



Legal Vice Presidency
The World Bank

Empowering Women

An Assessment of Legal Aid under
Ecuador's Judicial Reform Project



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Foreword

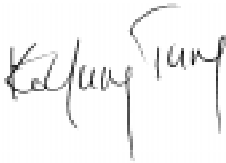
THE facts are harrowing for women in Ecuador. Twenty percent of households in Ecuador are headed up by single women; they suffer more poverty than any other group. Too many urban women are barred from entering the workforce due to childcare requirements and other household obligations, lack of necessary education and skills. Yet opportunities and resources for training are scarce and women's personal growth and development, and that of their children, are severely limited.

At the same time, the economic crisis that has gripped Ecuador since the mid-1990s has further aggravated the situation: There are fewer employment possibilities, poverty has spread, and social tensions have increased. Women seeking to collect social welfare benefits, to escape abusive home situations, to collect back wages, to start a small business, or to register their newborn children face new obstacles and more petty corruption. Their need for legal support and protection has never been greater.

It is in this context that Ecuador's judicial reform project, partly financed with a World Bank loan in the amount of \$10.7 million, successfully introduced innovative measures for assisting poor women in exercising their constitutional and civil rights. Under the "Law and Justice" component of the project, pilot programs were undertaken in three cities and two outskirt urban areas to support nongovernmental organizations in providing legal and complementary services to qualified women and their children so as to help them secure their legal entitlements and to improve their social and economic positions.

The Task Team Leader for the Bank's loan, Maria Dakolias, asked Marcela Rodríguez, an attorney and women's rights activist in Argentina, to review and evaluate these pilot programs. Ms. Rodríguez has outstanding qualifications for this assignment: She has held a number of academic positions and has written and edited numerous publications relating to the legal rights of women. Among other professional activities, she currently serves as adviser to her country's Congress on gender issues.

The Ecuador judicial reform project was the first World Bank financed project to include a legal aid component aimed squarely at poor women and their children, making the findings and recommendations presented in this publication especially timely and important. They will, no doubt, be of material assistance to those in other countries where broad judicial reform projects are being prepared or where other forms of assistance are being planned to help poor women and their children achieve their fundamental capabilities.



Ko-Yung Tung
Vice President and General Counsel

Empowering Women: An Assessment of Legal Aid Under Ecuador's Judicial Reform Project

1. Overview

LEGAL and judicial reform programs financed by the World Bank have started moving beyond institutional strengthening to looking at the needs of particular groups in an attempt to design more holistic programs that encompass all actors and institutions having stakes in the administration of justice. These programs attempt to combine top-down and bottom-up approaches to create legal and judicial systems that contribute to economic growth by facilitating private sector activity, and to social welfare by guaranteeing the basic rights of all citizens.

The activities described here represent the first effort to incorporate a program of legal services for women into a judicial reform operation. A 1993–94 diagnostic assessment in preparation for Ecuador's 1996 judicial reform program identified access to legal services and gender discrimination as significant problem areas. The five-year project, thus, provided financing to assist five legal service centers for poor women within an overall long-term government program of legal and judicial reform. Other project activities include court modernization in Quito, Guayaquil, and Cuenca, mediation services, access to justice activities, as well as legal education and information, and law reform and research. The greater holistic approach combined both a top-down and a bottom-

up approach. This study assesses the impact and sustainability of the provision of free legal services to women in three Ecuadorian cities and two outskirt urban areas (*zonas urbanas*) under the “Legal Aid for Poor Women” component of the project. The component, intended as a pilot, ran for two years in four of the target areas, and a single year in the fifth. The component provided legal consultation and representation, counseling, and dispute resolution services to almost 17,000 poor women. It also assisted another 50,000 indirect beneficiaries, most of whom were their children.

The legal aid component was successful in demonstrating the need—and strong demand—for legal services for poor women in Ecuador’s urban areas. Although the legal aid component’s cost per direct beneficiary of about \$15 seems low, extending the program nationwide would be extremely costly and probably beyond the human capital resources of the NGOs that implemented it. The legal aid initiative’s focus on urban and suburban women also neglected the 47 percent of Ecuadorian women who live in rural areas. It is unlikely that such initiatives could be sustained without continued injections of external aid unless they are folded into more strategic approaches to legal services that blend top-down structural changes in national approaches to legal reform with bottom-up implementation and effective feedback mechanisms.

2. Introduction

JUDICIAL systems perform an important function for individuals and societies by resolving conflicts within an agreed normative framework. They directly help individuals overcome obstacles to their private endeavors and access their legally guaranteed human, political, and civil rights. The benefits of a well-functioning system are far more than individual. By providing a peaceful, authoritative means for resolving disputes—in predictable accordance with widely recognized norms—such systems should reduce conflicts, discourage recourse to more violent means of resolving them, encourage compliance with legally prescribed behaviors, and enhance citizen security. It has also been argued that well-functioning systems provide important inputs to the development and sustainability of legitimate democratic governance, market-based economic growth, and broad-based equitable participation in the benefits of both.

For these benefits to accrue to individuals and society, it is not essential that every citizen directly engage with the judicial system or related institutions—quasi-judicial and other dispute resolution mechanisms, public and private bars, prosecution, police, and legislative assemblies. Court users are a small percentage of the population and probably not a representative one; if every citizen took every dispute to the courts or another state-sponsored forum, the entire system would soon collapse. However, it is important that all citizens believe they and other parties to disputes have this option. If the risks of being held legally responsible are low, conflicts will multiply or be resolved through ad hoc arrangements. Public and private individuals will find it easy to ignore rights guaranteed to others and to engage in criminal infractions, default on contracts and debts, deny their familial responsibilities, and mistreat employees. Citizens will also be forced to take special precautions in their ordinary activities—ranging from decisions to invest in a business to whom to hire and where to live or shop. These precautions are costly and divert resources from more directly productive choices.

Access to the legal system is a significant concern in many developing countries. Access here must include not only access to real services, but also to satisfactory results. Where individuals know they will receive less than equal justice if they take a case to court, access is as effectively constrained as if they could never get a hearing. Barriers to access in both senses are numerous. They include sheer physical distance (especially for rural populations), costs (court fees, legal assistance, and transportation), delays, lack of experience, knowledge or other skills (including linguistic ones), distrust (which may be based on real or imagined failings), laws that contain their own discriminatory disincentives, prejudices of court personnel, and a potential user's own lack of self-confidence. These barriers tend to fall unequally, and most affect the poor and other marginalized groups. Where such groups are a majority, and no actions are taken to remedy the situation, a well-functioning judicial system is a virtual impossibility—the legal system will only benefit a very reduced portion of the population; the broader societal benefits, which depend on people's faith in the system and the legitimacy accorded its outputs, will be still more limited.

Among the groups for whom access is a particular concern are women, both in their own right and because of effects on their families and offspring. Whether married, cohabiting, or functioning as single family heads, women tend to take a disproportionate responsibility for their children's welfare. Hence, when women suffer from insufficient

opportunity, empowerment, and security, the effects are further reaching. In addition to the barriers to access they may face because of other types of marginalization—poverty, ethnic or racial status, higher levels of illiteracy and lower levels of education in general, and informal or irregular employment—women frequently face additional obstacles solely because of their gender. Latin America as a whole is a region where this is particularly true and where despite recent improvements in legal frameworks, discrimination, including within the courts themselves, continues to impede women's equal protection under the law.¹ Their testimony may receive less weight than that of men and their complaints of injuries may receive less credibility; further, their ability to mobilize networks of power and influence is usually far less ample.²

As judicial reform programs financed by the World Bank have moved beyond institutional strengthening to the question of increasing access to justice, they have begun to look at the needs of particular groups. The activities described here represent a first effort to incorporate a program of legal services for women into a judicial reform project. Recognizing the compelling need to have accessible legal services that respond to the needs of women and other vulnerable groups, among other activities, Ecuador established a component to assist these groups under its 1996 judicial reform project.

This program faced two initial challenges: mounting activities to increase access to a judicial system still sorely in need of other kinds of reform, and in the process having to learn about the specific kinds of barriers—some of which were only partially appreciated—its clients have to face. While the program's successes suggest both its ability to overcome these obstacles and the existence of a substantial demand for its outputs, they also raise additional questions about further impacts and sustainability. These issues will be addressed in a final section.

¹ There is a small but growing body of literature on this. See for example articles in Juan E. Mendez, Guillermo O'Donnell, and Paulo Sergio Pinheiro, eds. *The (Un)Rule of Law and the Underprivileged in Latin America*. Notre Dame University Press, 1999 and especially, Marielaire Acosta, "Overcoming the Discrimination Against Women in Mexico," pp. 160–80; Rosalia Camacho and Alda Facio, eds. *Sobre patriarcas, jefaracas, patrones y otros varones*. San Jose, Costa Rica, ILANUD, 1993.

