because achieving a non-corrupt judiciary is a complex and time-consuming process. Intense opposition from vested interests is likely and attitudes among judges accustomed to existing collegial norms are often resistant to change. (Brief tenure in key leadership positions might warrant an initial focus on creating a more sustainable environment for a long-term effort.)
- Identifiable stakeholder interests should be engaged within the public sector and civil society, including potential champions in the executive and legislative branches and in universities, law-related research and policy advocacy organizations, legal services groups, NGOs, professional and business associations, and the media.

- Demands on institutions responsible for implementation need to be consistent with their capacities, usually accompanied by capacity strengthening efforts and increasing responsibilities.

Give high priority to the independence of judges to decide cases on their merits, balanced by the need for judges to be accountable under high standards of integrity, productivity, and sound management of public resources.

- Judicial independence involves issues of the selection of judges, security of tenure, promotion and transfers, financial and administrative autonomy, and safeguards against interference through manipulation of budgets, salaries, or working conditions.
- Judicial accountability involves responsibility for compliance with performance standards, the applicable code of professional conduct, and established legal norms. While judges must be accountable, it is a constant challenge to find the appropriate balance so that accountability does not undermine independence.
- Even the most carefully crafted structures for independence and accountability can be abused. Beyond specific rules and procedures, these values need to be reinforced by attitudes, expectations, and continuous vigilance through transparent processes and concerned citizens.

Encourage a broadly participatory, locally owned program that fosters adherence to high standards of judicial integrity through sound policies, competent institutions, and transparent procedures.

- A normative framework for the judiciary should strive for clear and objective standards.
- Management practices and systems should minimize opportunities for corruption through procedures that limit possible favoritism (e.g., random case assignment, accountability for case files), standardized performance guidelines, and timely collection and analysis of data.
- Codes of ethics should be given practical vitality through educational programs, judicial mentoring and counseling, citizen complaint procedures, and investigative and disciplinary mechanisms.
- Transparency should extend to all aspects of the judicial system: selection of judges, openness of proceedings, publication of decisions, public access to information about court operations and performance, disclosure of assets and income of judges and other senior judicial officials, and civil society monitoring of judicial performance.

Foster harmonized international support for locally owned programs, including enhanced incentives for sustained improvement in achieving measurable results.

- Assistance programs are temporary; they should support enduring local capacity for improved performance.
- Harmonized donor support for local strategies increases prospects for sustainable development and opens possibilities for complementarity of efforts and rewards.¹⁶

Singapore's Ten Commandments of Judicial Integrity

Singapore, which has made important strides in judicial reform and reducing public sector corruption, has adopted a set of ten “commandments” to frame its approach to judicial integrity. This compressed list captures much of what has been learned about successful intervention to reduce judicial corruption:

One: Transparency in the selection of judges, based on merit, competency and experience.

Two: Adequate remuneration for judges and court staff.

Three: An independent yet accountable judiciary, with the courts free of external influence in judicial decision-making, but subject to independent audit of the use of public resources.

Four: A coherent system of case management which eliminates backlogs, shortens waiting time, and diminishes vulnerability to mismanagement.

Five: Performance standards for the judiciary and the judges, with time-based, volume-based and disposal-based indicators.

Six: Consistent and objective criteria in the administration of justice, including in fines, fees and sentences.

Seven: Clear ethical markers and guidelines for judges.

Eight: A common vision for the judiciary and leading by example by the Chief Justice to assure unity of vision and purpose.

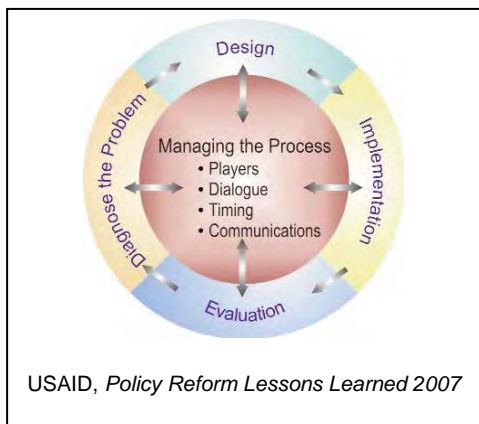
Nine: Full transparency in the justice process at all times, including public hearings, documented decisions open to public scrutiny, and right of appeal to the higher courts.

Ten: Learn from lessons of forward-looking institutions through strategic partnerships with progressive judiciaries and law-related organizations.

Source: Chua, Cher Yak, “Singapore’s Three-Pronged Program to Combat Corruption: Enforcement, Legislation and Adjudication,” OECD, 2007, <http://www1.oecd.org/daf/asiacom/pdf/nl02-cpib.pdf>.¹⁷

V. PROGRAMMING OPTIONS AND RISKS

As in any policy reform, USAID support for integrating themes of increased integrity and reduced corruption in the judiciary begins with a diagnosis of the problem and the design of a program to respond to that diagnosis, followed by program implementation and evaluation of the results achieved. Throughout this cycle, management of the process will require attention to the participants and stakeholders, open and flexible policy dialogue, strategic timing of program actions, and effective communication.¹⁸



The preceding section described major issues that have been identified in efforts to reduce judicial corruption. The lessons learned from this experience are relevant primarily for consideration in the diagnostic phase of the program cycle and in the establishment of program objectives. This section of the brief describes tested approaches and practices that merit consideration in program design and implementation and call attention to risks associated with these approaches and practices.

The specific content of the USAID program in any country will be determined by many factors. What are the priorities for the country and for USAID? What needs are being met by local actors and other donors? What

resources can USAID provide, and over what period of time? In light of such diversity, this section seeks to provide general programming guidance organized around specific judicial corruption issues. It is recognized that not all issues will be addressed in all programs. Also, the importance of addressing judicial corruption in the context of broader efforts to improve the judicial system bears repeating. The following topics correspond to the checklist of issues and sample questions set out in Appendix B and the sample indicators in Appendix C.

A. APPOINTMENT AND TENURE OF JUDICIAL BRANCH PERSONNEL

Unqualified judges who owe their positions to political patronage, or even corrupt acts, pose an enormous obstacle to achieving a judiciary that will reflect high standards of independence, integrity, accountability, and transparency. A merit-based appointment system is a high priority.

Judicial selection should involve independent screening of the qualifications of candidates for judicial appointment. Some countries have established judicial councils that perform this function along with other duties of court administration. Other countries have established commissions with the sole function of producing slates of qualified candidates to fill vacancies.¹⁹ A third approach is to require candidates to complete a course of academic study and pass examinations in order to be eligible to become a judge. The practice of electing judges, followed by many states in the United States, is generally considered to pose unreasonable risks of politicizing the judiciary.²⁰

All of these approaches are vulnerable to the risk of being politicized or otherwise distorted. It is important, therefore, that the selected approach to judicial selection be implemented with the greatest possible transparency,

ideally under published rules and criteria that are developed in a participatory manner. Members of the nominating body should themselves be selected in a transparent manner; the qualification of candidates for judicial appointment should be publicly and independently reviewed by a bar association or other civil society group; and judicial appointments and appointment procedures should receive media attention.

There is a strong correlation between judicial independence and the assured duration of judicial tenure. Where a judge serves at the pleasure of political authorities or has a brief term, especially one closely corresponding to that of the appointing authority, the judge is highly vulnerable to political interference. Life tenure (often subject to a mandatory retirement age and good conduct) or long fixed terms are associated with judicial independence.

