

ECUADOR Justice for All

Bringing Legal Services to the Poor

Around 25% of Ecuador's 14.5 million inhabitants are identified as indigenous people (CIA World Factbook). Characterized by their own languages, customs, ancestral knowledge and ways of administering justice, this community has been underserved by the

Ecuadorian judicial system. Access to legal services has been complicated by remoteness, language, culture and a chronic lack of public defenders (32 to serve the entire country, in 2006).



Overall responsibility for execution of the project lay with the Coordination Unit of the National Program for the Reform of the Administration of Justice (PROJUSTICIA), the Ecuadorian judicial reform agency, along with 13 civil society organizations (CSO's), guilds of lawyers and law schools. This project leveraged the know-how of the non-governmental sector through four main components:

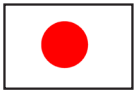
"Our project was designed with the specific intention of empowering the non-governmental sector to address the needs of the poor... the Bank has many tools to support legal empowerment and community justice; what counts are projects that develop appropriate sustainable socio-legal development strategies that never lose sight of the ultimate goal of assisting the world's poor."
- Robert Buergethal,
Task Team Leader

The Project

In 2002, the Japan Social Development Fund (JSDF) provided a grant for the "Law and Justice for the Poor" Project to support 13 sub-projects in 22 provinces of Ecuador. The project aimed to introduce new means of accessing legal services by encouraging the use of alternative dispute resolution mechanisms and implementing qualified legal representation

in rural and urban poor communities, with a particular focus on indigenous people, women and children. The JSDF project was a complement to the Bank's earlier Development and Poverty Reduction Project.

- 1. Indigenous Justice** - Aimed at balancing the inconsistencies of Indigenous and Ecuadorian laws and establishing new regulations, this component developed dispute resolution mechanisms and supported educational programs at the community level.
- 2. Alternative Dispute Resolution Services** - Strengthened alternative means of resolving disputes by supporting mediation centers managed by CSOs, reaching areas in Ecuador where formal justice mechanisms were inaccessible.
- 3. Public Defense Services (Free Legal Assistance)** - Provided support to the Association of Law School Deans and the local Bar Associations of Quito and



Guayaquil to create an inter-institutional working group to establish public legal assistance and qualified legal representation for economically disadvantaged litigants, with an emphasis on women and children.

- 4. Peace Culture** - Implemented training programs that targeted elementary schools in rural and urban areas to develop a culture of peaceful conflict resolution, including mediation programs and training of child and teacher mediators

Results

From the outset, the project was highly participatory and broad-based due to the involvement of Projusticia, as convener, and key actors such as lawyers, teachers, community leaders and well known and respected CSO's such as CEDECO (the Ecuadorian Center for Community Development), FLACSO (Latin-American Faculty of Social Science), CIDES (Rights and Society Center) and, Proderechos.

Although all project components were participatory and inclusive, several sub-projects deserve special mention:

- 1. The Ecuadorian Center for Community Development (CEDECO)** organized 22 local consultation workshops focused on customary law practices. Over 730 community leaders from 139 communities across the Country participated and the consultations produced publications and training manuals that represent the first comprehensive study on indigenous customary law (See Box 1 on the CEDECO sub-project).
- 2. The Rights and Society Center (CIDES)** sub-project supported six workshops, several training courses and national and international seminars. These served as an open forum for knowledge exchange and the basis for a network among all mediators, negotiators, mediation centers and institutions. Collectively, these provided the foundation of a comprehensive national alternative dispute resolution mechanism and the subsequent creation of 12 new officially recognized Alternative Dispute Resolution Centers (ADRC) serving poor, rural areas with 159 trained and certified mediators.



Project Data

- Implementing Agency: *PROJUSTICIA*
- Grant (TF051227) Amount: *\$1.78 million*
- Implementation Period: *2002-2006*

- 3. Open space for a peace culture** - Six CSO's implemented workshops, awareness campaigns and permanent capacity building opportunities over a two year cycle for both professors and children promoting interculturality, solidarity, mutual respect and peace.

The Iruq & Sisa Project is a good example. Workshops and training implemented by *Defensa de los Niños Internacional (DNI Ecuador)*, allowed children to develop social skills and assertive attitudes and stressed the need for mutual respect and peaceful co-existence. It covered 32 schools: 6 in Cañar province, 11 in Chimborazo, 8 in Esmeraldas and 7 in Pichincha. More than 3263 children and 216 professors participated in the capacity building sessions.

Bilingual pedagogical materials were produced in the Kichwa language and Spanish, to foster inclusion and mutual respect.

- 4. Improving Public Defense** - The low numbers of public defenders available to serve the whole Country provided the rationale for one of the most innovative aspects of the project. Volunteers were recruited from among lawyers of the Pichincha and Guayas Bar Association and collectively established a Public Defense Service.

With strong support from the legal community and the formal justice sector, a public defense training program was designed by the National Association of Law School Deans. This new national degree program was officially recognized by the national authorities - CONESUP. A high school human rights diploma was also established. This capacity building has contributed to the staffing of two fully functional legal service centers with a core team of 150 private practitioners able to provide *pro bono* public defense services.

Lessons Learned

Lessons learned from this project can be grouped

<http://www.worldbank.org/jsdf>



under three main headings: Sustainability, Empowerment and Social inclusion.

1. Sustainability - Sustainability was a crucial concern from project inception. To the extent possible, implementing CSOs were encouraged to develop sub-project designs that reflected the following:

- **The Role of National and Local Government**

- The involvement of Projusticia and interdisciplinary teams strengthened collaboration and led to cooperation agreements among the implementing CSO's. Local government was also involved in the creation of the ADRCs and guaranteed the availability of key facilities. On-going partnerships with private organizations (bar associations and non-governmental organizations) will also help sustain the results achieved under the project.