² One case arising in the background research was the wife of a politician who found private lawyers unwilling to take her divorce case out of fear of her husband's influence. This is hardly a phenomenon limited to the developing world and bears some resemblance to recent events in the state of New Hampshire. However, once made public, the latter case has threatened to topple the entire state supreme court.

3. Background

ECUADOR'S per capita income (\$1,920) places it at the medium-low level for the Latin American region, but its extremely unequal distribution of resources reflects high levels of poverty and vast differences in incomes among rural and urban populations, geographic regions, and ethnic and racial groups. Women and children fare relatively worse than men even within the same socioeconomic strata. According to the *Ecuador Poverty Report* (No. 14533-EC, World Bank, November 1995), the roughly 20 percent of Ecuador's households headed by single women suffer the heaviest burden of poverty. Some 38 percent of poor women in urban areas cannot enter the paid work force because household chores and childcare take priority, and many other women of an economically active age cannot access work because they lack skills, knowledge, and training. Opportunities for education and training are scarce, and only those who have sufficient economic resources and are not sole heads of household can take advantage of them. This situation limits the chances for the full growth, development, and education of women, and indirectly, their children.

An economic crisis since the mid-1990s has aggravated conditions, further reducing employment possibilities, increasing the spread of poverty, and putting enormous strains on those responsible for family welfare. The tensions it has engendered have raised the incidence of crime, corruption, and intrafamilial violence.³ This has increased women's need for access to legal protection, while at the same time exacerbating the factors that have traditionally worked against their receiving such protection. Women seeking basic social services, or attempting to escape abusive spouses, obtain child support, collect back wages, establish a small business, or simply register their children face new obstacles and demands for "extra" payments—with less chance than ever of getting effective support for their legitimate claims. An effective, widely accessible justice system would not resolve Ecuador's current problems, but it would help stretch the social safety net to assist the most vulner-

³ For a discussion of the impact on the poor in their own eyes, see Alexandra Martinez Flores, "Consultation with the Poor in Ecuador," CEPLAES-World Bank Poverty Group, August 1999. Relevant material can also be found in Deepa Narayan, *Voices of the Poor: Can Anyone Hear Us?* Oxford University Press, for the World Bank, 2000.

able, while reducing barriers to their self-advancement and to their full enjoyment of the rights guaranteed to all citizens.

The economic, cultural, and institutional impediments Ecuadorian women face in accessing their courts are not immediately apparent from the current legislation. In line with recent regional trends,⁴ Ecuador has modified its legal framework to incorporate highly progressive provisions on gender issues. Nevertheless, there is a wide gap between the written law and its enforcement. The current Constitution provides for equality of all family members and recognizes female heads of households (Article 37). It makes the state responsible for preventing, eradicating, and punishing violence against children, adolescents, women, and senior citizens (Chapter II - Civil Rights). It also requires the state to implement policies to guarantee equality of opportunity between men and women (Chapter IV - Economic, Social, and Cultural Rights).

The civil code establishes the full juridical capacity of women in conditions equal to men, regulates unions of fact, and makes women equal partners in marriages or comparable unions, suppressing the legal authority previously held by men over women. Under Ecuadorian law, divorce can only take place with mutual consent, although there are some exceptions. Legal representation is mandatory in all court proceedings, including divorces. As Ecuador has yet to establish family courts, as enacted in recent law, child support and paternity cases are still referred to juvenile or civil courts. This, in itself, is a problem, inasmuch as it encourages judge-shopping and filing multiple actions for the sole purpose of running up costs—thus discouraging the opposing party.

The 1995 Law Against Violence to Women and the Family (*Ley Contra la Violencia a la Mujer y la Familia* N° 839) aims to establish the principle of equality within the private sphere and to protect the physical, mental, and sexual freedom of women and their family mem-

⁴ For at least the last decade, most Latin American nations have effected similar modifications of their legal frameworks, especially as regards the rights of women, children, older citizens (the “third generation”), and indigenous groups. Relevant clauses have been incorporated in constitutions and reemphasized in the adoption of new family and minors codes. Many countries have also adopted legislation to recognize and criminalize familial violence. Unfortunately, in Ecuador and elsewhere, the immediate impact of the new laws has been very limited. Law schools and judicial training programs have been slow to incorporate them into their curricula; public education programs have been few, and funds are often not available to create the organizations and services required for implementation.

bers by preventing and punishing such violence. The law gives the courts authority to remove an abusive spouse from the home and to adopt other protective measures, including sanctions for aggressors. It also requires the establishment of policies and programs to prevent and eradicate violence against women and the family, shelters and treatment for victims, programs to rehabilitate offenders, specialized training incorporating gender perspective for judicial and law enforcement personnel, and a national data bank.

Ecuador also provides services for women through special police facilities, the *Comisarias de la Mujer* (Commissariat of Women). The *Comisarias*, staffed by women and dedicated solely to crimes of violence against women, are charged with receiving complaints and safeguarding women from violence. They must report serious injuries to the criminal courts. They were designed to provide psychological and legal counseling. The *Comisarias* receive technical assistance from NGOs with expertise in domestic violence, including CEPAM in Quito, and the *Corporación Mujer a Mujer* in Cuenca. The *Comisarias* were piloted in 1994 in Quito, Guayaquil, Cuenca, Esmeraldas, and Portoviejo. Although they offer some relief to women suffering aggression, they are thinly staffed and their personnel have little training. They do not have staff lawyers and depend on NGOs to represent their clients in court. Moreover, women who do not suffer from violence are turned away due to the *Comisarias*' restricted scope.

Despite the protections theoretically offered by the new laws and other innovations, poor women face financial and other barriers in gaining access to judicial services. Especially in rural areas, courts are sparsely distributed, and even in major cities, the costs of transportation may make reaching them very difficult. Court and legal fees significantly limit access to justice by the poor. Pro se litigation is not permitted, as the law requires that all claimants be represented by counsel. Many women lack the resources to hire private counsel. Public defenders and legal aid programs are overwhelmed.⁵ There is no

⁵ According to the OAS Inter-American Commission on Human Rights' *Report on the Situation of Human Rights in Ecuador, 1997*, "only four public defenders are available in each of the two most highly populated cities of Quito and Guayaquil, with more than 2 million and 3 million inhabitants, respectively. There are reportedly approximately two dozen public defenders in the entire country. Moreover, these attorneys handle a wide range of civil, administrative, and criminal cases. This number is obviously inadequate, even looking solely to the need for public defenders in criminal cases alone".

comprehensive government program of legal assistance for women or other vulnerable groups.⁶ Furthermore, justice is free in only five classes of cases: criminal, labor, child support, minors, and public order. Fees for other types of actions are set by the Congress. While the Constitution provides a guarantee to protect the rights of the poor through the *amparo de pobreza* (waiver of court fees for the indigent), the privilege is available only for those with annual incomes below \$20.⁷

When women do get to court, their chances of fair hearings are limited by judicial biases, corruption, and ignorance of international conventions to which Ecuador is a party. Staff in the courts and in government services are often not trained on gender issues, and thus they do not always provide adequate, sufficient, or timely responses to women in need. Women also avoid litigation because they lack proper information about their rights, anticipate negative responses, or fear the consequences of taking action against a spouse, employer, or other figure of authority.

4. Assessment

4.1 Purpose

This study assesses the impact, sustainability, and replicability of four pilot projects providing legal services to women. These projects were organized as action research that would provide specific benefits to clients while collecting and analyzing information on their needs and the mechanisms best suited to responding to them. Within the context of facilitating women's access to justice, their specific objectives were to build women's legal awareness and skills in participating in legal processes, with or without counsel; provide adequate tools for their protection; facilitate or improve the coordination of services among groups working on women's legal issues; collect data on activities to monitor and analyze the experience gained; conduct related studies; and make proposals that could contribute to law reform.

⁶ The OAS commission noted that "Ad hoc legal assistance programs are reportedly offered by some law schools and private foundations, but these efforts are not centrally organized or programmed, and law students are naturally inexperienced."

⁷ This is a result of the successive devaluations of Ecuador's money; as the amount was set in absolute terms, what once was reasonable is now ridiculous.

4.2 Contents

This study focuses on both the quantitative results and the qualitative changes arising from the implementation of these subprojects. It also provides descriptions of the difficulties encountered and the lessons learned during implementation. Finally, the assessment considers the feasibility of replicating these services and the recommendations for their implementation in other areas, cities, and regions.

4.3 Methodology

Steps involved in this analysis include a review of documentation, an examination of databases and statistical logs in each of the NGOs, site visits, and interviews with the boards of directors of each NGO, professionals providing services, and service users. Interviews with actual users were also conducted. In some cases, it was not possible to access data for the entire period of the grant. Where shorter periods are covered, this is indicated in the text and tables.