Retaining and preserving the independence of capable judges involve more than protection against dismissal. Safeguards against salary reduction or punitive reassignment, reasonable working conditions (salary, facilities and equipment, staff support and workload), and fair opportunities for advancement also contribute to an environment conducive to continuity and consistency in judicial employment. These same considerations are also important to attracting and retaining a capable staff with incentives to avoid corruption. Developing a cadre of highly qualified court administrators and other professional staff and assuring satisfactory working conditions for judicial staff are rarely given sufficient priority, even though court employees are important actors in determining the competence and integrity of the judiciary.

B. CASE MANAGEMENT AND COURT PROCEDURES

Procedures that minimize opportunities for favoritism, delay, and abuse diminish opportunities for corrupt treatment of litigants. Many countries have undertaken broad procedural reforms, involving public oral procedures, codes of evidence, and increased scope for advocacy. In some cases, enthusiasm for these broad reforms has provided opportunities for building in safeguards against corruption. Where such a process is underway, donor support should include features that diminish risks and increase costs of corruption and foster institutional integrity. However, a fundamental change in a civil or criminal procedure system (such as changing from written to oral proceedings) is a massive, lengthy and expensive undertaking in which local leadership is essential, with donor assistance playing a supporting role.

Whether pursued in the context of a broad procedural reform or in more narrowly focused efforts, there are some issues that frequently arise. Historically, a particular area of abuse has been the discretion to assign a particular case to a particular judge. A significant reform in many multi-judge courts (as in major urban centers) has been the installation of a credible system for random assignment of cases among judges. Another frequent cause of corruption is a lack of control over official files that constitute the record of the case. Where clerks of individual judges maintain case files in unsecure environments there is a substantial risk that documents, or even entire files, might disappear. A records center staffed by records management experts who are assigned responsibility for maintaining accurate and up-to-date case files not only increases efficiency and conserves space. It also eliminates a potential source of corrupt manipulation of judicial records.

Case Management Reform in Guatemala and Serbia

The establishment, with USAID support, of a Clerk of Courts Office in Guatemala City in 1998 has virtually eliminated the problem of lost case files, removed opportunities for judge shopping, reduced congestion, monitored the time consumed by various court processes, and generated reliable and consistent statistics and reports. This effort brought together improved systems, modern technology, and competent human resources.

Serbia's commercial courts, "long a bastion of corruption," introduced an automated case management system in 2004 that "selected judges at random, charged litigants standard fees, and allowed citizens to track the progress of their cases online. The resulting increase in transparency, efficiency, and fairness caused a 24 percent reduction in the inventory of pending cases during 2006, and between 2004 and 2006 a 38 percent reduction in the time needed to enforce a contract."

Sources: Guatemala: USAID Anticorruption Strategy; Serbia: Commission on Legal Empowerment of the Poor

Also important are management information and statistical systems that measure the productivity of judges and court personnel against carefully formulated performance standards. Research suggests that most delays in litigation are attributable to lax management by the judge in keeping the case moving toward decision.²¹ However, a pattern of excessive delays in processing cases could have various causes, including corruption. There are many opportunities for corrupt delay throughout the processing of a case, such as in the service of process, the calling of witnesses, the scheduling of hearings, and rulings on the production of physical and documentary evidence. Closed case surveys to review the actual functioning of the judicial process can be valuable in identifying corruption

risks and needs for system changes that can reduce those risks.

Efforts to delay proceedings are often seen at the stage of enforcing a judgment. There are obvious incentives for a losing party in a lawsuit to seek to delay enforcement of the court's judgment. For example, delay may provide an opportunity to conceal or transfer assets; the rate of interest on an unpaid judgment may be below the market rate. It is equally obvious that a judicial system's failure to enforce its judgments is a denial of meaningful access to justice.²² There are many kinds of weaknesses that can provide opportunities for delay in the enforcement of judgments. Often in the forefront are procedural weaknesses that lend themselves to corrupt manipulation, such as complex rules, broad discretion of enforcement personnel, excessive opportunities for dilatory appeals, and inadequate access to information. Corrective measures (which need to be taken in the context of broader reform measures) often include simplifying required procedures, clarifying the duties of judgment debtors to disclose and surrender assets, expanding available options for seizing and liquidating assets and, most important, diligent judicial oversight of the execution process and timely rejection of frivolous appeals.

A frequently encountered risk is the desire of judiciaries to automate processes, records systems and statistical data bases before they adequately review and improve existing practices. It is important that the efficiency of procedures and the quality of data be assured before proceeding to automate systems that, absent such review, are likely to prove inadequate.

C. ETHICS AND INSTITUTIONAL INTEGRITY

Among the several models of ethics codes for national judiciaries listed in the bibliography at Appendix A, the most widely used are the 2002 Bangalore Principles of Judicial Conduct.²³ Detailed guidance is contained in a commentary on the Bangalore Principles prepared in 2007 by the Judicial Integrity Group. This is a broadly based group of Supreme Court Justices and other senior judges that meets under the auspices of the United Nations Office of Drugs and Crime. This group has also developed draft principles of conduct for court personnel. Citations to the Bangalore Principles commentary and draft principles of conduct for court personnel are included in Appendix A.

Just as laws do not, by themselves, produce desired results, the adoption of a code of ethics is no more than a first step in achieving ethical conduct in the judiciary. Leaders of the judicial institution need to make clear that the ethical rules will be applied, and that judges and staff will be expected to know them and adhere to them. Successful ethics programs include initial training and periodic follow-up for concerned personnel, mechanisms to provide guidance to those confronting ethical questions, complaint and enforcement procedures, and publication of decisions on alleged ethical violations.

In addition to a comprehensive ethics program for judges, the judiciary normally has important responsibilities for oversight of the ethics programs of judicial staff. Sometimes this oversight role extends to prosecutors, public defenders, investigators, and even to the legal profession as a whole. Disciplinary actions of bar associations and other professional organizations are often subject to judicial review. Vigorous ethics oversight by the judiciary contributes to the effectiveness and

credibility of efforts to infuse the entire justice system with a commitment to institutional integrity.²⁴

Ethics cannot be treated as a “stand alone” issue within the judiciary. It needs to be integrated into the operations and incentives of the institution. In order to convey a clear message that ethical conduct is important, it needs to be a factor in performance evaluation and advancement. And the message needs to be reinforced in systems of internal controls for the management of official property, funds and other resources, in efforts to narrow overly broad grants of discretion that could be easily abused, and in consistent approaches to investigating and acting on alleged violations.

Judicial Integrity in the Dominican Republic

Against a background of low and declining scores on corruption indices and the shock of a major banking scandal in 2003, the President of the Supreme Court engaged the heads of the national prosecution service and office of public defense in a common effort to establish institutional integrity in the administration of justice. With USAID support, a participatory diagnosis of each institution was undertaken. Working groups were formed to address the findings of the diagnostic studies. A USAID-sponsored visit to the United States enabled the three working groups to observe how issues of institutional integrity were managed in state and federal judicial institutions and helped forge a shared vision and collaborative spirit among the working groups. Initial steps have involved the articulation of goals and objectives and the identification of priorities for action. The internal working groups are reaching out to the workforce and enthusiasm is spreading, grounded in the realities of each institution and building from within. Continuity of leadership and broad participation have been important sustaining influences. More than 1,500 individuals in the three institutions have participated in creating programs for enhancing institutional integrity. Initial achievements include a code of conduct and revised disciplinary procedures. Work continues on goals, actions, and performance indicators, aligned with budgetary resources, to include integrity issues into training, performance evaluation, and advancement decisions, to clarify standards for the exercise of discretion, and to assure sustainability.