- **Working groups and interdisciplinary teams**

- The indigenous culture component worked through existing indigenous community centers to establish working groups comprised of local leaders which can be easily convened by each center to discuss issues of common concern. In the public defense services component, front-line services were enhanced by bringing together professionals from diverse backgrounds and skill profiles (e.g. psychologists, social workers, etc) who were able to address the emotional and social aspect of many cases, leaving the attorneys to focus their limited time on the legal aspects.

- **Partnerships** - The public defense services component was developed with each of the bar associations which had created formal public service centers. These agencies worked together to share knowledge and provide mutual support, both of which contributed to the success and sustainability of the project.

- **Ongoing training programs on litigation and mediation** - Continuous training helped maintain interest and served as an incentive for the *pro bono* volunteers at the mediation centers.

- **Adjustments to the funding scheme** - Although the mediation centers' services were initially offered for free, it was later recognized that a standard fee was necessary to cover operating costs and ensure sustainability. These fees were tailored to reflect poverty rates in the different Provinces.

2. Empowerment - Access to justice is a key condition for the empowerment of poor people; as access to information is one of the relevant factors that make people build local organizational capacity. There are two main examples of participatory models:

- **Mediation centers** - Communities and municipalities can co-exist and be an integral part of a participatory local development

Box 1 - Reconciliation between the Formal Ecuadorian System and Customary Law

CEDECO (*Centro Ecuatoriano para el desarrollo de la comunidad*) was one of the CSOs involved during the two years of the project.

This sub-project had a strong inclusive component that, on one hand, involved the indigenous population and gathered information on customary law practices in more than 100 communities in the mountains (sierra), coastal and eastern regions and on the other, trained 732 community leaders (64% men and 36% women) providing specialized information on fundamental rights, collective rights and mechanisms for alternative dispute resolution to members of those communities. This was essential for the creation of the thematic content of the book "Panorama of Ecuadorian Indigenous Law", now considered a key reference and basis for further research and discussion on the legal and multidisciplinary nature of indigenous law. These pedagogic materials facilitated the reconciliation between the formal and the customary law systems. Partnerships among various foundations and CSOs led to interesting ongoing alliances that helped the project achieve sustainability. For instance, CEDECO established regular meetings with FLACSO, CIDE and Proderechos aimed at knowledge exchange. These regular meetings enriched the project and opened door to a host of new possibilities.

model. In places where poverty indices are high, mediation centers removed the physical and financial barriers that are involved in accessing the judicial system. The Cayambe Center, is an example of a municipality-annexed mediation center. Proximity to the municipality raised public confidence in the capabilities of the center and helped their fundraising efforts with local institutions.

- **Children and youth empowerment** - The establishment of conflict resolution forums in schools demonstrated the increasing level of participation by heads of households in their children's education, and interest in generating an enabling environment to ensure that students were empowered and could propose their own mechanisms for peaceful co-existence.

3. Social Inclusion - Conflict resolution mechanisms, including Indigenous justice, are an effective means of protecting rights for vulnerable and excluded groups. Allowing such traditional practices and usage to thrive may contribute to improved governance and democratize both the form and the content of the mainstream legal system. Reducing exclusion requires a focus on the processes through which community mediation, justice for indigenous people, and peace culture strategies will acquire greater legitimacy and increase in use. This requires long-term investments in training and dissemination.

The success of the Ecuadorean case owes much to the innovative approach taken during the empowerment and social inclusion components, notably in analyzing the communities' existing means of accessing justice.

JSDf recognized the Ecuador's "Law and Justice for the Poor" project with the award of "Best International Practice" in 2009. Achievements included:

- **Making legal services accessible to the poor**, by providing indigenous communities with new skills to resolve conflicts, dispute mechanisms, and legal education.



- **Implementing innovative methods**, by using unifying community-based and demand-driven development to address social inequities through a coherent program on law and justice. The CSOs played an essential role and made this project possible. They were able to continue the implementation of project activities even during the political crisis encountered during this period - the removal of the Supreme and Constitutional Courts and the resignation of the President - engaging civil society to play an important role in the delivery of justice services for the poor in the absence of a formal sector.
- **Providing rapid, replicable and demonstrable benefits for the grant's beneficiaries** by integrating the community mediation centers into local government services, by harnessing the power and passion of youth to advocate a culture of peace, and by building the capacity of the local bar associations to provide legal services.
- **Empowering communities, local governments and CSOs through capacity-building, participation, and inclusion** by establishing new institutions that could address needs that were not being served by the formal justice sector, facilitating access to justice including new alternative dispute resolution centers, and focusing on youth and child education programs.

Key Resources

<http://www.justiciaparatodos.info/>

The Japan Social Development Fund -- The JSDf is a partnership between the Government of Japan and the World Bank that supports innovative social programs in developing countries. JSDf grants are executed by NGOs/CSOs and local governments and implemented at the community level, JSDf projects meet four basic requirements: (i) they target and respond to the needs of poor, vulnerable, and disadvantaged groups, and aim to achieve rapid results, (ii) they are innovative and pilot alternative approaches or partnerships, (iv) they use participatory designs and stakeholder consultation to design inputs and as an integral part of monitoring and evaluation, (iii) they empower local communities, local governments, NGOs/CSOs through capacity building and rapid feedback of lessons learned, and (v) they focus on scale-up potential, replication and the sustainability of interventions.