4.4 Program Description

The Law and Justice program was established within *ProJusticia*, the Ecuadorian entity responsible for implementing all internationally financed justice reform activities in Ecuador. In addition to inadequate access, Ecuador's judicial and justice system is characterized by most of the other weaknesses associated with its counterparts elsewhere in the region: insufficient funding and salaries, inadequately prepared personnel, outdated legal and administrative processes, lack of transparency, inefficiency, delays, and ineffectiveness. Nationally and internationally financed reform programs are currently working with *ProJusticia*, the Supreme Court, and the Judicial Council to address these other problems. One challenge was to determine how such improvements could be achieved in the context of a judicial system still undergoing substantial reform.

4.4.1 DESCRIPTION OF SERVICES PROVIDED

ProJusticia and the NGOs implementing the pilot legal services entered into four separate agreements. The agreements between CEPAM (*Centro Ecuatoriano de Promoción y Acción de la Mujer*) Quito,

CEPAM Guayaquil, and the *Fundación María Guare* were for 24 months; CEPAM's agreement with the *Corporación Mujer a Mujer* was for 12 months. The agreements established baseline goals regarding the number of consultations and cases each NGO was required to undertake. The main objective was to provide legal advice and representation to the poorest strata of women in each of the four urban areas. Supplemental services included psychological consultations, medical examinations for use in court proceedings, shelter referrals for women, who were domestic abuse victims, referrals to public defender offices for victims of domestic violence undertaking criminal proceedings, and alternative dispute resolution in cases such as child support and custody.

Each NGO was to provide training to its staff and other stakeholders in the community on themes related to legal aid and gender. NGOs were required to carry out research projects and, to the extent possible, suggest reforms to existing laws to better serve their clients. Another important requirement was the creation of a database on cases and consultations to provide additional information on user needs, help identify trends, and facilitate monitoring of results. A complete description of the terms of each agreement is provided in the annex.

4.5 Quantitative Results

All four women's legal aid subprojects exceeded their goals and expectations in terms of the number of beneficiaries and quality of service. The grants allowed them to expand the number of professional staff offering services and to end their exclusive dependence on voluntary personnel. Thus, each NGO could provide more days of assistance, with an uninterrupted schedule, responding to the high demand. The four NGOs broadened the areas of consultation both in the subjects addressed and the geographic coverage. New training and prevention activities were also included.

Because of differences in subproject emphasis, the varying nature of client needs in each area, and variations in statistical management, a composite report on the results is impractical. However, a table prepared by CEPAM, which by far kept the most complete data, indicates the full range of activities covered, the extent to which targets were exceeded, and the differences in supply and demand in the two urban areas where it worked.

CEPAM LEGAL ASSISTANCE AND SUPPLEMENTARY SERVICE ACTIVITIES

<i>Activity</i>	<i>Goal</i>	<i>Results</i>		
		<i>Quito</i>	<i>Guayaquil</i>	<i>Total</i>
Legal consultations	1,920	2,269	2,380	4,649
Legal representation	720	784	1,074	1,858
Couples' meetings		200	—	200
Cases settled by ADR		312	—	312
Procedural follow-ups	96	93	81	174
Legal training women's NGOs		41	74	115
Training received	8	34	45	79
Psychological consultations		1,482	695	2,177
Medical-legal consultations		3,015	92	3,107
Technical support to the Women's Commissariat		499	—	499
Referrals to shelters		37	—	37
Referrals to legal defense counsel		579	—	579
Total	2,744	9,345	4,441	13,786

4.6 CEPAM

4.6.1 COMPONENT 1: LEGAL ASSISTANCE AND SUPPLEMENTARY SERVICES

Legal Assistance. CEPAM is the Ecuadorian NGO with the longest history of legal activities focused on women. Initially organized in the national capital, Quito, it now has a second center in Guayaquil, the country's largest and most industrialized city. Both cities have experienced massive growth and immigration in recent years, with corresponding increases in civic disorder, crime, and social dislocation.

The agreement between CEPAM and *ProJusticia* established for both centers a baseline goal of a minimum of 80 new legal consultations per month, or 1,920 consultations over two years. The agreement also established that the NGOs would represent 30 new cases a month in court, or 720 cases over the life of the project. As indicated in the preceding table, both centers amply surpassed both of these goals. There was also a quantitative growth in the demand for services over the life of the subprojects. Whereas first quarter 1998 consultations in Guayaquil reached only 59, first quarter 2000 (the last quarter of the project) produced 285.

Because those benefiting from the services were not limited to the women directly assisted, CEPAM also attempted to calculate those indirectly affected (i.e., children). The following table estimates the number of both types of beneficiaries reached over the two years. (For the year 2000, only one-quarter of the data is available; for 1998, three-quarters of the data are available.)

	1998		1999		2000		Total
	Quito	Guayaquil	Quito	Guayaquil	Quito	Guayaquil	
	Direct beneficiaries of legal services	1,426	1,009	2,162	1,086	373	
Direct beneficiaries of supplementary services	1,720	204	2,128	452	479	131	5,114
Indirect beneficiaries of legal services	3,880	5,040	4,568	4,633	773	1,130	20,024
Indirect beneficiaries of supplementary services	6,880	404	8,512	1,257	1,916	524	19,424
Totals	1,3906	6,657	17,370	7,428	3,541	2,070	50,972

CEPAM's centers not only succeeded in representing a growing clientele; they were also successful in getting cases resolved. This is extremely significant in a country where legal disputes often go on for years, and delay is one of the parties' most useful weapons, as well as a way for counsel to run up fees. Of 748 (civil) court cases in Quito, 623 were resolved, 90 were dropped, and 35 are pending.⁸ In the Guayaquil

⁸ External circumstances often caused delays in disposing of these cases, including case overload in the courts and tribunals, strikes by court employees, and lack of leadership in the *Comisarias*.

center, 730 cases (approximately 68 percent) of the 1,074 new cases were resolved within two years. Another 120 cases are in proceedings, and 224 cases were archived.

These kinds of successes were applauded by clients. “Although we don’t pay them, the women lawyers are as good as any private attorney and they are very committed to the cases,” one client said. “In many instances they are better than private attorneys because they have a mystique of service and they fight a lot for our rights.” Another saw a real difference: “Before in the court I was treated badly, but after the NGO took on my case, there was a difference in how the court staff treated me.” Or perhaps the best endorsement of all: “The NGO lawyers are not corrupt and they are not going to let anyone corrupt them.”

Supplementary services. Although legal services alone were in high demand, they were also coupled with supplementary services to the women to provide a more holistic approach to solving their legal problems. These services included consultations and therapy with psychologists, medical examinations, referrals to the Commissariat of Women, referrals to shelters for battered women, and legal advice to victims and plaintiffs in criminal cases. In Guayaquil, more than 65 percent of the women who came for services received psychological consultations, and eight percent of the total cases included legal medical examinations for those victims of domestic abuse.

These extra services made a difference to the clients. “They don’t only give us legal aid; they also help us permanently so we can get on with our lives,” one woman said. “It is very important that in addition to lawyers, there are psychologists and the teams because they can support us during the entire process.”

Through the two years of implementation, training staff from both the Quito and Guayaquil centers participated in continuous training activities consisting of seminars, workshops, and courses for professional development and increased technical knowledge. The baseline goal indicated in the subproject agreement was a total of eight training activities. Both centers clearly surpassed these goals, with 34 training activities for CEPAM Quito, and 45 for CEPAM Guayaquil.⁹

⁹ Among the training topics were: Gender, Law and Violence; Incorporation in Domestic Law of the Standards of International Law on Human Rights; Administration of Justice and Dispute Resolution in Subjects Relevant to Women and the Child; Techniques for Assisting Persons in Crisis; Alternative Means for Dispute Resolution;

CEPAM also provided training to community groups. Training was targeted to women's organizations, student and professional associations, universities, primary and secondary schools, municipal workers, commissariats, prosecutors, and parents of students. Over two years CEPAM Quito developed and delivered 41 training activities; CEPAM Guayaquil, 74 training activities. These included workshops, seminars, conferences, roundtables, and discussions. Subjects included gender, child support and family law, legislation on violence against women and the family, women's sexual and reproductive rights, and violence and sexual offenses.

Perhaps the most important aspect of the pilot outreach was the development of support groups for women receiving assistance from CEPAM. These support groups were aimed primarily at victims of domestic violence.

