CHAPTER III

JUSTICE AND PUBLIC SECURITY IN HONDURAS[65]

INTRODUCTION

3.1 This chapter explores two, closely-related topics: the strengthening of the "justice sector[66]" as a key element in good governance, and the role this sector plays in improving citizen security[67]. Honduras has undertaken important reforms in both areas since the early 1980s, especially regarding the adoption of legal changes, the creation or expansion of key organizations, and the allocation of additional human, financial, and material resources, including cutting-edge technology.

3.2 The process has not always run smoothly; it has faced opposition and attempts to sidetrack the most fundamental changes, especially those that threatened to reduce the influence of *de facto* powers and traditional political parties, sometimes with success. Nevertheless, the reforms have provided the sector with a more modern structure, a clearer definition of processes and of the responsibilities of the key institutional actors, and most probably, a higher degree of transparency in its activities. Nonetheless, the impact on outputs

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[66] The justice "sector" or "system" is the term currently used to acknowledge that reforms necessarily involve more than the Judicial Branch. It can be defined as the array of institutions involved in the resolution of conflicts through the application of the legal framework, strengthening the latter"s impact on the behavior of private and public actors.

[67] Citizen security does not depend only on the sector"s actions. There is still debate over the relative contribution of repressive policies (criminal justice system) and socioeconomic programs to the reduction of crime rates (Wilson, 2004; 546-547). It is likely that both types of policies contribute in particular ways, but that in the short run, criminal justice (police, prosecutors, judges) achieves more concrete results. It is clear that the socioeconomic situation has a strong impact on crime tendencies, but results obtained by investments here take longer and, therefore, do not respond to the popular demand for prompt results.

and system capacity to respond to the growing demand has been slow to take effect and requires more attention. As further elaborated below:

- The productivity of all sector institutions is very low, especially considering the amount of additional resources that have been invested. There are also problems of corruption and non-compliance with legal norms by sector actors, possibly because they do not fully understand the new rules.
- The reforms have not reduced political interference in the sector as manifested in various areas, including in the systems for selecting personnel.
- The sector also suffers from a variety of management weaknesses: an inefficient use of budgetary resources, inadequate monitoring systems and a failure to use what exists (e.g. performance statistics), absence of planning mechanisms, and structures and processes that tend to duplicate efforts and create intra- and inter-institutional conflicts.
- In some cases, more resources will be necessary, but in all of the institutions, much more could be achieved with those already available. If political interference is not reduced and some of the above-mentioned problems are not addressed, substantial performance improvements to human, technological and material resources are unlikely to be achieved by increasing expenditure.

3.3 These four points, summarizing the conclusions from this assessment, are also evident in the attitudes of citizens. In spite of the reforms implemented over the last two decades, Hondurans are still demanding general improvements to the justice system, particularly with regard to security. These demands respond to individual needs ("private goods[28]") but are essential for national development ("public goods"). A "well-functioning" justice system contributes to advancing the "rule of law," which in turn is theoretically and empirically linked to greater political stability, democratic development, economic growth, and citizen welfare (Kaufmann *et al.*, 2007; Méndez *et al.*, 1999; The Economist, 2008).

3.4 There is still debate among justice reform experts in the international community, regarding optimum organizational structure of the sector and how to implement it, but they do tend to agree that to perform well the sector needs strong and responsible institutions that combine the following characteristics:

- Adequate resources[68], personnel selected on the basis of their professional qualifications and paid according to their performance; and structures and procedures designed to facilitate the delivery of the desired products or services;
- Sufficient coordination among the system"s institutions; and
- Minimal political interference in their operations.

3.5 Although the need for institutional independence is mainly associated with the Judicial Branch, it is also a consideration for the other institutions of the sector (police, Public

[68] Qualifying adjectives such as "adequate", "sufficient", and "minimal" depend for their real value on political decisions about desired results. If the decision is that all claims submitted to the Judicial Branch be resolved regardless of the time it takes, the value of "adequate resources" is different than that of a decision that sets specific resolution deadlines. If there is a filter (not all claims are accepted), the value is different. The frequent error, it seems, is to place a value (or budget percentage) without specifying results (as a means of calculating resource needs).

