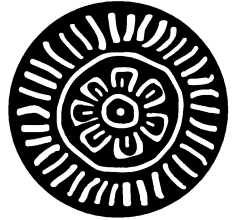


Partnerships for Reform

*Civil Society and the
Administration of Justice*



...Learning by Doing

by
Samuel F. Harahan
and
Waleed H. Malik

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Partnerships for Reform-Civil Society and The Administration of Justice— Learning By Doing

“Without the protection of human and property rights, and a comprehensive framework of laws, no equitable development is possible.” James D. Wolfensohn, President, The World Bank

“Justice is too important a matter to be left to the judges, or even to the lawyers; the American people must think about, discuss, and contribute to the future planning of their courts.”

Chief Justice William H. Rehnquist
United States Supreme Court

Introduction

The courts within any given community or country are part of a larger governmental and legal framework called the administration of justice. The police, the prosecutor, the trial bar, individual judges and lawyers, penal authorities and institutions, and the legislature are also part of a jurisdiction’s justice system.

The importance of the justice system in the healthy social and economic development of a nation is now a well regarded notion for success in the 21st century. Citizen groups and judiciaries in developed, transition, developing and post-conflict countries alike are increasingly confronted with the challenge of how to improve court performance and enhance citizen confidence as expectations are rising in today’s interconnected societies.

Given the complexity, breadth, legal authority, and sheer power of the courts and related societal institutions, how can ordinary citizens or civil society groups effectively make their voices heard within the courts and in the broader justice system? What successful organizational models or approaches have communities in different countries used to partner with the judiciary and with other public institutions to promote reform and greater public understanding of the administration of justice? This *Partnerships for Reform* Booklet seeks to address these and other similar questions. It also provides some insight into questions that judicial policy makers face on

how best to involve civil society and in what areas of reform.

The audiences for this informational Booklet include:

- * interested citizens, lawyers, social workers and business leaders;
- * judges and policy makers;
- * other public officials, and development specialists; and
- * members of existing civil society non governmental organizations.

This booklet seeks to offer practical information and examples, and aims to identify a number of policy considerations relating to establishing or promoting more effective civil society participation in the administration of justice within a given community or at the national level.

Defining civil society and its representative groups is a complex and difficult task. Informal community groups, non governmental associations, individual citizens, professional and trade associations, religious bodies, women groups, minority interest groups, and the like are examples of civil society groups. These groups may be informal, private or organized in the form of non governmental entity. For the purpose of this booklet the focus will be on non governmental organizations (NGO). Thus, terms such as civil society organization and non governmental organization will be used interchangeably.

The broad organizational outline of this informational Booklet is follows:

- Chapter One: Understanding the Judicial Reform Framework
- Chapter Two: Organizational Options and Models for Civil Society Participation in the Administration of Justice
- Chapter Three: Issues in Forging Effective Civil Society-Judicial Sector Partnerships, and Conclusions

Chapter One: Understanding the Judicial Reform Framework

This initial section of the *Partnerships for Reform* Booklet first addresses the fundamental question of **Why** should the civil society actively participate in the judicial reform process. That is followed by a brief discussion of contextual elements citizens and civil society groups should be aware of when working with the judicial branch of government. After completing this brief chapter the reader should have a better appreciation for:

- * inherent obstacles the civil society faces in interacting with the judicial sector of government;
- * the diverse constituencies which have direct or other potential interest in administration of justice issues and institutions; and
- * why civil society-inspired positive change within the judicial branch of government usually takes such a long time to achieve.

Who really cares how well the courts and justice system function?

We all do!

The courts and other public agencies comprising a community or a nation's justice system directly affect the public safety, commerce, and overall quality of life of every citizen every day of the year. Public confidence in and public respect for the rule of law is integrally linked to how well a community's law enforcement and judicial departments dispense justice to ordinary citizens. Delay, inefficiency, bias, or corruption on the part of the police, the prosecutor, the judge, or any other justice sector official lowers public respect and public confidence in government and in the justice system especially.

The judicial branch of government depends on broad public support to fulfill its core governmental mission. Organized civil society groups can play a critically important *independent role* in communicating the need for adequate court resources, facilities and services to the community at large. At the same time, such groups may serve as important credible voices for change, and for much needed improvement in the administration of justice.

What civil society groups are affected by the justice system?