As part of their outreach program, both centers trained groups of paralegals, called "grassroots legal facilitators" in Quito and "legal guidance counselors" in Guayaquil. The target trainees were community leaders who received instruction on topics such as intrafamily violence, prenatal assistance, child support, divorce, common law marriages, free unions, and dissolution of joint ownership. In 1999, some of the participants conducted legal information brigades in five neighborhoods of Guasmo Sur of Guayaquil, resulting in the referral to the legal office of some 500 cases of late registration of children (for identity cards)¹⁰ and of intrafamily violence.

4.6.2 COMPONENT 2: RESEARCH, DATABASES, PROPOSALS FOR LEGAL AND JUDICIAL REFORMS AND DISSEMINATION

Research and Legal Reforms. A CEPAM research project on the "Efficacy of the Law Regulating Common Law Marriages" was submitted to *ProJusticia* in 1999. The study reviewed experience with the law and

Strategic Planning; Human Resource Management; Women and Human Rights; Instances and Mechanisms for Applying the Law Against Violence Toward Women and the Family; New Law on Childhood and Adolescence; Streamlining the National Plan for Education on Sexuality and Love; Land Legalization; Negotiation; Project Management, Systemization, Logical Framework; and Reforms to Social Security and Non-remunerated Domestic Work.

¹⁰ Failure to record the birth of children and obtain identification documents for them is a common problem throughout Latin America. This can create enormous difficulties when parents attempt to enroll children in school or apply for state benefits.

outlined obstacles to compliance with its intent. It also reviewed the levels of knowledge and utilization of the law by women in common-law marriages.

The findings were disseminated in different cities, and in November 1999 a workshop was carried out in Cuenca, with the collaboration of the *Corporación Mujer a Mujer*. In February 2000, another workshop was held in the city of Riobamba, and in March a local workshop was conducted in Guayaquil. In March, a national workshop was held in the city of Babahoyo in collaboration with the Supreme Court of Justice of the Province of Los Ríos.

The workshops were attended by ministers, superior court justices, civil judges, lawyers affiliated with universities and free legal clinics; personnel from the Commissariat of Women, bar associations, and juvenile courts; public defenders, and representatives from grassroots women's organizations.

The workshops led to recommendations for legal reform, and proposals were sent to the Congress so its Commission on Women, Children, Youth and the Family could take them into consideration in their work in drafting a Family Code. CEPAM members have also actively participated in meetings with the commission to discuss the draft code.

Database. Despite delays in installing and implementing a database system, CEPAM was able to present its first statistical bulletin in July 1999. The second bulletin, noting the socioeconomic status of the users, was submitted with the final reports. The database has provided a wealth of information on the needs and characteristics of the beneficiary population and has been useful for drawing comparisons with other service providers, such as the *Corporación Mujer a Mujer*.

Outreach. Outreach and increasing public awareness were important aspects of each of the subproject agreements. CEPAM presented its message on numerous radio programs and published informational materials. CEPAM also sponsored information tables, informative talks, legal consultation brigades workshops, meetings with women's groups, support to itinerant commissariats for women, and group orientations.

The information tables were located at strategic points in the city where there was a large influx of women: Juvenile Courts, Courts of Law, and the Civil Registry. Agendas and flyers were available at the tables, as well as contact information for CEPAM. Also, CEPAM's service was suggested as a solution to women's legal problems.

The legal consultation mobile brigades involved moving the entire legal team on Saturdays or Sundays to distant areas where no lawyers or legal offices are available. The brigades provided information and consultation for all types of cases, but particularly for those that are the most urgent for women: situations of intrafamily violence, child support, and recovery of minors. In more than 50 of these exercises, 952 people were assisted.

More than 40 presentations were given in hospital centers, parochial schools, childcare centers, maternity centers, and women's groups to publicize the project among the general population, and improve women's knowledge about their rights. The talks were followed by legal consultations for those requiring it. Approximately 2,640 women attended these talks.

In 1999, through an agreement with the APROFE community center (a formal training center for women in areas such as dressmaking, tailoring, beauty, first aid, handicrafts, etc.), 30 talks on "Laws and Rights" were given to approximately 1,500 recipients.

The Itinerant Commissariat involved the transfer of the Commissariat of the Woman and the Family to outlying neighborhoods of the city to receive complaints, provide counsel, and give legal training workshops. CEPAM's teams provided technical and professional support.

4.6.3 COMPONENT 3: SYSTEMATIZATION OF THE EXPERIENCE

The Quito and Guayaquil teams have begun to analyze their experience, using the database and other information. They are writing a document reviewing similarities and differences, which will be published and disseminated to other legal services, NGOs and women's groups, and others interested in the subject through workshops in Quito and Guayaquil.

4.6.4 COMPONENT 4: INTERINSTITUTIONAL COORDINATION BETWEEN LEGAL ASSISTANCE SERVICES FOR WOMEN

During the project, legal services groups that were assisting women dealing with intrafamily violence established a network to cooperate on case referrals, follow-up, and training.

4.7 Fundación María Guare

The *Fundación María Guare* also provided legal aid consultations and representation for women. Its activities centered in two districts in

Guayas Province, which includes Guayaquil. An important aspect of the *Fundación's* work included providing alternative dispute resolution for family disputes. This methodology, conducted by trained professional staff, was used for disputes not involving domestic violence (e.g., child support) when it was believed that resolution might produce more benefits for the female client. The foundation also provided clients with social and psychological support, especially with regard to intrafamily violence.

The following table indicates the number of beneficiaries during the project's first year in operation (1998). As some women sought assistance on several occasions for therapy and consultations, the total number of contacts in those areas may be nearly three times the number shown. The level of service reached is especially impressive if we consider that during all of 1997, the year before the project began, assistance was limited to 179 cases. As with CEPAM's two centers, the grant allowed the foundation to expand its staff and services to begin to meet a large demand.

FUNDACIÓN MARÍA GUARE BENEFICIARIES, 1998

	<i>Q1</i>	<i>Q2</i>	<i>Q3</i>	<i>Q4</i>	<i>Total</i>
Legal consultations	210	285	295	216	1,006
Legal representation	216	240	265	159	880
Alternative dispute resolution ¹⁰²		114	120	78	414
Psychological support	210	255	264	174	903
Social assistance	210	255	282	168	915
Total	948	1,149	1,226	795	4,118

To increase its coverage and improve its impact, the foundation carried out numerous training activities for technical and support personnel, user groups, and government authorities. Service teams from each center participated in workshops on mediation, litigation in crisis situations, child support, defense of women's and children's rights, coordination of community resources, violence, gender and justice, female social management, abuse prevention, and education and training in gender and communication, among others.

Training was provided in three sessions per month, two in Duale, and one in Santa Elena, with roughly 20 women in each session. Subjects included self-esteem, interpersonal relations, identity, hu-

man rights, citizens rights, sexual stereotypes, legal proceedings, family relations, women's participation in the decision-making process, local development with a gender focus, law against violence toward women and the family, and human rights from a gender perspective.

In the second quarter of 1998, talks and workshops were offered to 12 schools. During the third-quarter talks, conferences, video forums, and workshops were given every 15 days at nine schools. During the fourth quarter, these activities were carried out every two weeks, reaching 10 schools. The subjects covered in the schools were intrafamily violence, human rights and the rights of women, youth and sexuality, personal relations and self-esteem, youth participation in the community, and education without sexual stereotypes.

The foundation also held workshops for local authorities on the Law Against Violence Toward Women and the Family, mediation as an alternative means of dispute resolution, women's rights, the constitutional guarantee of nonviolence, standard procedures for due process, and sex education. These training and workshop activities reached a total of 1,700 persons, 900 of whom were students. The foundation also moved to strengthen ties with clinics, churches, radio stations, dispensaries, shelters, and homes for the elderly.

4.8 Corporación Mujer a Mujer

Because the *Corporación Mujer a Mujer* in the city of Cuenca started later than the other project participants, it had an agreement with *ProJusticia* for only 12 months. During the first semester of project implementation, planned activities were carried out with a total of 255 legal consultations and 379 legal representations that provided attorneys in civil cases. The psychological service assisted 208 beneficiaries. The criminal defense office completed 51 consultations and provided representation in 129 cases. Most of the latter were for victims or plaintiffs.

The technical team received seven training sessions and conducted six external training activities. They produced a brochure and developed radio spots for local stations. An outreach campaign to promote the corporation's services was conducted with local media.

A workshop for judges and other judicial personnel on the application of international law to domestic cases was especially important. The workshop objectives were to encourage incorporation

of the gender perspective into judicial interpretation and the application of international conventions for protection of women's rights, to which Ecuador has acceded, to judicial decisions. One direct impact was that judges began to cite and apply the *Belem do Pará* Convention and the Convention on the Elimination of All Forms of Discrimination Against Women.