As noted above in Section IV, one of the key lessons learned about reducing judicial corruption is the need to address broader issues of fairness and transparency throughout the multi-institutional justice system within which the judiciary operates. In this regard, the role of the judiciary in many countries includes reviewing the decisions of administrative agencies, the operation of bar association disciplinary systems, and the outcomes of alternative dispute resolution proceedings (ranging from neighborhood mediation centers to international commercial arbitration tribunals). This broad responsibility of the courts to assure adherence by other institutions to the rule of law underlines the need for the judiciary to possess both the will and the capacity to confront not only judicial corruption but also corruption in a wide range of institutions that exercise legal authority subject to judicial review.²⁵

D. FINANCING THE JUDICIARY

The judiciary needs adequate and assured financing in order to combat corruption. There are costs associated with attracting good people, providing them with reasonable working conditions, and developing and implementing management systems and educational programs that will further the values and practices of independence, integrity, accountability, and transparency.

International practice in assuring adequate and continuous financing for the judiciary varies considerably and country-to-country comparisons are difficult. Budget levels are determined in some countries by reference to a fixed percentage of the government budget. In other countries, a Ministry of Justice or other executive agency decides on the budget to be proposed to the legislature. In still other countries, the judiciary has broad autonomy and its budget recommendations are generally accepted by the legislature. There is no

consistency as to which entities are included in the scope of the judicial budget or whether the budget can be augmented by fines, fees, or other income of the judiciary. Some countries prohibit diminution of the judicial budget from year to year, or limit reductions in certain budget categories such as judicial salaries. There is also broad variance in the role of the judiciary in administering its budget. However, the broad international trend is toward increased financial autonomy for the judiciary in the interest of fostering judicial independence, subject to safeguards to assure accountability for the resources entrusted to the judiciary.²⁶

Often, existing systems for financing the judiciary are based in national constitutions and longstanding traditions that are highly resistant to change. Nevertheless, USAID officers should be alert to problems with several existing practices. For example:

Set percentages of the national budget may provide an excess of resources in some years and inadequate funding in other years for reasons that may be unrelated to the needs or the performance of the judiciary and preclude use of the budget as a tool for encouraging improved performance.

Augmentation of budgets with court fees and fines can create perverse incentives that limit access to justice by the poor and pose risks of inadequate transparency.

Authority outside the judiciary for budget formulation and implementation can be exercised in ways that undermine judicial independence and constitute political interference.

Three principles should be given emphasis in programs that address judicial financing, based on contemporary best practice:

First, **judicial budgets should be based on performance management analysis**, reflecting the volume of case flow and the efficiency with which cases are managed.²⁷

Second, a **substantial and direct role for the judiciary in the formulation and administration of the judicial budget** is important, among other reasons, in order to diminish the vulnerability of the judiciary to corrupt political pressure from other branches of government.²⁸

Third, **transparency in the formulation and administration of the judicial budget** is crucial to assuring sound, disciplined, and accountable management by the judiciary with respect to the allocation and expenditure of public funds.²⁹

E. INVESTIGATION AND PUNISHMENT OF CORRUPT ACTS

The legal correctness of a judicial decision can be tested by appeal to a higher court. Distinct from the appellate process, it is important that the judiciary also have access to administrative bodies with specialized knowledge of the judicial organization and its functions and the necessary skills to investigate and adjudicate complaints of misconduct by judges and court personnel. Usually, these administrative bodies are situated within the judiciary – sometimes under the Supreme Court and sometimes under a judicial council. In countries where a justice ministry has responsibility for administrative management of the courts, the ministry may be the site of the judicial discipline system. The challenge in all these systems is to find the appropriate balance between protecting the judicial institution against corrupt individuals and protecting accused individuals (who

Performance-Based Budgeting in Jordan

The annual budget for the judicial system (civil and criminal courts, prosecution service, court registrars, notarial services, judicial training institute, and judicial council) is administered by the Ministry of Justice. Since 2005 the Ministry has served as a pilot for performance-based budgeting in the Jordanian public sector. Its action plan involves five steps:

1. Develop justice sector programs with goals and objectives.
2. Consult on and select performance indicators that measure impacts and outputs of justice activities and services.
3. Establish systems and capacities to collect and analyze performance data.
4. Modify existing financial management information systems to assure that they effectively support performance-based budgeting.
5. Align organizational structures and functions with the goals of the performance-based budget as a basis for managing for results.

The broad objective is to make the budget process a management tool for achieving substantial improvements in the quality of decisions for the administration of justice. The highly participatory procedures, alignment of expenditures with policy goals and identified actions, and monitoring of results achieved also provide safeguards against corrupt or merely inappropriate allocations and management of resources available for the judiciary.

Source: Webber, David, *Good Budgeting, Better Justice*, World Bank, 2007.

are vulnerable to unfounded charges) in their rights to due process of law.

Article 11 of the United Nations Convention against Corruption, quoted at the beginning of this brief, may offer an entry point. It imposes a duty to take measures “to strengthen integrity and to prevent opportunities for corruption among members of the judiciary.” Strengthening capacities to fulfill this duty is an appropriate subject for international cooperation and technical assistance.

Punishment for corrupt acts should be fair and consistent. Sometimes, judges and other corrupt officials have been permitted to resign in the face of corruption charges or to accept dismissal on other grounds (such as inattention to duties), with the implicit understanding that their departure will be the end of the matter. And similar conduct has been treated more harshly in some cases than in others. Such practices suggest a tolerance of corruption and undermine the legitimacy of the judicial system. A lack of consistent response may reflect the weak capacity of the responsible institutions to pursue cases to conclusion. Maximum transparency, including the publication of disciplinary rulings, can promote fairness and consistency. In addition, consideration should be given to needs to strengthen judicial capacity to manage corruption cases.

Beyond corruption within the judiciary, there has long been broad agreement that success in combating corruption anywhere “must include measures that reduce the opportunity for – and the benefits of – corruption, increase the likelihood that it will be detected, and make punishment of transgressors more likely.”³⁰ Ultimately, the effectiveness of all such measures will depend upon the capacity and the willingness of the courts and related supporting law enforcement institutions to collect, present and rule on evidence of alleged

criminal acts.³¹ Yet, the judicial and enforcement institutions often have inadequate capacity to manage major corruption cases involving complex transactions, voluminous records, and sophisticated concealment techniques. In turn, their limited capacity can undermine their willingness to confront powerful political and economic interests. Reluctance to act based on weak capacity is likely to create a strong perception of judicial corruption. Again,

Contrasting Approaches to Judicial Discipline in Kenya and Nigeria

In Kenya, a new Chief Justice created an ad hoc committee in March 2003 to look into allegations of widespread judicial corruption. On the basis of a six-month investigation and closed hearings, the committee implicated a large number of judges and court staff in a variety of corrupt acts. At the recommendation of the Chief Justice, the President suspended the named judges. One judge was eventually reinstated; some retired voluntarily; and some were removed after protracted delays. While the effort succeeded in removing some sources of corruption in the courts, some international observers have criticized this approach for its lack of grounding in institutional reform and its procedures that involved delay and little regard for the security of tenure and due process rights of those accused.

In Nigeria, the Chief Justice responded to allegations of judicial corruption by launching a program on strengthening judicial integrity in 2001. The program was integrated into a broad justice strengthening initiative that was coordinated with relevant national institutions and supported by USAID and other international partners. The program involved a comprehensive baseline assessment of types, locations, levels, and costs of judicial corruption. Action plans were developed for nine pilot courts to improve performance, strengthen the citizen complaint system, and increase public confidence in the courts. The program sought to transfer planning, implementing and monitoring skills to the pilot courts and extend lessons learned to additional courts.