- * *Businesses are affected* through their use of the courts to enforce legally binding agreements and contracts, and through their use of the judicial process to resolve other civil disputes;

* *Lawyers and the organized Bar are affected* because their work frequently takes place within the formal justice system, and because public confidence in the Bar is closely linked to public confidence in the administration of justice;

* *Crime victims and witnesses are affected* when they call upon the police and judicial processes for fair societal recompense of their injuries;

* *minority groups, women and children are affected* as they petition the courts to give voice and power to their claims;

* *civil society advocacy groups are affected* as they petition the courts for righting perceived wrongs;

* *individual citizens and families are affected* as they depend on the fundamental fairness and impartiality of decisions by the justice system in matters ranging from relief from domestic violence to resolving vehicular driving infractions; and

* *the broader civil society is affected* in terms of its continuing to place trust and public confidence in the rule of law and in the impartial administration of justice.

Why is the judicial branch of government so slow to embrace reform or change?

A core function of the judicial branch of government is to resolve disputes which are properly brought before it. Common law courts fulfill this role by applying the law and legal precedent in individual cases. This process has been described as one of looking back to the past for guidance rather than looking forward to the uncertain future.

From an international perspective the resistance to change has both geopolitical and historic roots for society and for its judiciary. Each judiciary assumes to have a national monopoly in matters of the administration of justice. As a monopoly, the judiciary is not subject-- except perhaps to a limited extent- to competition in its functions. Also, the historical perspective of the judicial system suggests that judges are its only "resource" and the decisions its only "product." Therefore, emphasis is placed upon responsibility and achievement of judges as individuals. However, a judicial system is the sum of all its judges, and administrative staff, and other actors including lawyers, police, forensic experts, sociologists, conciliators and users. This resistance to change is therefore inherent and visible in the operational culture of judiciaries subscribing to the past perspective.

In a civil society citizens expect their courts and justice system to function with a very high level of stability, predictability, and integrity. Stability may be expressed in terms of the routine every day law enforcement practices of the police; in terms of fair and impartial legal codes and regulations; and in terms of judges impartially deciding individual cases by following the law.

The predictability and integrity of the justice system (whether under common, civil, Islamic or other laws) are expressed through the legal codes, practices, and precedents which evolve over extended periods of time, and by the conduct of the police, prosecutor, judges, and courts in individual cases.

For courts and judicial officers to embrace change may require tacit acknowledgment that existing practices are somehow lacking or deficient. Further, the cherished and highly valued principle of judicial independence may in turn contribute to isolation of the judiciary from civil society. The judiciary may not be in a position to hear the views and experiences of ordinary citizens and business owners. In turn judicial isolation may leave the courts believing all is well when the community believes that reasonable change is long overdue.

Finally, most courts and judicial sectors are very busy in developed and emerging economies. There is constant pressure on the judges from all quarters to resolve disputes and to move cases to disposition. In such an environment there may be too little time and energy left over to ponder and explore new and better ways of doing justice!

Where proper trust and rapport have developed between the civil society NGO and the judiciary the pressing court workloads and judicial independence may offer enlightened judicial and civil society leaders many opportunities to forge useful partnerships of direct benefit to courts and community alike.

Chapter Two: Organizational Options and Models for Civil Society Participation in the Administration of Justice

What motivates the civil society to become involved?

Direct personal experience and/or self interest, at an individual or institutional level, are the two most frequent reasons why citizens, businesses, and other segments of society become involved in law-related civil society initiatives. Victims rights organizations, bar associations, prisoners rights groups, and judges associations are all examples of civil society institutions based on the direct or indirect interests of their members.

More generalized organizational missions such as advancing individual or societal educational objectives motivate some civil society institutions and groups' involvement with the administration of justice. Universities, law school clinical programs, environmental programs, think-tanks and academic research centers are examples of institutional models which may intersect with the formal justice system through student, faculty, consultant or researcher involvement. Similarly, partisan and non partisan civil society public policy research and advocacy institutions also may include administration of justice issues as their sole focus or as one of many policy thrusts.

What are some existing civil society organizational models?

There are an infinite array of organizational models in the civil society of people and institutions who have come together to address some issue, problem, or opportunity within the courts, judicial sector, or the government at large. What follows is a summary list of different models through which citizens express their ideas and concerns about their government or about the courts and administration of justice more specifically. A short enumeration of some of the pros and cons relating to each example is also provided.