The corporation has also begun research to evaluate and review the progress made by women of limited resources in gaining access to justice through the legal services pilot. It seeks to determine to what extent women have access to justice and the reasons judges and legal personnel apply the law mechanically; learn how first-instance judges and legal personnel in Cuenca can apply international laws and conventions; and indicate difficulties in applying international laws and treaties from a gender perspective. The study uses case studies and interviews with users and judicial officials.

4.9 A Profile of System Users

As action research, one of the purposes of the initiative was to gain a better understanding of the legal problems faced by Ecuadorian women that might be resolved by enhancing their access to courts. The CEPAM database provides an especially rich source of information on this subject. Three areas stand out: the types of legal problems involved, the profiles of the users, and, as it was a theme of particular concern to all the implementing agencies, some of the aspects of familial violence.

4.9.1 LEGAL REPRESENTATIONS PER AREA

Owing to differences in how statistics were kept, a direct comparison of the situations in Guayaquil and Quito is not possible. (For example, in Guayaquil, assistance in registering children was included as legal representation; it appears it was not in Quito.) Also in Quito, domestic violence is included in two categories: domestic violence—protective measures and domestic violence—accusations, although the latter may include other issues. Nonetheless, the breakdown of all types of legal representation in both centers shows the broad variety of problems faced, the predominance of certain categories (domestic violence and child support), and some possible regional differences (although these are likely to be statistical artifacts).

For CEPAM Quito, the distribution of legal services per type of case was as follows:

<i>Type of case</i>	<i>Percentage</i>
Divorce	9
Child Support	26
Domestic violence/protective measures	18
Dissolution of common law marriage	2
Property	5
Return of minors	2
Accusations	31
Searches	2
Paternity suits	5
Total	100

4.9.2 PILOT PROJECT CLIENTS

CEPAM Guayaquil records show that nearly 80 percent of the pilot project clients were in their childbearing years—19 to 40. One-quarter of them had completed primary school, but only one-fifth had finished secondary school. Almost half were unemployed housewives, and 12.4 percent worked in the informal sector. Over half were not married, either living alone (roughly 25 percent) or cohabiting.

4.9.3 TYPE AND TIMEFRAME OF VIOLENCE EXPERIENCED BY USERS¹¹

Ecuador's enactment of the Law on Family Violence has increased attention to this phenomenon, the forms it takes, and the impact it has on victims. The NGO databases show domestic violence represents a substantial portion of the cases treated. Although this reflects their emphasis on the theme in their outreach and training programs, it also indicates the pervasiveness of the problem. Because the law recognizes other forms of violence aside from the physical, the statistics kept are broken down by subcategories. Physical and psychological violence need no further definition. Sexual violence includes sexual practices imposed through the use of physical force, intimidation, threats, or other coercive means. Financial or

¹¹ Sample taken from 1,360 CEPAM Guayaquil records.

economic violence is not expressly treated in the law, but the NGOs include it, taking it to mean any action or omission that implies “the damage, loss, transformation, subtraction, destruction, retention or distraction of objects, work instruments, personal documents, goods, rights, or economic resources.” In practice, the most common application in these programs is to the spouse or cohabiter’s exclusive control of all common property and income, refusal to let the other spouse work, or usurpation of her earnings.

The type of violence faced by users is shown in the following table:¹²

<i>Type of violence</i>	<i>Percentage</i>
Psychological	32.9
Physical	26.7
Financial	36.6
Sexual	5.7

Although domestic violence has only been legally recognized since 1995, statistics collected by CEPAM suggest it is hardly a new phenomenon, as almost half of women reporting said they had experienced violence for more than five years.

5. Qualitative Results

One of the main accomplishments of the program was an improvement in the quality of services provided to women during subproject implementation. These improvements reflected continuous training for multidisciplinary teams on different issues to improve direct assistance to women. Supplementary services—including medical and psychological examinations and referrals—were expanded, and the service agencies expanded into new issues and more complex matters, such as women in crisis, patrimony, and problems caused by migration.

The agencies also extended service to new geographic areas and grassroots sectors, while establishing case follow-up mechanisms, es-

¹² There is no indication whether individual cases may register several kinds of violence, but it is probable that they do.

pecially for mediations; they also developed increased competence in the use of alternative dispute resolution.¹³

The NGOs developed more sophisticated strategies and arguments for legal representation, such as using international treaties on human rights, and created and strengthened an interinstitutional network as a supplementary resource for the assistance centers that provided much-needed help in cases of greater complexity, risk, or human rights violations.

There are also indications of improvement in the quality of life of the women served. The NGOs that participated in the pilots had a higher percentage of favorable rulings than private lawyers did and indeed were preferred over private representation.¹⁴ The amounts of child support obtained tended to be 20 to 50 percent higher than the average of those adjudicated, and protection measures in family violence cases tended to be more quickly expedited, with some orders to remove spousal aggressors from the house being obtained in two or three days, rather than the weeks often needed by private lawyers.

The NGOs did not limit their interaction simply to legal proceedings and consultations but addressed the social, psychological, and emotional issues of the users involved as well. Women gained a greater awareness, more training, and understanding of their rights. As one client said, “What I like is that we users make the decisions on the cases.”

- The subprojects also fostered greater community awareness of domestic violence as a human rights violation through training and education geared to the community, schools, public and private organizations, judges, and legal personnel. One innovation was the inclusion of training programs for school-age children as a prevention mechanism. Outreach efforts have led to increased support from other institutions, involvement from neighbors¹⁵ who were previously indifferent to mistreatment, and more case referrals and requests for training from government authorities.

¹³ The experience of the four pilots has clearly illustrated that alternative dispute resolution should not be used in cases of domestic violence.

¹⁴ For instance, the wife of a Congressman preferred to have the NGO's legal assistance instead of counsel because she felt CEPAM lawyers could win better rulings.

¹⁵ The *Fundación María Guare*, for instance, received information about battered children from a group of neighbors, who also made the claim before the police.

- The NGOs developed direct relationships with broadcast media to increase community awareness about the causes and consequences of violence against women, promote a gender perspective, and publicize and promote the centers' services. They also improved communication with the authorities regarding the centers' activities.
- The NGOs have achieved greater respect and receptivity from some sectors of the judiciary because of their professionalism, honesty, and commitment to the services. This is demonstrated by rulings that specifically quote the Convention of Belem do Pará and apply better instruments and measures to decide gender violence cases. Previously, many judges were not even aware of the Convention or were reluctant to apply international law to the domestic domain. In cases of sexual crimes, the judge, rather than the police, now more often takes sworn statements, eliminating the need to repeat them and avoiding frequently insensitive treatment by the police.
- The organizations have also contributed to improving the general status of women through such activities as drafting proposals for legal reforms—including the new Family Code and a strategic development plan for the Municipality of Santa Elena that incorporates the gender perspective.

The NGOs have also contributed greatly to knowledge of the conditions of women who make use of counseling and other services by developing databases that analyze and monitor caseloads and contain information on each user and her problem areas, and the assistance provided. The implementing organizations, particularly CEPAM, have also contributed to knowledge transfer and replication possibilities.

6. Difficulties Encountered in Project Implementation: Excessively Ambitious Project Goals

The implementing NGOs, particularly CEPAM, noted that some of the baseline goals that the organizations set were too ambitious for the number of professionals they had on staff. Further, the goals did not take into consideration the time needed to handle backlogged cases. Staff had to make additional efforts to meet these goals, often by working

unpaid overtime. The NGOs believed this detracted from their ability to do other priority work, for example, promoting legal change.

6.1 Sexist Prejudices and Stereotypes in the Administration of Justice

All the organizations indicated that, despite increased openness toward gender within the judiciary, they still faced extensive sexist prejudices and stereotypes on the part of judges and court personnel. In particular, both judges and court personnel lacked sensitivity and knowledge of how violence was supposed to be treated within the courts according to Ecuadorian law.

6.2 Corruption in the Administration of Justice

All of the organizations indicated that significant levels of corruption in the judiciary, the Juvenile Courts, and in some jurisdictions of the Commissariats of Women and the Family made their task more difficult and led to delays in case proceedings.

6.3 Slow and Excessively Formal Judicial Procedures

Given the risks to both health and life that many of the users are facing, the judicial procedures are too slow and exceedingly formal.

6.4 Poverty

Women often did not even have the resources to pay for transportation to access the centers' free services. This also impeded their responding to judicial subpoenas in a timely fashion. Moreover, legal costs and fees are too high for these women to afford. Only those who earn less than \$20 per year qualify for the *amparo de pobreza*. The rest must pay court fees even when the NGOs provide free legal assistance.

6.5 Lack of State Services

The study found that public defenders' offices are overloaded with cases and often lack the gender sensitivity that the centers provided. Moreover, Ecuador has no comprehensive program for social legal assistance, providing further barriers to true access to justice by poor women.