The World Bank’s 2008 report, *Governance Matters* (see note 2), indicates that, while both Kenya and Nigeria rank low on rule of law and control of corruption, Nigeria made progress in both areas since 2003, while Kenya had not.

Sources: UN Anticorruption Toolkit, Transparency International Global Corruption Report 2007.

a possible entry point is the United Nations Convention against Corruption, which requires Parties to adopt measures to prevent false testimony or interference with judicial or law enforcement officials in connection with corruption cases (Article 25, Obstruction of justice).³²

F. TRANSPARENCY AND PUBLIC PARTICIPATION

As previously mentioned in the context of judicial appointments, procedures intended to combat corruption are vulnerable to the risk of being politicized or otherwise distorted. The same vulnerability exists for other aspects of judicial administration. The best efforts to improve internal procedures, information systems, ethical standards, and financial management need to be augmented by measures to assure transparent administration, public access to information, civil society monitoring, and vigorous media coverage.

Academic and advocacy organizations demonstrate broad agreement on the kinds of transparency measures that are needed to reinforce other efforts to increase integrity and reduce corruption in the judiciary. **Principal recommendations to foster transparency include** the following:

- **Annual reports by the judiciary** on its activities, financing, governance, and organization;
- **Publication** of laws and judicial opinions;
- **Public access** to judicial proceedings;
- **Declaration of assets and income** by judges and senior judicial staff;
- **Civil society monitoring** of the administration and operation of the courts;
- **Working through the media**, including press offices in the judiciary and training for journalists.³³

It is significant that a right to information necessary to enhance transparency in public administration is recognized in a number of international instruments. In particular, the UN Convention against Corruption includes such a provision (Article 10, Public reporting) as well as expressing a duty of governments to promote the participation of civil society in the fight against corruption and to raise public awareness about corruption (Article 13, Participation of society). A right of access to information is also contained in the African Union Convention on Preventing and Combating Corruption (Article 9, Access to information).

Many countries have adopted constitutional and statutory rights to government information. However, only a few of the general freedom of information laws are explicitly applicable to the judiciary.³⁴ It is necessary to examine laws and practices relating specifically to access to judicial information and then assign priorities and develop a strategy for supporting judicial transparency.

Engaging civil society in an active role beyond obtaining information has been an effective approach in a number of countries. Civic and professional organizations that monitor court performance, disseminate information, and provide legal representation to vulnerable members of society have increased the transparency of judicial selection, protected the courts against interference, and provided incentives for improved efficiency and greater attention to public service by the judiciary. Beyond serving as a valuable check on the abuse of discretion of public sector officials, civic engagement with justice system operators tends to forge a culture of shared societal interests and respect for the rule of law and democratic processes. Broad coalitions of civic organizations with shared interests in judicial integrity and performance have been effective in

raising the visibility of these issues in many countries. Research suggests that civil society involvement not only reduces corruption but also increases public confidence in public institutions.³⁵

Monitoring Judicial Appointments in the Philippines

The Philippines Constitution contains a thoughtful mechanism to foster the selection of judges on the basis of merit. A Judicial and Bar Council nominates qualified candidates to the President. The Council is made up of the Chief Justice (chair), the Secretary of Justice, a retired Supreme Court Justice, and representatives from Congress, the organized bar, academia, and the private sector. The Council had experienced difficulty in recruiting suitable candidates for many judicial vacancies and there had been numerous complaints that nominees had been selected on the basis of political considerations rather than judicial qualifications. In 2005, with support from USAID and the Asia Foundation, a broad consortium of civil society organizations began to monitor nominations to the Supreme Court and also to review the operations of the Judicial and Bar Council. There evolved a constructive dialogue and acceptance by the Council of several recommendations on increasing transparency. The consortium disseminated information to the public about the nominating process and profiles of candidates; it also elicited recommendations from the public. The Council has now substantially reduced the backlog of judicial vacancies; one nominee was found to be unqualified; and complaints about the quality of nominees have generally diminished. Encouraged by this success, the consortium is planning to extend its monitoring to additional courts.

Another valuable programming technique has been reliance on periodic user surveys to record the impressions of visitors to the courts. Surveys typically inquire about routine matters such as the ease of physical entry to the

courthouse, the clarity of directions to the office or courtroom, and the length of time before obtaining the requested service or the scheduled proceeding. However, they can go on to inquire about more sensitive matters such as perceptions of fairness, clarity of procedures, and whether or not a bribe was solicited. Experience has shown that judges and court staff are interested in what the public reports in these surveys and often will seek to find ways to improve performance based on survey results.

USAID and other donors have supported many civil society initiatives relating to judicial integrity. A frequently encountered problem has been the difficulty experienced by civil society organizations in sustaining their operations without continued donor support. In some cases, this concern has been overcome through the participation of organizations that have independent income-producing activities (such as bar associations and business groups) in the monitoring programs. For example, a bar association might survey its members on the performance of judges as their appointments come up for renewal.

VI. MEASURING THE EFFECTIVENESS OF ANTICORRUPTION ACTIVITIES

As in other aspects of programming described in this brief, measuring the results of efforts to reduce judicial corruption needs to be considered in the context of overall judicial system performance. A well designed monitoring and evaluation plan should assist system operators, national stakeholders, and international partners to evaluate progress, anticipate problems, apply corrective measures

and capture lessons for improving performance.

Management of a judicial system requires a range of quantitative data about resources, inputs and outputs. For example, it is useful to know the number of judges, the ratio of judges to population, judicial vacancies, the volume of pending cases in current workload, and the volume of cases entering and leaving the system. Experience has shown that certain investments are likely to have an impact on these performance data. For example, capital investment tends to improve case clearance rates and higher clearance rates tend to be associated with a reduced incidence of judicial corruption.³⁶

In addition to data relating to productivity, it is important to try to measure societal outcomes of efforts to improve the quality of services that the judicial system provides. These kinds of measurements often require special information gathering efforts. For example, a measure of increased accountability of judges might be the extent of public confidence in the judiciary's complaint and discipline system, which would require a survey.³⁷

Many systems exist for measuring the performance of judicial systems.³⁸ None of the many systems that measure the performance of judicial systems is universally accepted, although they include many common elements. A current effort by the World Justice Project seeks to create by 2010 a comprehensive rule of law index that will employ more than 90 variables to measure the adherence by countries around the world to four "universal principles" that comprise the rule of law.³⁹

While measuring effectiveness is important, there is a risk of becoming lost in a sea of data and indicators. It should be emphasized that indicators are no more than measures to help

determine the progress being made toward desired results. That is, they are components of broader results-based monitoring and evaluation systems. The vast subject of results-based management is beyond the scope of this program brief.⁴⁰ Nevertheless, it is worth noting that monitoring and evaluation begin with reaching agreement on desired outcomes to be monitored. Only when there is agreement on objectives that meet the "SMART" test of being specific, measurable, achievable, relevant, and time-bound can there be a rational selection of key indicators of progress toward those objectives.⁴¹

Qualities of Judicial Performance

The integrity of the justice system is upheld by competent, impartial judges who have a duty to exercise independent judgment and are broadly representative of the communities they serve, are adequately trained, are of sufficient number, have adequate resources, abide by high ethical and professional standards, and are selected, promoted, assigned, compensated, funded, dismissed, and subject to discipline in a manner that fosters both independence and accountability.