1. *Direct Individual Citizen Action Model.* While the least organized civil society vehicle for reform, this model is used in many cultures by ordinary citizens to express their views or to vent their frustration with their government including its elected officials, police, prosecutor, or courts. The "goal" being sought from this organizational model is frequently direct personal relief or satisfaction by the individual citizen who has petitioned a specific department, office, or individual within the government.

Pros and Cons-- The direct citizen action model approach may have varied success depending on factors largely outside the control of the individual citizen petitioner. On the positive side this model offers infinite flexibility only limited by the imagination, capacity and energy of the citizen petitioner. A further attribute of this model is that it encourages individual citizens to offer concrete ideas and feedback to their government to better serve them.

On the negative side, governmental agency directors and judicial sector leaders may have a difficult time responding to what may be a continuous stream of citizen calls and letters. Important ideas and issues of concern to the courts and the community may not be given proper notice simply because there is not enough time for the judiciary, the police official, or the prosecutor to study and reflect on what an individual citizen might bring forward. Stated differently, a major drawback of this method of encouraging judicial reform is that the anonymity of the individual citizen to the court makes it less likely that the court will take time to thoughtfully consider to expressed views of the citizen.

2. *Single Issue Cluster Civil Society Organizations.* This non governmental organizational model is the most widespread and includes an infinite variety of “causes”. In addition to “the cause”, this model also may be organized on specific demographic, age, or ethnic bases within the “cause” itself. In the administration of justice area single issue civil society NGOs range from those concerned with domestic violence, to victim rights groups, and from citizen court watching groups to juvenile or family court reform committees and from citizens protecting the environment to land reform committees. In the United States two organizational examples among many are Mothers Against Drunk Driving, and the National Organization for Victim Assistance.

Pros and Cons— A major positive characteristic of the single issue civil society non governmental organization (NGO) is the very strong personal commitment of the groups’ members and leaders to the mission or cause. This personal passion and commitment may be essential to the capacity of the NGO to accomplish the myriad tasks, large and small, necessary to advance the core goals of the NGO.

Access to “cause related” financial support from outside the organization’s own members is another potential attribute of this organizational model. In the United States and Europe, for example, there is a very active philanthropic sector which include foundations whose missions may complement the many different types of single issue NGOs. Thus, foundations concerned about domestic violence, or citizen education, or environment and wildlife, exist to provide grant funding to NGOs committed to addressing those specific causes.

The narrow mission and strong personal resolve of a limited number of individual citizens which characterizes the single issue NGO, may also represent potential limitations. Passions wane, and people may lose interest (or patience) over the extended period of time necessary to see positive change. Expressed differently, some single issue NGOs may experience financial resources and staying power insufficient to sustain the “cause” over time.

3. *Judicial Branch Focused Civil Society Organizations.* These groups focus on a distinct branch of government, the courts or justice system, usually within a defined geographic area. In the United States most NGO’s of this type direct their major focus on a single state or city rather than at the entire nation or at the federal judicial branch of government. The Council for Court

Excellence, based in Washington, D.C. and the New York Fund for Modern Courts, based in New York City, are two U.S. examples. At the national level in the U.S., examples range from the Federal Judges Association, the National Center for State Courts, and the American Judicature Society. In Venezuela, there are NGO's directed at the entire nation (e.g. PROVEA, CONAPRI). In Singapore there are successful women's associations addressing family violence and access to justice issues. In Colombia, the Corporation for Excellence in Justice is another NGO which has a national focus.

This form of NGO is frequently, but not always, characterized by an action orientation in which the group works, sometimes for years, to address or ameliorate a limited set of discrete problems within the broader administration of justice of a community or a nation.

Pros and Cons— The common organizational characteristics of the judicial branch focused NGO model are a diverse base of supporters (often including the legal, business, civic, judicial and philanthropic sectors); a broad substantive agenda; and independence of voice and action. Each of these characteristics represent potential sources of strength for the NGO model. For example, a diverse base of supporters should contribute to the NGO selecting substantive organizational priorities which concern or appeal to a broad spectrum of the community. That, in turn, may cause the judicial sector leadership to express greater interest and attention to the ideas and views of the NGO.