6.6 Lack of Psychological Support for Center Staff

The emotional strain put on staff dealing with the women's problems created a real need for stress reduction activities, as well as psychological support to reduce the incidence of staff burnout.

6.7 Physical, Psychological, and Verbal Attacks on Center Staff

Many staff reported physical threats against them from the women's male partners. Protection from these threats was not considered when the pilots were first envisioned.

7. Lessons Learned

Two sets of lessons emerged from the pilot projects: strategic lessons as to the role of legal services and other access-enhancing mechanisms in judicial reform programs and tactical lessons for improving the impact of legal services in their own right.

7.1 Strategic Lessons on the Role of Access Creation in Judicial Reform

- Conventional, top-down legal and institution-strengthening judicial reforms are unlikely to automatically benefit marginalized populations (nontraditional users of judicial services). To broaden the impact of these reforms, measures must be included to break down the barriers inhibiting these groups from accessing the justice system and to take advantage of improvements in operations and new legal guarantees. This combination of top-down and bottom-up approaches is critical to a more holistic approach to legal and judicial reform that addresses empowerment, security, and opportunity.
- Because these barriers take a variety of forms, access-enhancing programs must work on several fronts simultaneously. Although targeted legal services are the most common mechanism used for this purpose, their efficacy hinges on their ability to provide much more than free legal advice and representation.

- Even in an unreformed system, or in one still undergoing substantial reform, well-designed legal service programs can improve system outcomes for their clients and, at least at the local level, encourage changes in system operations.
- Legal services can provide information on systemic problems and obstacles that must be addressed to improve overall judicial performance. Legal service NGOs can be a means of monitoring and assessing the real progress made by top-down reforms.
- The integrated interdisciplinary attention provided by these programs can reinforce the efforts of other types of development assistance, such as improvements in health or education services, or efforts to foment microenterprises. This suggests the utility of planning for coordination or cross-support, or even of incorporating legal services components in work in other sectors.
- Legal assistance to women and other disadvantaged groups will be more effective when these issues are also emphasized at the national level as part of overall judicial reform. The legal assistance NGOs can directly enhance their local impact and contribute to this national effort through education campaigns, networking, and mobilizing community leaders and stakeholders to promote rights awareness and sensitivity to specific problems.
- Especially in areas like increasing access, and potentially in many others, action research projects may be an ideal way of providing information on vaguely understood problems, while at the same time producing concrete improvements. They are the best means of avoiding the dilemma of either postponing remedies until more studies can be done, or forging ahead in potentially wrong directions. However, this requires a somewhat more hard-nosed approach to evaluating results. The experience also suggests the necessity of establishing common guidelines for collecting and categorizing data and some agreement on what kinds of impacts will be tracked and how they will be measured.

7.2 Tactical Lessons for More Effective Legal Services

In working with marginalized groups, legal assistance cannot be limited to legal advice and representation. Supplementary services (educa-

tion, psychological counseling, and family therapy) are also essential for helping individual clients.

- The impact of the basic client-focused service can be increased by the addition of other activities, such as training of trainers, grassroots legal education, formation of support groups, and outreach to community, political, and judicial authorities. These activities made an important contribution to court modernization in Quito, Guayaquil, and Cuenca.
- Interventions are not one-size-fits-all. Rather, each case must be taken separately and staff must consider women's economic, social, and family conditions, as well as cultural concepts and practices before providing guidance.
- Intervention should not focus on getting cases to court, but on resolving underlying problems. Where possible, mechanisms like family therapy and alternative dispute resolution should be attempted so long as they do not violate the client's rights. However, staff should also have clear guidelines as to the problem areas to be addressed and the intervention criteria to be applied. They should not be expected to solve every problem.
- One of the most important objectives of interventions should be for women to actively participate in proceedings to enhance their sense of control over their own lives. Interventions should include individual and group counseling to promote both education and attitudinal changes, as well as to provide support to women in crisis.
- The emphasis should be on integrated, multidisciplinary teams selected for their substantive qualifications and personal dedication. Mechanisms should be developed for protecting staff from aggression—from angry spouses, etc.—and from emotional burnout arising from dealing with women's problems on a daily basis.
- There must be continuous training activities for center staff, and parallel sensitivity training should be undertaken with judges and legal personnel to improve the judiciary's receptivity to gender issues. Broader awareness for women's rights must be made through improvements in publicity. The lines of communication between

the centers and judicial and legal personnel should be open, and centers should actively maintain relationships with other local legal and social agencies to ensure more suitable responses and alternatives.

- Services must—to the extent feasible—be brought to the users through greater decentralization, given that some of the women do not have resources to pay for transportation costs to the free services. More fieldwork and family visits must be carried out as a part of legal services; more attention should be placed on following up on cases, both to ensure that improvements are sustainable and to identify problem areas (whether, for example, favorable judgments are actually enforced). Center hours must be extended to take into consideration those women who work full-time.

8. Recommendations for Future Action

Because of the way the program was structured—pilot projects, urban focus, its two-year limit (now extended), and mixed activities and objectives—the important questions of sustainability remain unanswered. However, in a recent study, the Ford Foundation also concluded that it is difficult to sustain such activities. Although a sliding-scale approach to fees could be used, this would not cover the costs since most women cannot afford most fees. One approach is to consider private-sector partnerships because such arrangements cost little or nothing to the projects. In addition, participation in such legal services projects helps to develop a core group of lawyers with public-interest law experience; such a group is necessary to ensure that the poor have access to professional representation.

Although almost half of Ecuador's impoverished and disadvantaged women live in rural areas, the pilots provide little indication of their needs and whether they might be addressed through this kind of service. Because both courts and NGOs are in scarce supply outside the cities, there is also the practical issue of whether this kind of assistance could be structured to work in rural areas. This suggests that in the next round of activities, priority might be given to pilot projects aimed at dealing with rural women. The most important question, however, is whether follow-on actions should continue support to the same NGOs, select others working in different areas, or doing both simultaneously, and whether in any of these scenarios the level of support, timeframe,

and mix of activities should be greater, lesser, or the same. While access-enhancing programs generally seem to assume that more is better, as discussed further below, they can be best balanced against other reform priorities if they have a more explicit strategic focus.

In attempting to extend access, the NGOs adopted three principal approaches—providing assistance to individual clients and creating awareness of problems and rights, mobilizing community support, and pressuring local and national authorities for change. In terms of immediate local impact, the argument could be made that short-term grants are best seen as opportunities to test and perfect techniques and to improve the environment, and that future support should be redirected to allow other organizations to repeat the same process. But an analysis of the experience might also indicate the need for a different mix of activities, carried out by the same or other NGOs. This might give more emphasis to providing comprehensive services to a targeted group of clients, expanding coverage but cutting back on supplementary inputs, “empowering” women to understand and, thus, manage their own legal situations, creating networks of community services to support them, problem prevention (i.e., education and promotion of legal and other changes to reduce the incidence of problems like domestic violence and nonprovision of child support), changes within justice institutions to deal with these issues, and so on. However, expanding access is not just a local proposition, and from the standpoint of nationwide impact, the mix might also change. This introduces another set of questions that cannot be resolved by looking at legal services and access in isolation.

The more fundamental considerations have to do with the impact of this type of effort, especially in the context of a largely unreformed judicial system, and its place within a broader legal and judicial reform program. On one count at least, the news appears to be good. Judges and other court personnel were more cooperative than had been anticipated, which led to concrete successes, such as the favorable and timely termination of cases, higher average amounts for child support, and recognition of international conventions. However, even in more favorable circumstances, legal assistance projects often seem to be reliving the myth of Sisyphus: a seemingly endless number of injustices, with the demand for assistance ever exceeding that which can be supplied. Furthermore, in countries such as Ecuador it appears that the supply will for some time depend on external support. When the number of public defenders is so ridiculously low, providing publicly paid legal advice for women with family problems seems out of the question. But

international agencies, too, have their limits, and it is unlikely that they can finance a system that will cover all the women in need in Ecuador.

Somewhere between giving up and continuing to push the boulder up the hill is a middle ground, or perhaps a different path, which might accelerate change. The project has given the Bank and the Ecuadorians a much better notion of the dimensions of the problem of ensuring that women and other marginalized groups are afforded the same chance at basic legal protection as are other citizens. The next step is to develop a strategy for resolving it. Clearly, that strategy will include some legal assistance and the expansion or replication of this kind of NGO program into more areas of the nation, but it cannot limit itself to those steps. More emphasis must be placed on forging higher-level alliances within the holistic approach Ecuador has adopted and involving the judiciary and other relevant institutions.