World Justice Project ROL Index, Factor 12.3

Indicators of progress toward desired results must be chosen carefully. Similar terms may be used by different organizations with different meanings. For example, is the rate of criminal convictions a percentage of those arrested, of those charged with a specific offense, or of those who contest the charge and proceed to trial? What is a positive indicator in one environment may be negative in another. For example, in a country where judges are rarely disciplined for misconduct an increase in disciplinary cases may be positive. But that would not be true in a country where senior judges routinely use the disciplinary system as an instrument of coercion to impair judicial independence. Disaggregation of data by gender, ethnicity, and economic status can add substantial value to the quality

of information gained from the use of indicators. Experts have compiled brief summaries of desirable qualities for indicators. Those of the World Bank and the Vera Institute of Justice seem the most useful. Their criteria suggest that indicators should be:

Adequate: Constitute a sufficient basis to assess performance;

Balanced: Reduce ambiguity of measurement;

Clear: Precise, unambiguous; and understood by target groups

Economic: Available at reasonable cost;

Monitorable: Amenable to independent evaluation

Motivating: Induce intended performance;

Relevant: Appropriate to the subject at hand and relevant to those affected by them

Sensitive: Respond to changes in a relevant time period.⁴²

The importance of country-specific, in-depth knowledge of the justice system necessitates a participatory approach to establishing realistic and meaningful program objectives and indicators. The direct involvement of those who will be responsible for achieving the desired results can help to assure the practicality of the objectives and indicators and also help to establish ownership and commitment by those who know the system best.⁴³

The sample indicators at Appendix C are intended only to illustrate the guidance provided in this program brief. The actual indicators to be used in any program to measure progress toward efforts to combat judicial corruption will have to be determined in the circumstances in the country concerned.

VII. CONCLUSION

This program brief demonstrates the importance of building efforts to combat

corruption into assistance programs to improve judicial performance. While the task is challenging, the rewards of success are great. As has been shown, adherence to high standards of judicial independence and impartiality, integrity, accountability, and transparency not only diminish corruption. Respect for these values also makes the judiciary accessible, credible, efficient, and effective in protecting rights, guarding against predation, and helping to assure an environment in which participatory democratic societies can flourish.

The international experience described in this brief demonstrates how judicial systems can work toward overcoming the challenges of corruption and achieve high levels of integrity and deserved public confidence. That experience also shows that donor support can be an important factor in helping local reformers to succeed in combating corruption in judicial systems. The brief has highlighted the complex nature of judicial corruption, identified significant policy considerations, demonstrated lessons learned, suggested key areas for programming, described risks, and provided references to sources of additional specialized information. The intention is to assist development practitioners and their host country counterparts to seize the challenge of integrating anticorruption goals and approaches into their programs, and to manage the issues in ways that produce measurable results.

NOTES

¹ Kaufmann, Daniel, Aart Kraay, and Pablo Zoido-Lobaton, *Governance Matters*, World Bank, 1999, [http://wbi0018.worldbank.org/Research/workpapers.nsf/08ec75f7ec913f59852567e50050361e/9cf690d8396d8b208525680400677f2c/\\$FILE/wps2196.pdf](http://wbi0018.worldbank.org/Research/workpapers.nsf/08ec75f7ec913f59852567e50050361e/9cf690d8396d8b208525680400677f2c/$FILE/wps2196.pdf); Kaufmann, Daniel, Aart Kraay, and Massimo Mastruzzi, *Governance Matters 2008*, World Bank, 2008, <http://www.govindicators.org>; see also Commission on Growth and Development, *The Growth Report Strategies for Sustained Growth and Inclusive Development*, World Bank, May 2008, www.growthcommission.org; Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone*, United Nations Development Program, 2008, http://www.undp.org/legalempowerment/report/Making_the_Law_Work_for_Everyone.pdf; *Securing the Future: A Strategy for Economic Growth*, USAID, April 2008, http://www.usaid.gov/our_work/economic_growth_and_trade/eg/eg_strategy/eg_strategy_v4_final.pdf.

² The terms “rule of law” and “corruption” are the subjects of numerous definitions and descriptions. See generally “Defining the Rule of Law” in Trebilcock, Michael J., and Ronald J. Daniels, *Rule of Law Reform and Development: Charting the Fragile Path of Progress*, Edward Elgar Publishing, Inc., Northampton, MA, 2008, pages 12-29; Allan, T.R.S., *Constitutional Justice: A Liberal Theory of the Rule of Law*, Oxford University Press, 2001; Kleinfeld Belton, Rachel, “Competing Definitions of the Rule of Law: Implications for Practitioners,” *Carnegie Papers, Rule of Law Series*, No. 55, January 2005, <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=16405>; “The Meaning of Corruption and a Survey of Its Most Common Forms,” in Chapter I of the UN Anti-Corruption Toolkit, 3d Edition, United Nations Office on Drugs and Crime, Vienna, September 2004, http://www.unodc.org/pdf/crime/corruption/toolkit/corruption_un_anti_corruption_toolkit_sep04.pdf. This program brief uses the definitions followed by USAID.

³ See the international conventions cited in Appendix A, Bibliography.

⁴ Various manifestations of international concern about corruption are described in Michel, James, “Integrating Anticorruption Strategies in Development Cooperation Programs,” *DPK White Paper*, April 2007, http://www.dpkconsulting.com/core/uploaded/anticorruption_thought_piece.11.6_copy1.pdf.

⁵ Transparency International devoted its 2007 *Global Corruption Report* to corruption in the judicial system because of the overarching importance of judicial integrity to development and to the security and well being of people everywhere. *Global Corruption Report 2007: Corruption in Judicial Systems*, Cambridge University Press, 2007 As stated by TI Chair Huguette Labelle in the Report’s preface:

Judicial corruption undermines citizens’ morale, violates their human rights, harms their job prospects and national development and depletes the quality of governance. A government that functions on behalf of all its citizens requires not only the rule of law, but an independent and effective judiciary to enforce it to the satisfaction of all parties.

⁶ USAID, *Anticorruption Strategy*, January 2005, http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/ac_strategy_final.pdf.

⁷ USAID, *Guide to Rule of Law Country Analysis: The Rule of Law Strategic Framework*, August 2008, http://pdf.usaid.gov/pdf_docs/PNADM700.pdf.

⁸ In some countries, more than 90 percent of cases are handled outside of the formal justice system through community, religious or traditional justice systems. See Golub, Stephen, “The ‘other 90 percent’: how NGOs combat corruption in non-judicial justice systems,” in Transparency International, *Global Corruption Report 2007*, note 6, *supra*, pages 129-137.

⁹ See USAID, *Guidance for Promoting Judicial Independence and Impartiality*, January 2002, http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/pnacm007.pdf. For an overview of international practice regarding safeguards of judicial independence, see Keith, Linda Camp, “Judicial Independence and Human Rights Protection around the World, Volume 85, No. 4, *Judicature*, page 195, January-February 2002, http://www.ajs.org/cji/pdfs/Keith_854.pdf.

¹⁰ See Langseth, Petter, *Judicial Integrity and Its Capacity to Enhance the Public Interest*, UN Office on Drugs and Crime, October 2002, <http://www.unodc.org/pdf/crime/gpacpublications/cicp8.pdf>, pages 9-15.

¹¹ See Hammergren, Linn, “Judicial Independence and Judicial Accountability: The Shifting Balance in Reform Goals,” in USAID *Guidance*, note 10, *supra*, pages 149-157; Chapter 3, “Accountability and Competence of Judges,” in Transparency International, *Global Corruption Report 2007*, note 6, *supra*, pages 40-66.

¹² See “Enhancing Judicial Transparency,” in *Combating Corruption in Judicial Systems: Advocacy Toolkit*, Transparency International, 2007, pages 37-38, http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/Judiciary_Advocacy_ToolKit.pdf.

¹³ See Langseth, Petter, “Measuring Corruption,” in Sampford, Charles J. G., Arthur Shacklock, Carmel Connors, and Fredrik Galtung, *Measuring Corruption*, Ashgate Publishing, London, 2006, chapter 2.