A second important attribute of this NGO model is the potential diversity of sources of financial support to sustain and advance the programmatic goals and agenda. Because the membership of this NGO form is consciously not limited to one strata of the community the opportunities for funding support are potentially very broad.

The third attribute to be noted for this NGO model is perhaps its most important, namely its independent voice. Because this NGO form is not part of the courts, or a large university department, bar association, or chamber of commerce, it has the potential organizational flexibility, and perhaps, the obligation to exercise its vocal chords as an independent spokesperson to advance the NGO's goals and objectives.

The potential functional weaknesses of the judicial branch focused NGO are several. First, the diversity of membership and supporters in this NGO form may dilute the very intensity and passion of concern with the existing police, prosecutorial, or court processes that is necessary to get anything changed. Stated differently, one group of NGO supporters' difficulties with the courts may work to another group of supporters benefit as in the issue of trial court delay in civil or criminal cases. Defendants in cases frequently are not anxious for expedition in trial processes, whereas plaintiffs usually are.

A second potential weakness of this NGO model concerns the difficulty of securing funds over time to advance its substantive reform program or agenda. To the degree the NGO seeks to

advocate improvement or reform of the courts on a broad scale, such as reform of a jurisdiction's juvenile court, it is likely to take many years to see positive results. However, funding sources available to this NGO model (and to most of the others being discussed in this section as well) typically will not make grant commitments for a term that is anywhere near long enough to reach the intended program goal.

4. *University-Affiliated Civil Society Organizations.* Law schools, graduate schools, and universities from time to time may serve as an incubator or a long term host for a distinct judicial sector, or civil society NGO, initiative or agenda. International legal education, everyday law programs for high school students, in-service or pre-service judicial education programs at the trial or appellate court levels, and promoting a lifetime sense of public interest among undergraduate students, are all examples of where universities have actively participated in advancing a defined civil society need or judicial sector objective. In the United States such successful civil society organizations as the International Law Institute, and the National Institute for Citizen Education in the Law-- which formulated the popular Street Law curriculum-- each started as university supported entities. One of the law schools in Baltimore, Maryland promotes an exchange of legal professionals between Brazil and the United States. The American Bar Association has operated a very extensive lawyer exchange program in certain parts of the globe through its Center for Eastern European Law Initiatives. The American University Law School in Washington, D.C. also has programs working abroad.

Pros and Cons— This approach may offer a number of near term advantages including institutional support, institutional name recognition, and a potentially high degree of initial organizational sophistication. By utilizing the considerable intellectual capital of the university faculty and staff, NGOs based within a university setting may be able to work on a more substantive level more quickly to advance their agenda than might be the case normally with a new stand alone NGO. The cognizant university department or key faculty member working with the NGO also may help to open doors within the judicial sector which otherwise might be closed to another type of NGO.

As with the other NGO model forms, the university-based NGO may also have intrinsic limitations. Downstream costs of university affiliation may include lack of NGO operational and policy independence, cost and revenue sharing with the university, and difficulties in raising outside operational resources. Further, while university faculty involvement in the NGO may offer important intellectual depth and rigor for the program agenda, at the same time it may lack "real world" relevance and grounding. Pragmatism and action orientation may be part of an effective judicial sector NGO but these elements may not necessarily be in abundance within university based NGOs. In countries where the universities are organizationally weak or politicized stability of partnership may be at risk and compromise quality.

5. *Business or Legal Sector Hosted Civil Society Organizations.* Chambers of commerce, bar organizations, business trade associations, and major industry groups from time

to time set up and underwrite limited scope judicial reform NGOs. The thrust of such law reform civil society organizations frequently parallels the economic self interests of the sponsoring industry, or legal philosophy, though successful intellectually independent models may be found in this area. The American Bar Association, the National Bar Association, the U.S. Chamber of Commerce, and the American Corporate Counsel Association are U.S. examples in this area. In Caracas, Venezuela the British American Chamber of Commerce has exhibited constructive leadership in facilitating interest in judicial modernization and reform in that nation.

Less frequently, business groups serve as incubators for broad based law related NGO's focusing on the judicial branch. Here, the enlightened self interest is expressed in terms of the positive relationship between the quality and integrity of the courts and the confidence of the business community at large to make investments in the community.