In reviewing the project experience, four factors emerge as critical to addressing the larger question. These are the truths the projects either confirmed or revealed in the course of their activities:

- Women face certain critical legal problems, the solution of which is important not only for reasons of justice, but also for national well-being: among these, child support and family violence stand out as priorities. It is also possible that they face additional significant problems—labor disputes, housing, and other issues—but women are not accustomed to bringing these issues to court.
- Because of their higher incidence of poverty, women face structural obstacles in accessing justice: they cannot afford court and lawyer fees; even transportation may be an impediment. Some of these problems might be resolved by legal change; others may require the introduction of other kinds of special services.¹⁶ Women

¹⁶ Several countries (for example, Colombia, Guatemala, and Peru) have experimented with creating decentralized court services (sometimes in multiservice facilities or *casas de justicia*—houses of justice) or itinerant judges and public defenders to bring justice closer to disadvantaged groups. While often established in rural areas, they have also been found useful in large urban centers where these services are often concentrated in an area far removed from where most of the poor reside. El Salvador has a special organization, the *Procuraduría General*, which has offices devoted to providing counseling, mediation, and other services to women with family problems. Many of these problems can thus be resolved without involving the courts, but if judicial action is necessary, the office also helps with that.

seem particularly uninformed both on their rights and on the workings of the justice system. This restricts their normal use of courts.

- Judicial prejudice and corruption also impede women's access, both in terms of having their cases received and winning just resolutions, judges' attitudes must be changed.

All four factors could be addressed at three levels: individual, group, and systemic. Conventional top-down reforms tend to focus on systemic change—modifying laws, introducing new programs (Family Courts), or altering processes (the creation of abbreviated or specialized procedures, the introduction of pro se litigation or the waiver of court fees)—even when dealing with expanding access. Legal assistance and similar access-enhancement mechanisms operate largely on the individual level with some attention to mobilizing groups, although often in local arenas. Without greater coordination, linking, and feedback, each approach has its limits; top-down changes may go unnoticed by their presumed beneficiaries, or their impact may be constrained by incomplete implementation if supporting organizations are not created, or judges do not apply the new laws, or other obstacles block the target groups. Bottom-up programs, although addressing awareness and related barriers, face the same constraints of incomplete implementation—and their inherent inability to reach more than a portion of targeted beneficiaries. The obvious solution is a closer coordination between the two halves of the equation through an agreed set of objectives, the realization of which could be tracked by both sides.

As judicial reform programs are introduced and negotiated, increasing access for nontraditional and marginalized users must be a central goal and a condition for continued support. In effect, access should be mainstreamed into legal and judicial reform programs and activities. This should not give the NGOs a lesser role; it should elevate them to part of the central planning team, which was the case in planning the Ecuador legal and judicial reform program. The rationale is simple: Judicial reform has little meaning if it does not reach the citizens; it will benefit only the elite, or perhaps only the judiciary itself.¹⁷ Initial assessments should tentatively identify problem groups and issues and

¹⁷ This is a clear risk when the only counterpart is the judiciary. Latin Americans are already criticizing the preponderance of reforms that provide higher salaries, more equipment, and training for judges, but deliver little to their “customers.”

set targets, subject to renegotiation on the basis of more information, for dealing with them. The assessments, and the overall reform strategy, should also define priorities—in some cases, increasing access may be relatively less urgent than other types of change (for example, reducing vulnerabilities to corruption, or increasing an institution's capacity to monitor its own performance). Still, lesser urgency does not mean forgotten; it just means that the relevant targets will be less ambitious over the short run.

However prioritized, access targets should be programmatic (certain components will be dedicated to these themes); structural (certain systemic changes will be introduced); and substantive (the result will be real changes in the number of users from targeted groups, types of cases heard, and their timely disposition). While legal services will lie within the programmatic targets, those offering them should also be actively involved in defining the other targets (both for access and other objectives) and monitoring compliance. Organizations offering legal services can be an important source of information on overall system performance and the problems that may obstruct reform efforts. They should also be encouraged to see this as one of their roles, and in realizing it to internalize the full set of reform goals, not just the ones they are most actively pursuing. The ideal, toward which reform programming should strive, is a planning body and design process that incorporate a full set of stakeholders and in which access has an equal role with efficiency, efficacy, and independence. Legal service providers, whether state-sponsored or from the NGO community, should be a part of this body.

Many of the problems that were encountered lend themselves to non-court mechanisms of conflict resolution. There are advantages to a reform approach that includes both court and noncourt mechanisms to resolve conflicts. First, it will encourage participants in judicial reform projects to view access for nontraditional users in the context of overall patterns of court use. It is not uncommon to find court services monopolized by a restricted group of actors who use them more to subvert than to uphold the rule of law, or whose use is predicated on the failures of other, nonjudicial, institutions. Given a limited supply of judicial resources, the theme of access thus shifts to one of resource management, making it more than just a question of making room for the poor—although the poor may be among the principal beneficiaries. The possible addition of alternative dispute resolution mechanisms for issues where they may be more appropriate than traditional litigation should always

be considered. Targets for these alternatives are not necessarily the poor; entrepreneurs, for example, who value speedy decisions based on highly technical criteria, may be most satisfied with arbitration, even if they have to pay considerably more for it.

A second advantage is the potential for identifying problems that will have to be resolved at another level, and possibly outside the justice system. Although courts are an important last recourse for protecting rights and presumably may, through their patterns of judgments, encourage rights-compliant behavior, they may not be the ideal way of addressing widespread social problems—and once repeated recourse on similar issues suggests the presence of such a problem, the ideal response is to attempt to head it off earlier. Judicial reform planning bodies can have a major role here, in calling attention to problems that are falling on their shoulders when more effective solutions might be introduced. Once again, this phenomenon is not limited to the poor. The common complaint that courts are used excessively, sometimes nearly exclusively, for debt collection (and often with the state as a major party) is also suggestive of a problem that requires other kinds of solutions.¹⁸ However, in cases of violence, there is no substitute for the courts.

Finally, this coordinated approach can also encourage those primarily concerned with access to put their own goals in a wider context. One conspicuous absence from the data collected by the NGOs is information on the execution of judgments and mediated agreements. This is an enormous problem throughout Latin America for all kinds of civil cases and one that also requires reform if access, or the introduction of alternative services like arbitration, is to have real meaning. The legal services NGOs are uniquely situated to assess its dimensions. By calling attention to the problems faced by their clients, they may be able to promote a systemic solution, which will benefit all users of judicial services.

¹⁸ Among the extra-judicial solutions that might be adopted here are the development of credit bureaus and other institutions to encourage greater caution in making loans; micro-credit organizations aimed at small enterprises; special services for reconsolidating the financial obligations of small debtors in particular; and measures to encourage more responsible lending practices in the banking and commercial sectors.

These suggestions have traveled far from the initial issue of the efficacy of legal assistance programs in extending access to court services to poor Ecuadorian women. However, they are consistent with an emerging trend in legal and judicial reform programs throughout the region, if not worldwide, that recommends that discrete problems be addressed within the context of larger strategies that combine a vision of the functions that courts are designed to perform with a knowledge of their shortcomings in given national environments. Increasingly, it also recognizes that the strategy cannot confine its proposed solutions to traditional court services. Access to justice is a right of all citizens. However, in complex, conflict-ridden modern and modernizing societies, it can no longer be assumed that every citizen will have his or her day in court whenever he or she has a dispute to be resolved. Alternative means of dispute resolution (ADR) can be part of the proposed solution, however, for cases involving violence, like domestic violence, there is no adequate substitute for the formal system. Most practitioners and commentators do agree that ADR is not appropriate in cases of violence, since there is no balance of power.

Legal service programs may be particularly important in directing attention to the conflicts afflicting the poor and thus putting them on the agenda for both types of solution. They effectively remind both the judiciary and society at large where they are failing on the commitments they have made and confront them with the need for a response. They are also important, of course, in making immediate improvements in the lives of their clients and in developing more innovative, efficient, and effective means of achieving these results. However, the fundamental challenge is to ensure that the knowledge they generate, the perspective they bring, and the interests they articulate are integrated into a global judicial and justice reform program. This means incorporating access as a programmatic theme and developing specific benchmarks, indicators, and targets for its advancement. It also means that access must be understood as more than just getting X number of cases from poor clients to the courts; it requires identifying and recognizing the underlying problems that give rise to these cases, and taking steps, within and outside the judicial system, to resolve them. The courts are a kind of social barometer; the cases that reach them indicate where problems lie. By ensuring that the poor have access to courts, we are one step closer to ensuring that they have access to justice; however, that is just the beginning of the process.

Annex

Description of Legal Services Subprojects for Women of Limited Resources

1. CEPAM – *ProJusticia* Agreement: Alternative Legal Services for Women of Limited Resources

The project was implemented over a 24-month period (April 1998–March 2000).

The total amount awarded was \$246,780.