¹⁴ See also, Hammergren, Linn, “Diagnosing Judicial Performance: Toward a Tool to Help Guide Judicial Reform Programs,” Table I: A Proposed Checklist for Evaluating Judicial Performance, World Bank, 2002, <http://siteresources.worldbank.org/INTLASJUSTINST/Resources/hammergrenJudicialPerf.pdf>, pages 19-22; Henderson, Keith, Violaine Autheman, Sandra Elena, Luis Ramirez-Daza, and Carlos Hinojosa, *Judicial Transparency Checklist: Key Transparency Issues and Indicators to Promote Judicial Independence and Accountability Reforms* IFES, 2003, http://www.ifes.org/files/rule-of-law/Tool-kit/Transparency_Checklist_EN.pdf.

¹⁵ Illustrative examples of recent reports include Anderson, James H., and Cheryl W. Gray, *Anticorruption in Transition 3: Who is Succeeding...and Why?*, World Bank, 2006, <http://siteresources.worldbank.org/INTECA/Resources/ACT3.pdf>; Sousa, Mariana, “A Brief Overview of Judicial Reform in Latin America: Objectives, Challenges, and Accomplishments,” in Lara, Eduardo, *The State of State Reform in Latin America*, Inter-American Development Bank, 2007; Fischer, Eveline, “Lessons Learned from Judicial Reform: The ADB Experience,” ADB Press Release 6, October 20, 2006, <http://www.asialii.org/asia/other/ADBLPRes/2006/6.html>; Langseth, Petter, “Judicial Integrity and Its Capacity to Enhance the Public Interest,” United Nations Office on Drugs and Crime, October 2002, <http://www.unodc.org/pdf/crime/gpacpublications/cicp8.pdf>; Transparency International, *Global Corruption Report 2007: Corruption in Judicial Systems*, 2007, <http://www.transparency.org/publications/gcr.pdf>.

¹⁶ Donor coordination can be integrated into ongoing efforts to carry out the work program for implementation of the 2005 Paris Declaration on Aid Effectiveness. See Accra Agenda for Action, September 2008, <http://siteresources.worldbank.org/ACCRAEXT/Resources/4700790-1217425866038/AAA-4-SEPTEMBER-FINAL-16h00.pdf>; see also the website for Aid Harmonization and Alignment for Greater Development Effectiveness, <http://www.aidharmonization.org/ah-wh.pdf>.

¹⁷ For a general description of Singapore’s judicial reform program, see Malik, Waleed, *Judiciary-Led Reforms in Singapore: Framework, Strategies, and Lessons*, World Bank, 2007.

¹⁸ *Policy Reform Lessons Learned: A Review of Economic Growth-Related Policy Reform Activities in Developing Countries*, USAID, June 2007.

¹⁹ For a critical analysis of judicial councils, see Hammergren, Linn “Do Judicial Councils Further Judicial Reform: Lessons from Latin America,” Carnegie Paper 28, June 2002, Carnegie Endowment, <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=1015>. The American Judicature Society has developed and refined a useful body of literature to assist nonpartisan judicial appointment commissions of state courts in the United States. These published materials may provide some models that can be adapted for use in other countries. See, e.g., Greenstein, Sampson, *Handbook for Judicial Nominating Commissioners*, 2d Edition, American Judicature Society, 2004. For more comprehensive treatment of judicial selection, see the website of the Elmo B. Hunter Citizens Center for Judicial Selection, <http://www.ajs.org/selection/index.asp>.

²⁰ See USAID, *Guidance for Promoting Judicial Independence and Impartiality*, note 10, *supra*, page 140.

²¹ See, e.g., Steelman, Daniel, *Improving Caseflow Management: A Brief Guide*, National Center for State Courts, February 2008, <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1022>.

²² This is the position taken by, among others, the European Court for Human Rights and the Inter-American Court for Human Rights. See “International and Regional Human Rights Courts: The Recognition of Enforcement as a Component of the Right to a Fair Trial.” In Henderson, Keith, and Peter Kahn, *Barriers to the Enforcement of Court Judgments and the Rule of Law*, IFES, 2003, pages 4-13, http://www.ifes.org/publication/dadf0700472613a6296f85c96d788f29/Enforcement_Report_01-28-04_English.pdf.

²³ The United Nations Economic and Social Council endorsed the Bangalore Principles in 2006 and invited Member States to consider them when reviewing or developing national rules. ECOSOC Resolution 2006/23, <http://www.un.org/docs/ecosoc/documents/2006/resolutions/Resolution%202006-23.pdf>.

²⁴ For an example of recommendations on disciplinary process for the legal profession, including judicial review, see “CCBE Recommendations on Disciplinary Process for the Legal Profession,” Council of Bars and Law Societies of Europe, September 2007, http://www.ccbe.org/fileadmin/user_upload/NTCdocument/CCBE_RecommendationsI_1190034926.pdf.

²⁵ See *Using Administrative Law Tools and Concepts to Strengthen USAID Programming: A Guide for USAID Democracy and Governance Officers*, USAID, February 2008.

²⁶ See “Financial Autonomy and Sufficient Resources” in International Commission of Jurists, *International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors: A Practitioners’ Guide*, pages 31-34, <http://www.mafhoum.com/press7/230S24.pdf>; “Self-Representation in Budgetary Matters” in American Bar Association, *Judicial Independence: A Concept Paper*, CEELI Concept Paper, April 1999, pages 23-25, http://www.abanet.org/rol/publications/concept_paper_judicial_independence_1999.pdf; Russell, Peter H., and David M. O’Brien, editors, *Judicial Independence in the Age of Democracy: Critical Perspectives from Around the World*, University Press of Virginia, Charlottesville, 2001.

²⁷ Webber, David, *Good Budgeting, Better Justice: Modern Budget Practices for the Judicial Sector*, World Bank, March 2007, http://siteresources.worldbank.org/INTLAWJUSTICE/Resources/LDWP3_BudgetPractices.pdf.

²⁸ See the references cited in note 27, *supra*.

²⁹ *Ibid.*

³⁰ Staphenurst, Rick, and Shahrsad Sedigh, “An Overview of the Costs of Corruption and Strategies to Deal With It,” in *Curbing Corruption: Toward a Model for Building National Integrity*, World Bank, 1999, page 4.

³¹ The contribution of the justice system to accountability in the broader society is discussed in *Justice and Accountability*, DFID, May 2008, <http://www.dfid.gov.uk/Pubs/files/justice-accountability-briefing.pdf>.

³² The U4 Anticorruption Resource Center has produced a useful primer for development practitioners on the UN Convention, available at <http://www.u4.no/pdf/?file=/document/u4-brief-3-2007-uncac-primer.pdf>. The Center has also produced a commentary on how strengthening judicial integrity enhances efficiency in combating corruption more generally. See “Supporting Zambian Judicial Capacity to Handle Corruption Cases,” May 2008, <http://www.u4.no/helpdesk/query.cfm?id169>.

³³ See “Enhancing Judicial Transparency,” Transparency International Policy Position #01/2007, 2008, <http://www.transparency.org>; “Access to Justice and Legal Information” in *Judicial Transparency Checklist*, note 15, *supra*; “Good Practices, Initiatives, and Experiences in Combating Corruption and Promoting Judicial Transparency” in *A Guide to Rapid Assessment and Policymaking for the Control of Corruption in Latin American Justice Systems*, Due Process Foundation, 2007, <http://www.dplf.org>.