Pros and Cons— Among the major advantages of this NGO model are the potential access to the financial and intellectual resources of the sponsoring business sector host. The formal commitment of a business, bar, or industry-related association to embark on an organizational agenda to influence or reform some aspect of the administration of justice is normally made at the highest policy levels of the association. These business, legal, and industry leaders may have direct influence or control over discretionary funding decisions within their firm or company. Since the substantive court reform issues of concern to the business or professional sectors frequently necessitate empirical studies and research to prove the points of view, the availability and access to funding sources is a major advantage.

A second potential advantage of this NGO model is the fact that most judicial sector leaders respect and relate well to business leaders, especially regarding management, applied research, and other quantitative-- as opposed to legal-- matters. Stated differently, NGO members from the business community leadership, because they are generally well known in the wider community, may enjoy ready access to judicial leaders.

Potential disadvantages of the business sector sponsored NGO include the perceived lack of objectivity and balanced viewpoint (for example in tobacco industry related matters) in any research conclusions and policy analysis produced by the NGO; the possible lack of staying power on the part of the business group in supporting the NGO through to the point of programmatic court reform success; and the related lack of clear nexus many business leaders perceive between good courts and good business.

Businesses and industry groups inherently and understandably seek corporate advantage for their interests; this appropriate attribute for a business group NGO may be viewed as inappropriate by the police, prosecutor, legislator or judicial sector leader in weighing options for reform or modernization. Bar associations are an especially important civil society resource both to the courts and to other NGO's seeking to influence the judicial sector.

6. *Civil Society Umbrella Organizations* In the administration of justice sphere this civil society NGO model may be comprised of a large number of single issue civil society organizations, all of which share a common interest in some specific policy reform area in impacting on the police, prosecutor, judiciary, or penal systems.

Special organizational challenges with the umbrella NGO model include:

- * how to set priorities when each single issue member NGO understandably believes its cause is “most important”;
- * how to finance the umbrella NGO when each of its member groups may have to raise funds from the same donor base; and,
- * how to maintain momentum over time when *real* judicial sector reform success will be reflected most always through “single issue” change.

In this latter context the question is who gets the credit. Is it the umbrella NGO which may have successfully orchestrated the change process in the judicial sector, or the single issue NGO which identified the problem and perhaps the solution in the first place?

Pros and Cons— A major potential attribute of this NGO model is the combined strength of a larger “voice” such a body of independent groups may bring to the police, prosecutor, or judicial sector leader. Additionally, there may be considerable substantive knowledge and depth extant in the respective individual NGO’s which participate in the umbrella NGO. This knowledge base is itself an important potential resource for the umbrella NGO to tap to advance agreed upon goals and strategies. In Venezuela, for example, umbrella groups such as the Alinaza Social para la Justicia have worked in partnership with the judiciary in promoting constitutional reform and the introduction of oral and transparent procedures in courts.

A further attribute of the umbrella NGO model may be organizational efficiency. The umbrella NGO model may serve as a clearing house or a means to facilitate quick communication among the various single issue NGOs which are members.

A number of the potential weaknesses of this NGO model are summarized above. This model may find it difficult to agree upon key substantive justice system reform priorities to advance as an NGO. NGO operational fund raising may be a special challenge for this NGO type since they may be perceived to be competing for support from the same donor community. It may also be time consuming to achieve consensus on proposed future courses of action. In cases when broader alternatives to formal courts are being proposed (such as non court annexed conciliation or mediation) such civil society organizations may have problems securing judicial support as the reform may be perceived by some in the bar and the judiciary as undermining a core function of the courts—dispute resolution. Therefore, closer information sharing and discussion of potential benefits to the formal legal and justice system in taking away unnecessary or trivial cases out of the system should be brought forward in dialogue as reform proposals emerge.

In short, as noted above there are infinite variety of civil society organizational models. For ease of discussion these have been grouped in **six** broad categories, namely, direct individual citizen action model, single issue cluster civil society organization, judicial branch focused civil society organization, university-affiliated civil society organization, business or legal sector hosted civil society organization, and civil society umbrella organization.

It is also important to keep in mind that self interest and direct personal experience are what most often motivate citizens to want to get involved with their courts, their community, their government and nation.