The geographic area for project implementation included the cities of Quito and Guayaquil.

The organizations responsible for implementation were CEPAM Quito and CEPAM Guayaquil.

1.1 Objectives

The **general objective** of the project is:

“Improve and increase the access that women of limited resources have to the administration of justice system by implementing low-cost alternative legal services with a gender perspective, contributing to the democratization of knowledge and application of the law, in order to improve their condition and position in society.”

1.1.1 SPECIFIC OBJECTIVES:

- Offer legal and supplementary services with a gender perspective to women of limited resources in Quito and Guayaquil, in the areas

of Family Law, Juvenile Justice, Law Against Violence toward Women and the Family, and Labor Law;

- Conduct socio-juridical research in order to propose legal and judicial reforms benefiting women and deepening knowledge on specific legal subjects;
- Systematize the service's experience in order to build a replicable model;
- Compile statistics on the conditions of legal services users;
- Strengthen a network that allows for the coordination of initiatives, actions, and resources among the legal services providing support for women.

1.2 Components

The project comprises four components:

- **Component 1: Legal Assistance and Supplementary Services**

Objective: Improve women's accessibility to the administration of justice system and facilitate their access to supplementary services.

1.2.1 SERVICES

- a. Reception areas, assistance, intervention, and strengthening for battered women or those who require specific legal support or support with health, psychological, social services, etc.;
- b. Legal advice and protection in defense of their rights: family law (alimony, joint property, dissolution and liquidation of joint ownership by spouses, filiation, succession, and legalization of land and housing); juvenile justice (alimony, custody, prenatal assistance, regulation of visits, recovery, and adoption); violence (claims, protection measures, recovery of property, misdemeanor trials and trials for crimes involving injuries or sex committed in the intrafamily setting); labor law (women workers of the formal and informal sector, general consultations and individual labor conflicts);

- c. Intervention and support in crisis;
- d. Self-help group formation;
- e. Dissuasion activities for the aggressors and/or psychological attention;
- f. Space that allows for alternative dispute resolution, always respecting the free will, liberty, and decisions of each individual, avoiding manipulation and imposing criteria, and guaranteeing equality between the parties;
- g. Assistance and companionship in women's decisions;
- h. Supplementary services: information, counseling, and dissemination, psychological, legal and laboratory medical services, shelter for women and minors in Quito, technical support in the Commissariat for Women and the Family in Quito, Women's Criminal Defense Counsel for sexual crimes and those involving injuries within the family in Quito, community support and information centers for women in Guayaquil.

1.2.2 USER PROFILE

All women seeking service receive assistance, giving priority to:

- Women whose own income does not exceed three general minimum living wages;
- Women who may not have their own income;
- Women heads of household or those who have more than two family roles;
- Women who come from rural, marginal urban, or high-risk sectors;
- Women who lack their own housing;
- Women who are experiencing a situation of intrafamily violence;

- Women with physical disabilities and/or serious illnesses;
 - Single mothers.
- **Component 2: Research, Database, Submission of Proposals for Legal and Judicial Reforms, and Dissemination**

1.2.3 OBJECTIVES

Develop socio-juridical research on the efficiency of the law regarding common-law marriages (specifically, the liquidation of common-law partnerships), compile statistics on the socioeconomic conditions of the users of legal services, and propose legal reforms to raise the level of participation and condition of women.

1.2.4 RESEARCH

For a period of six months in five civil courts in Quito and five in Guayaquil, studies were conducted of the judicial proceedings brought through the application of the law on common-law marriages. The purpose was to assess whether they effectively protect the rights of women in the liquidation of assets acquired during the union.

1.2.5 DATABASES

A log of data and statistics was developed on the socioeconomic conditions of the legal service users.

1.2.6 DISSEMINATION

Various activities were developed to disseminate information on the rights of women and the services of the assistance centers.

- **Component 3: Systematization of the Experience**

The proposal was made to systematize the alternative legal model for assistance and intervention with an applied gender perspective, in order to make the replication of this methodology possible in other spaces and cities.

- **Component 4: Interinstitutional Coordination between Legal Assistance Services for Women**

1.2.7 OBJECTIVE

Strengthen a legal aid network for women.

A network was established with different services, organizations, and professionals working on the issue to be able to provide integral services to women.

2. *Fundación María Guare*

The agreement covers the “Integral Project of Legal Assistance to Women of Limited Resources.”

The geographic area of project implementation is the province of Guayas, in the urban–rural areas of the cantons of Duale and Santa Elena and their respective surrounding areas.

Project duration is 24 months.

Total project financing is \$63,139.56.

2.1 Objectives

The **general objective** is:

To implement an integral alternative legal assistance service providing psychological and socio-educational support with a gender focus, targeted for women of limited resources in crisis situations in the sectors of Duale and Santa Elena, in the province of Guayas.

The **specific objectives** are:

1. Involve the legal service users in advisory services and knowledge of mediation and legal procedures.
2. Create a space for alternative components to deal with women in crisis, making possible human rights education, acknowledgment, and communication with a gender perspective.

2.2 Services

2.2.1 LEGAL AREA

Both legal advice and representation are provided.

The project includes development of an alternative legal service with a gender focus, involving the users in legal advisory services and procedures. Thus, a space is created for providing legal alternatives for women, applying mediation as an alternative for dispute resolution, as well as settlement, reconciliation documents, etc.

2.2.2. PSYCHOLOGICAL AREA

Diagnosis is made on the major issues affecting women. When necessary, the appropriate treatment is provided; it may take the form of psychotherapeutic treatment or support, elucidation, or crisis interaction, according to the diagnosis in each case, to reinforce the self-esteem of the users, thus facilitating their ongoing involvement in the process and their rehabilitation with the aggressors.

Individual and group therapies are provided for women and for men.

Children affected by the violent attitudes of their parents are treated as well.

2.2.3 SOCIAL AREA

The social area is the first contact the user has with the center. There, the intake record is completed, and the client is referred to the legal or psychological area, the Commissariat, or support network.

Visits are made in cases referred to courts, juvenile courts, or commissariats.

The necessary coordination with social assistance institutions is carried out in order to resolve family problems and arrange home visits for investigation, monitoring, and follow-up of cases dealt with in the center.

Also, treatment in social cases is provided in coordination with the psychological and legal area.

2.2.4 INTERNAL AND EXTERNAL TRAINING

The users are advised and trained, as are their families.

Prevention activities are carried out in schools through talks, dialogues, and workshops.

Workshops are developed in working-class areas.

This work helps sensitize the population to the problem of family violence, allowing the affected persons to become familiar with the assistance centers' services.

There are training activities for authorities as well.

In addition, internal training activities are carried out through talks and workshops for personnel in the assistance centers.

2.2.5 INTERINSTITUTIONAL COORDINATION

Interinstitutional coordination is intended to provide users with support in other institutions in order to obtain an integral solution to their problems.

3. *Corporación Mujer a Mujer*

ProJusticia has directly contracted the advisory services of the *Corporación*.

The geographic area for the execution of the project is the city of Cuenca.

The implementation period is 12 months.

The agreement amount is sucres 333,962,000.

3.1 *Objectives*

The **general objective** is:

Design and implement in Cuenca a pilot project for the purpose of offering legal and supplementary services to women of limited resources and their children, strengthening their access to justice through legal actions that tend to improve their socioeconomic conditions.

The **specific objectives** are:

1. Provide orientation for women who seek assistance on legislation currently in force (basically, in consultations on the effects of marriage, separation, and leaving the home; the status of minor chil-

dren in the event of separation; ways to obtain alimony for unrecognized children; causes and effects of divorce, domestic violence, sexual crimes, and sexual abuse of minors).

2. Provide legal representation for women in cases where judicial proceedings are required.
3. Accompany the users during the different stages of the process until the final ruling.

3.2 Services

Services and activities that the corporation offers within the framework of the project include:

- Individual assistance and legal representation for women and their children in obtaining financial support owed by their fathers.
- Assistance and legal representation for women and their children in defending their physical, psychological, and financial safety.
- Assistance and legal representation for women workers in labor conflicts.
- Representation and legal counsel for women who have conflicts with public administration.
- Compilation of statistical information on the conditions of the women who attend the program in search of free legal representation or assistance.
- Development of socio-legal research and studies that facilitate better legal representation and assistance to women.
- Maintenance of logs of legal and psychological interventions and draft conclusions on legal representation and assistance to women.
- Publication and dissemination of research results through publications, workshops, seminars, and other means.

- Formation of a network of legal assistance for women, linking private practitioners willing to provide free legal services, as well as other persons and institutions committed to providing services to women.
- Drafting of recommendations regarding legal reform that allow increased levels of participation by women in Ecuador.
- Developing a plan of action that serves as a model to other organizations in the region having similar goals.