³⁴ See Bansar, David, *Freedom of Information around the World 2006: A Global Survey of Access to Government Information Laws*, Privacy International, http://www.freedominfo.org/documents/global_survey/2006.pdf. This publication also includes a review of international instruments addressing the right to information.

³⁵ An interesting case study is reported in *Report on Judicial Corruption Monitoring Exercise in Ghana*, Ghana Integrity Initiative, August 2007, http://www.tighana.org/Report_on_judicial_corruption_monitoring_exercise_in_Ghana.pdf; see also the collection of Latin American studies in *Iniciativas de la Sociedad Civil para la Transparencia en el Sector Judicial*, Due Process of Law Foundation, 2002.

³⁶ Buscaglia, Edgardo, and Maria Dakolias, *Comparative International Study of Court Performance Indicators: A Descriptive and Analytical Account*, World Bank, 1999, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2000/08/04/000094946_00072605391760/Rended/PDF/multi_page.pdf.

³⁷ *Measuring Progress Toward Safety and Justice: A Global Guide to the Design of Performance Indicators Across the Justice Sector*, Vera Institute of Justice, November 2003, http://www.vera.org/publications/publications_5.asp?publication_id=207. See also Messick, Rick, “Key Functions of Legal Systems with Suggested Performance Measures,” World Bank, <http://www1.worldbank.org/publicsector/legal/legaltoolkit.pdf>.

³⁸ The World Justice Project has compiled a list of existing indices of judicial performance which fills some four pages. See World Justice Project Rule of Law Index; *Measuring Adherence to the Rule of Law around the World*, Annex B, http://www.lexisnexis.com/documents/pdf/20080828015427_large.pdf. See also Albers, Pim, *Evaluating Judicial Systems: Balance between Variety and Generalization*, European Commission for the Efficiency of Justice, Council of Europe, May 2003, <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/PimAlbers.pdf>.

³⁹ <http://www.abanet.org/wjp>. The four principles (which are consistent with the definition used by USAID) are:
1. The government and its officials and agents are accountable under the law;
2. The laws are clear, publicized, stable and fair, and protect fundamental rights, including the security of persons and property;
3. The process by which the laws are enacted, administered and enforced is accessible, fair and efficient;
4. The laws are upheld, and access to justice is provided, by competent, independent, and ethical law enforcement officials, attorneys or representatives, and judges who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve.

An initial version of the Index was published in 2008 and a second version in 2009. The text of the index and a description of plans for its use as a programming tool are published at <http://www.worldjusticeproject.org/rule-of-law-index/>. See World Justice Project Rule of Law Index, note 39, *supra*; see also Parsons, Jim, Monica Thornton,

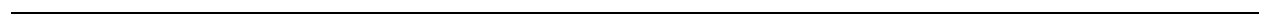
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⁴⁰ For a brief introduction see United Nations Development Program, *Results Based Management: Concepts and Methodology*, UNDP, 2002, <http://www.undp.org/eo/documents/RBMConceptsMethodgyjuly2002.pdf>.

⁴¹ Basic USAID guidance on performance management is set out in ADS Chapter 203, *Assessing and Learning*, September 2008, <http://www.usaid.gov/policy/ads/200/203.pdf>. Additional useful guidance on monitoring and evaluation and managing for results can be found in Kusek, Jody Zall, and Ray C. Rist, *Ten Steps to a Results-Based Monitoring and Evaluation System: A Handbook for Development Practitioners*, World Bank, 2005; *Sourcebook on Emerging Good Practice in Managing for Development Results*, OECD and World Bank, June 2006, <http://www.mfdr.org/Sourcebook.html>; “Policy Monitoring” in Brinkerhoff, Derick W., and Benjamin I. Crosby, *Managing Policy Reform: Concepts and Tools for Decision-Makers in Developing and Transition Countries*, 2002.

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⁴³ See Global Integrity and UNDP, *A Users’ Guide to Measuring Corruption*, UNDP, 2008, http://www.undp.org/oslocentre/docs08/users_guide_measuring_corruption.pdf.



APPENDIX A

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APPENDIX B

CHECKLIST OF ISSUES AND SAMPLE QUESTIONS

An assessment of judicial corruption and what to do about it needs to be based on the facts of the particular country: its social and economic situation; its governance and the commitment of political leaders; societal values and public expectations, including the degree to which there is tolerance for political interference and bribery; the capacities of the concerned institutions; the incentives for diverse stakeholders to favor and accept change; and the extent of international (in particular, USAID) influence and resources. Specific issues include the following:

Appointment and Tenure of Judicial Branch Personnel

- How are judges selected for appointment?
- Is there a merit system for judicial appointments with published standards and procedures?
- What is the duration of a judicial appointment at each level of the court system?
- Are judges protected against arbitrary dismissal, salary reduction, or transfer?
- Are judges protected against civil liability and criminal responsibility for their official acts (but not for willful misconduct)?
- Do judges have sufficient access to information, legal research tools, and working conditions necessary for effective performance?
- How are employees in the judicial branch selected for appointment? Is there a civil service system with established position descriptions, performance standards, career paths, and protections against arbitrary dismissal?

Case Management and Court Procedures

- Are cases assigned to judges through an impartial system that protects against “judge shopping”?
- Are there procedures that are reasonably efficient and not unduly complex, and are there standards for their application that limit the exercise of discretion, constrain arbitrary distinctions, and encourage equality of treatment?
- Are there safeguards against delay such as performance standards or normal times specified for various stages of judicial proceedings?
- Do filing systems protect the integrity of the record of the case and assure against “lost” records?
- Are there published statistics on volumes of cases received, clearance rates, and duration that cases are pending – by court and by judge?
- Is there an established system of appellate review of judicial decisions?
- Do judges assure the timely enforcement of final judicial decisions?

Ethics and Institutional Integrity

- Do political, economic and opinion leaders give priority attention to the benefits of good governance and public integrity and actively encourage a culture of lawfulness?
- Are there ethical codes for judges, court personnel, and members of the legal profession? Are there measures in place to foster compliance with the ethical codes, including, for example:
- Recurring educational courses for judges, court personnel, and lawyers?
- Institutional arrangements (such as ethics counselors and mentors) to provide guidance to individual judges, court personnel, and lawyers faced with ethical questions?

- Effective and easily accessible procedures for filing complaints against alleged unethical behavior, timely investigation and adjudication of complaints, and appropriate disciplinary action where ethical violations are found to have occurred?
- Publication of disciplinary decisions for ethical violations?
- Are independence, integrity, accountability, and transparency important values in the judiciary?
- Is there leadership by example within the judiciary for these values?
- Is judicial independence protected by safeguards of due process in disciplinary proceedings?
- Are these values given practical effect in the management of the judiciary, including:
 - Human resource management: recruitment, position descriptions, training, performance evaluation, and career development?
 - Financial and property management: procurement of goods and services, internal controls, and independent audits?
 - Monitoring of compliance with judicial procedures and standards that constrain discretion and guard against arbitrary action by judges, court personnel and lawyers?
 - A consistent pattern of disciplinary action in cases where judges, court personnel, or lawyers are found to have acted in violation of applicable ethical standards?
- Does the judiciary exercise effective oversight of ethics programs for court personnel and members of the legal profession?

Financing the Judiciary

- What is the level of resources provided for the judicial branch?
- How is the judicial budget determined? Is it performance-based, and what are the roles of the various institutional actors?
- Is the budget for the judiciary protected against reduction by the executive or legislative branches?
- How is the judicial budget allocated – among trial courts and appellate courts, between major urban centers and rural areas?
- Does the judicial budget provide adequately for reasonable compensation for judges and court personnel, operation and maintenance of the courts, and investment in education, equipment, facilities and technology?
- What are the sources of financing for the judiciary – national budget, state and local budget, fees and other collections by the courts?
- What role does the judiciary have in setting and managing the judicial budget?