Chapter Three: Issues in Forging Effective Civil Society- Judicial Sector Partnerships, and Conclusions

There are a large number of different considerations and issues—mosaic of organizational models, interests, finance and options--involved in forming and developing an effective civil society organization (NGO) where its core goal or mission involves monitoring, reforming, and/or supporting a city or nation's judicial branch of government. In turn, there are also identifiable ingredients—trust, integrity, quality of work and people, opportunity and patience--which facilitate successful NGO-judicial sector partnerships. This part of the *Partnerships for Reform* Booklet will explore these two separate but interrelated themes. It also summarizes some of the main elements of the partnership for reform framework and emphasizes the need for learning by doing as there is no simple prescription or easy template for effective civil society--judicial sector partnerships.

Forming and developing an effective civil society organization

The three essential pillars of a viable judicial sector involved NGO are its leadership, its independence, and its funding sources and funding stability. From these three basic building blocks flow the NGO's substantive agenda; its working relations with the judiciary, bar, business, civic, religious, academic, media and other communities; its myriad internal organizational processes; and its long term programmatic success.

NGO leadership. As with any successful organization, new or old, leadership makes a great difference. For a new or evolving NGO seeking to work well with the judiciary and the formal justice system, effective and respected organizational leadership is absolutely critical. Attracting a recognized “moral authority” figure as an NGO organizational leader is one avenue to consider. Such individuals are viewed within the broad legal, judicial, business and/or civic communities as possessing unquestioned integrity, good judgment, and other positive values. Such individual attributes may reflect positively onto the new or emerging NGO at a time when the NGO itself has yet to form an independent image or reputation.

An effective NGO leader should be able to facilitate access to the judicial sector leadership and to others across the government and society who possess relevant influence and/or power. A good NGO leader should have a vision for the NGO and for what the mission of the NGO should be. The NGO leader should command respect and attract the support and involvement of other members of the NGO to the mission and activities of the group. An effective NGO leader should take the initiative on behalf of the organization in helping to raise the funding necessary to advance the NGO's substantive mission and its near term program agendas.

It is appropriate to differentiate between the voluntary leadership of the NGO and its staff leadership where the NGO has a staff. The above narrative is meant to describe the qualities to be found or sought in the voluntary leadership of the NGO. Many of the personal moral qualities necessary in the NGO's voluntary leaders such as integrity and good judgment are also essential in the NGO staff and its leadership. Additionally, the NGO staff leader should:

- * have a vision for the organization;
- * be aware of the broader national and international context;
- * have the ability to set priorities;
- * be able to manage people and other resources effectively;
- * communicate clearly and simply; and
- * be able to interact effectively with NGO's members and with its outside constituencies, especially the judicial sector.

NGO independence. Organizational independence of a civil society NGO is closely linked to the group's core mission or goals. For example, if the NGO's mission is to organize educational programs and seminars for members of the bench, it will need to work closely with the judicial sector and appropriately may not be very independent of that institution. On the other hand, where the core mission of the NGO involves monitoring the judicial sector and/or working to promote improvement therein, it may be important to the receptivity of the group's findings and court reform proposals by the community at large to maintain some appropriate distance from the judicial sector.

In many communities members of the civil society are skeptical of the whole notion of an outside NGO which professes to work with the judiciary on the one hand yet also being independent of the judiciary. Longstanding civil society groups like the Bar in many jurisdictions may not be perceived by the community as being very independent of the judicial sector in terms of offering constructive criticism and reform proposals.

NGO independence is also linked to its sources of operational financial support. To the degree the NGO enjoys broad based financial support from many different sources its substantive agenda and activities are not apt to be determined by the funding source. Stated differently, where the NGO relies primarily on a single funding source (for example a foreign donor), even where this may be governmental grants, the NGO's program agenda necessarily will reflect the purposes which the funding source specifies rather than the program purposes which the NGO may actually wish to address. While theoretically the NGO has the option of accepting or declining such restricted program support, under the circumstances at the time the NGO's "independence" of program choice may be impaired. Many NGOs operating in developing countries (e.g. Central America) or in transition economies (e.g. Poland) with single source foreign funding have been known to lose focus from stated goals and objectives for assistance in the judicial sector.

Funding sources and funding stability. In chapter 2 of this Booklet various civil society organizational models were described. Necessarily, each of these models— the university-based NGO model, the business, legal, or industry-based NGO model, etc— will likely have different

funding bases and funding stability. Where a judicial sector-related NGO is part of a law school, and perhaps serves to advance students' educational experience, the NGO's funding may be a budgetary line item of the school. This situation may provide the NGO considerable operational stability but little policy independence. Where the NGO is an association of judges with substantial membership dues support and hence stable financial resources, medium term activities could be well planned and successfully implemented (e.g. Brazil's judges association). In some cases stable funding sources may cause institutional problems. As such, associations may run the risk of being used for political purposes (e.g. Venezuela's now defunct judges unions).