Investigation and Punishment of Corrupt Acts

- Is the country a party to relevant international conventions that require criminalization of corrupt acts?
- Do national laws prohibit bribery and other corrupt behavior?
- Do law enforcement and prosecutorial authorities and courts have the capacity to investigate, prosecute and adjudicate allegations of corruption, including complex frauds and grand corruption?
- Do administrative disciplinary procedures for judges, court officials, and lawyers operate effectively?
- Does the judiciary have an oversight role of the disciplinary systems?
- Are cases of alleged corruption involving judges, court officials, and lawyers normally prosecuted in the courts (in addition to disciplinary proceedings under ethical and institutional integrity systems)?
- Do sanctions for judges, court officials, and lawyers found to have committed corrupt acts normally include forfeiture of illicit gains, prison terms, and disqualification from public office?

- In practice, what outcomes are reached in criminal and civil court proceedings in cases of alleged corruption by judges, court officials and lawyers, and are those outcomes enforced?

Transparency and Public Participation

- Is information about the financing and operation of the judicial system readily available to the public, including in periodic reports to the public by the judiciary?
- Are judicial decisions published and is access to them readily available to the public?
- Do civil society groups monitor the performance of the judicial system?
- Are there proactive efforts by civic leaders to encourage broad awareness of the costs of judicial corruption and the benefits of judicial integrity?
- Do judges and senior court personnel file public statements of their personal assets and income, and the assets and income of their close family members?
- Do professional associations of judges, court personnel, and lawyers play active roles in supporting adherence to high standards of integrity in the administration of justice?
- What role is played by law faculties of universities, including with regard to civic education?
- Do court users have the opportunity to express their views about their experiences with the justice system, including in user surveys?
- Do the news media make information about the operation of the judicial system available to the public?

APPENDIX C

SAMPLE INDICATORS

The best country-specific indicators of progress toward desired results emerge from planning and monitoring activities in which those who are responsible for defining and meeting program objectives are active participants. There are also efforts underway to develop broadly accepted indicators that can be broadly adopted and used for cross-country comparison of the performance of judicial systems. A few *examples of possible indicators* of desired results are set out below. These examples of country-specific and cross-country indicators merely illustrate the need to do more than measure inputs and outputs. Indicators should truly help to determine whether program results are being achieved.

A. Country-Specific Indicators

APPOINTMENT AND TENURE OF JUDICIAL BRANCH PERSONNEL	
Desired Result	Indicators
Security of tenure for judges	Percentage of judges who leave office prior to the expiration of their terms Median time served as a judge prior to leaving office
Appropriate staff support for judges	Ratio of support staff to judges at each level of courts Median educational attainment level of judicial staff Number of support staff in professional jobs
Adequate compensation for judges	Salaries of judge compared to those of other professionals Increases/decreases in judicial salaries

CASE MANAGEMENT AND COURT PROCEDURES	
Desired Result	Indicators
Access to the courts	Volume of small claims filings Percentage of plaintiffs who are first-time users of courts Percentage of prison population in pretrial detention
Safeguards against manipulation	Number of complaints about missing documents or files Number of complaints about assignment of cases to particular judges
Timely disposition of cases	Median duration of proceedings from filing to disposition Median duration of pretrial detention Ratio of new cases filed to cases disposed of

FINANCING THE JUDICIARY	
Desired Result	Indicators
Resources allocated to investment needs	Increases/decreases in judicial budget Percentage of judicial budget allocated to investment
Judicial budget related to judicial performance	Ratio of judicial budget increases/decreases to changes in volume of caseload

INVESTIGATION AND PUNISHMENT OF CORRUPT ACTS

ETHICS AND INSTITUTIONAL INTEGRITY	
Desired Result	Indicators
Active program of judicial integrity	Frequency of participation in ethics training by judges and court staff
Ethical behavior by judges and court staff	Frequency of recusals by judges on ethical grounds Percentage of compliance by judges and relevant court staff with requirements for public disclosure of assets and income
Desired Result	Indicators
Accountability for corrupt acts	Number of judges/court staff disciplined for corruption Number of judges/court staff removed from office for corruption Number of judges/court staff imprisoned on conviction for corruption
Timely disposition of allegations of misconduct	Median duration of disciplinary proceedings from filing to disposition

TRANSPARENCY AND PUBLIC PARTICIPATION	
Desired Result	Indicators
Availability of public information about judicial operations	<p>Frequency and timeliness of publication of a state of the judiciary report</p> <p>Frequency of public surveys of experience with judicial performance and corruption</p> <p>Number of newspaper articles about candidates for judicial appointment and other topics relating to the judiciary</p> <p>Number of public meetings on themes of judicial performance and corruption</p>
Opportunity for public to express views about the judiciary	<p>Frequency of user surveys by the courts</p> <p>Number of citizen complaints filed</p> <p>Median duration of period from filing of citizen complaint to disposition</p> <p>Number and location of citizens participating in civil society court monitoring</p>

JUDICIAL INTEGRITY
<p>Indicator 1: Percentage of all cases involving “small claims”—the proportion of minor cases is a proxy for both confidence in the judiciary and the accessibility of the courts. Where there is little of either, potential plaintiffs will not approach the courts unless completely necessary, and therefore, the number of non-serious cases will be minimal.</p>
<p>Indicator 2: The judiciary is perceived as independent—public perceptions of justice agencies are important measures of both conduct and competence. Differences in perceptions between socio-economic groups may detect implicit or explicit bias.</p>
<p>Indicator 3: The government does not overturn judicial decisions—the independence of the judiciary is key to an effective rule of law.</p>
<p>Indicator 4: Number of judges per population for rich versus poor areas—this indicator is a proxy for judicial resources and implicit biases resulting from unequal coverage and resource management. In places with insufficient resources the disparity is usually greatest in poor areas.</p>
<p>Indicator 5: Existence of special procedures or processes for hearing gender-based violence cases—women often have particular difficulty accessing the courts, and problems of gender disparity can be detected by measuring the existence, or non-existence, of specific gender-based policies.</p>
<p>Indicator 6: Ability to appeal judicial decisions in serious offense cases—in order for the judiciary to be held accountable there should be official mechanisms for appealing decisions.</p>

B. Indicators for Cross-Country Comparison

The Vera Institute of Justice has published a report describing its initial effort to establish baskets of indicators for cross-country comparison that it applied in four pilot tests of the World Justice Project's Rule of Law Index. With respect to judicial integrity, the researchers settled on five underlying principles as a basis for measurement: (1) good conduct; (2) competence; (3) independence; (4) sufficient resources; and (5) accountability. The resulting indicators and the rationale for each of them are set out below. Continued work on the development of the Rule of Law Index could produce changes to these initial measures. Additional information about the researchers' approach to this experiment can be found in Parsons, Jim, Monica Thornton, Hyo Eun (April) Bang, Ben Estep, Kaya Williams, and Neil Weiner, *Developing Indicators to Measure the Rule of Law: A Global Approach – A Report to the World Justice Project*, Vera Institute of Justice, July 2008, http://www.vera.org/publication_pdf/481_891.pdf. Additional information about the World Justice Program Rule of Law Index can be found in Agrast, Mark David, Juan Carlos Botero, Alejandro Ponce-Rodríguez and Claudia Dumas, *The World Justice Project Rule of Law Index: Measuring Adherence to the Rule of Law around the World*, American Bar Association, July 2008, http://www.lexisnexis.com/documents/pdf/20080828015427_large.pdf.

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