As noted, organizational independence and issues of funding are directly related. A blend of organizational planning, forethought, and some luck are required to institute the right operational funding sources for the NGO which support the defined organizational mission year-to-year without compromising the group's independence. Some judicial sector-related NGO's have developed a three or four legged funding base which consists of:

- * targeted philanthropic support for some specific projects;
- * annual unrestricted financial membership dues support from the business, legal and citizen communities;
- * "special events" income such as benefit dinners, award programs, educational forums and conferences;
- * fee for service contracts (e.g. local and international consultancies) where the NGO performs work related to its mission and areas of core competency; and
- * endowment income.

Such a blend of funding sources may address the need for a broad base of donors but does not solve necessarily the year-to-year operational stability issue which is so critical to an NGO's long term effectiveness.

Two additional observations on the issue of funding sources and funding stability are noted. First, it is important to remain flexible. What may be an effective funding source at one stage may dry up one or several years later. Second, it is very important for the NGO to quickly build up an operational financial reserve or "nest egg" of at least six to nine months ordinary expenses. Such an operational reserve will contribute greatly to NGO staff morale and lower employees' anxiety about their future. Particularly since the quality of staff is critical to the success of NGO performance and relationship with the judiciary. Further, a financial reserve is needed for most NGOs as it is very difficult to predict with any precision when operational funding will be received. In case of foreign funding sources disbursements could also be affected by changes in government and revision in policies.

Facilitating NGO-Judicial Sector Partnerships

There is no easy recipe or template for facilitating NGO-judicial sector partnerships. Each community, each nation, each culture, will have its own character, traditions, and ways of getting things done. The methodologies become even more complex when societies are emerging out of

years of conflict and injustice. However, in general terms there are a number of principles and strategies which civil society organizations of all types have applied with success in working partnerships with the judicial sector.

The elements necessary to forge an effective working partnership between the NGO and the judicial sector are transparent and similar in character to what it takes for any civil society organization to work effectively with an arm of the government or with some other large societal institution. Trust, integrity, and quality of work product and personnel, time, opportunity, and patience are among the characteristics which distinguish successful NGO- judicial sector relations. Among other things, an NGO leader (or judicial policy maker) should keep in mind the following principles in approaching any judicial sector related partnership or reform proposal:

- * operating with the judiciary on a basis of trust;
- * possessing personal and project-related integrity at all times;
- * being opportunistic in working with the courts— i.e. being ready to respond to the courts' problems and needs rather than the NGO's agenda;
- * evidencing patience as the judicial sector changes very gradually; and
- * having an awareness and appreciation of time. (Some laudatory NGO proposed "reforms" may not be possible until a key official within the judicial sector, legislative branch, or other elected representative leaves office.)

With the above principles as backdrop, what practical suggestions might a civil society organization follow in attempting to "partner" with the judicial sector?

Be realistic about expectations. The present judicial sector of a community or a nation functions as it does for a complex set of historical, legal, operational, status, social and power sharing reasons. The judicial sector-related NGO is but one of a constellation of competing organizations, ideas, interests, and pressures which the judicial sector face.

Select discrete initiatives or projects to address (for example conducting con-joint training sessions for lawyers, social workers and family court judges on domestic violence), as opposed to more large scale efforts. Results will be easier to realize, and in turn the NGO may gain greater trust on the part of the judicial sector leadership to expand the thrust and reach of subsequent reform efforts.

Wherever possible, discuss the NGO's concerns and suggestions for change in advance with the appropriate judicial sector representative.

- Expect resistance. Even where the judicial sector leadership agrees with the civil society proposed reform there is tremendous pressure generated by the judicial sector status quo to resist change of any type.
- Look for opportunities to advance judicial sector-proposed reforms which are compatible and complimentary to reforms and initiatives the NGO favors.

- Be flexible about the role the NGO plays in the specific reform effort. There will be some opportunities for the NGO to serve in leadership roles in a reform effort, and many more opportunities where the NGO's formal visibility is non-existent. The end result is what is important not the credit for accomplishing the desired court improvement (an overall societal goal).
- Develop comfortable working relations with the media. The print, electronic, news and editorial media can be an important and valued ally of the NGO in calling public attention to the existence of a problem and also in bringing recognition on the judicial sector leader (or the NGO) which initiates or inspires the needed reform. At the same time don't be naive in working with the media. Their obligations and responsibilities are not the same as the judicial sector NGO or the judicial policy makers and shouldn't be confused.
- The NGO should always do its homework on policy issues if it expects to receive the respect and consideration of the judicial sector. Even so, don't expect support or encouragement, but don't let the absence of judicial sector support deter the NGO from exploring and advocating needed reform.
- Be alert for opportunities to support the judicial sector leadership, but equally important, try and gain the full picture before blindly praising the judicial sector. This may take time and extra effort and resources on the part of the civil society organization before forming opinion.
- Take the long view on virtually any NGO proposed reform effort in the judicial sector. Expect the change process on a given project to take three to five years or more. Expect many pitfalls, compromises, and reversals even when all agree the reform is desirable.

For chief justices and other judicial sector leaders working with NGOs also presents challenges and dexterity. Yet, properly handled, such relationships can provide chief judges and other judicial sector leaders with important outside leverage and policy reform momentum and ideas.

Among the strategies the judicial sector leader may employ in "partnering" with an NGO are as follows:

- * Invite NGO leaders to court and seek their opinions and support on specific issues of importance to the courts;
- Give speeches to NGO assemblies and in other forums (e.g. university graduations, chambers of commerce). Use such opportunities to set forth the court's vision for the community and to learn the civil society perceptions of key judicial sector issues and concerns;
- * Be open to receiving ideas and counsel from NGOs' about the courts and the administration of justice. Their viewpoint may not be as well informed as that of the judiciary, but it is highly useful to the courts to have such lines of communication with the citizenry;

- Be open to opportunities to partner with the NGO either in concert with the bar and other interests or alone when warranted;
- Use the NGO as a sounding board to test out ideas and determine likely community reaction. If the idea flops the court will not have been involved, if the idea is well received the court can embrace it as its own;
- Don't expect to agree with the NGO on all matters or even most matters. View their perspective as one among many. Yet, also don't kill the messenger. If the NGO provides credible information and counsel don't dismiss them because the message is not to the court's liking.
- **Conclusions: Learn by Doing**

There is much to be gained by the civil society, by the judicial sector, and by the other institutions of government in forging appropriate partnerships. Improved public support and public understanding of the judicial sector, and the opportunity to bring about reforms useful to the bench and to the community are but two of many benefits which effective partnerships may provide.

International experience has shown that sustainable reform requires not just the active participation of judges and court administrators but of the whole civil society and other actors—police, lawyers, public defenders, and prosecutors. The timing, mode, and sequence of civil society involvement vary and depend upon the prevalent social and legal culture of a nation. The paths to improved trust and effectiveness proposed in this booklet take the form of “learning by doing”; by careful planning, thoughtful initiating, and by implementing tangible joint tasks.

Although there are several different considerations and issues involved in forming and developing effective judicial sector focused civil society organizations, the six organization models developed in this report provide a framework to analyze myriad concerns and draw forward looking policy conclusions. This “Partnership for Reform” framework also helps review some key pre-requisites (e.g. leadership, funding stability) and furnishes ample policy guidelines and ideas for NGOs and judicial policy makers alike to use in building more successful NGO-judicial sector partnerships.

In summary the *Partnerships for Reform Booklet* seeks to provide the reader with a useful judicial context, and criteria which a new or evolving NGO may find useful in a variety of ways. This booklet also seeks to offer the judiciary “food for thought” in working with the civil society and in garnering support.

For those contemplating forming a civil society organization to focus on the administration of justice or the judicial sector, the guiding principles material at the beginning of Chapter 3, and the three broad organizing criteria therein should stimulate valuable discussion. For NGO's expanding or evaluating their activities the practical suggestions in partnering with the judicial sector reflect years of direct experience by successful NGOs in this field.

Finally, as has been stated before, experience over the years and around the globe has amply demonstrated that there is no single path or easy recipe for forging lasting and effective partnerships between the courts and the community. That such collaboration is worth the effort has been proven beyond question.