Ministry, Public Defender"s Office, Bar, Attorney"s General Office, etc.) who ought to be able to operate according to official procedures and not in response to external interference. In addition, all institutions must be "accountable" to civil society and political leaders. Honduran reforms have aimed at these goals. This chapter considers the extent to which they have achieved their objectives, whether the methodologies used were the most appropriate, the nature of the obstacles that have been confronted, and the likely alternatives for obtaining future progress.

3.6 Since the eighties, the reform objectives and models used by most Latin American countries have been very similar, and considering its starting point, Honduras is considered to have made the most significant progress in the region, with regard to certain areas[69]. Still, sector performance remains below the regional average on indicators of productivity, efficiency, citizen approval, perception of corruption, and crime prevention[70]. There are numerous explanations for the insufficient progress: the starting point itself (and the number of deficiencies to overcome), technical errors in the design of laws and new structures, budget constraints, the quality and quantity of the personnel recruited by the sector, the low level of coordination among sector institutions, and the power of interested parties both within and outside the sector, whose agendas conflict with the proposed changes.

3.7 In every reform process there are always winners and losers. Potential losers will inevitably seek to reduce the negative impacts of reform by blocking the adoption of new policies, manipulating their content, or hindering their implementation. In Honduras, various initiatives have had their implementation delayed or suspended altogether, despite showing promise at the outset, due to the employment of such tactics. Resistance to specific aspects of a reform does not necessarily imply total opposition, however, where core elements are concerned, the consequences of such resistance can have greater impact.

3.8 This chapter is divided into four sections. The first reviews the reforms carried out since 1980; the second analyzes the performance of the sectors" core institutions in general terms and as regards their internal development and role in citizen security; the third discusses the obstacles encountered; and the last explores the potential options for overcoming them.

IMPLEMENTATION OF SECTOR REFORMS: THREE MAIN PHASES

The initial situation (early 1980s) and first reforms

3.9 In the early 1980s, Honduras was emerging from almost two decades of military rule. The state of its justice sector was typical of that of many other Latin American countries, especially its closest neighbors – Guatemala, El Salvador, and Nicaragua (Due Process of Law Foundation, 2007). The sector"s core institutions – which comprised at the time, the Judicial Branch and the security forces – had suffered operational interference during the

[69] For instance, Honduras approved a modern, mixed type of criminal procedural code in 1984, and has maintained a judicial information system since the eighties. It was not the first or the most advanced country in either of the two areas, but it was ahead of many others in the region.

[70] For comparable data and experiences, see CEJA (2003 and 2005) and Vargas (2005).

military period, and their structure and performance did not conform to the requirements of a democratic system (Méndez, 1999). Their territorial coverage was limited, and their response to the demands of the general public was slow and unsatisfactory, whereas for those with influence, it was extremely fast and biased. Data are lacking on corruption, but there are indications that political influences had a significant impact on the decision-making in the sector (Romero, 2008; 6-8). As in most of Latin America, two lines of reform were emphasized at the beginning of the period:

- Measures to increase judicial independence and ensure equitable treatment of all citizens in addition to expanding the judiciary"s role in controlling abuses of power by other branches of government.
- Measures to direct criminal justice procedures toward the accusatory process, which is considered to be more progressive and better-suited to democratic regimes.

3.10 Moreover, in accordance with regional trends, the selected methodology was essentially legal: constitutional changes (introduced in the 1982 Constitution) to set basic principles, and a series of infra-constitutional laws to put these principles into effect. Some of these laws were approved during the final years of the military regime. Among the most significant are:

- The Judicial Career Law, 1980
- The Criminal Procedures Code,1984
- Sections of the 1982 Constitution that established the sector"s basic principles and key institutions, such as basic legal rights, the independence of the Judicial Branch, the composition of the Supreme Court, mechanisms for appointing Judges and defining their terms, and the stipulation for a budgetary earmark of three percent for judicial operations.

3.11 Historical documents from the period recorded no resistance to these changes nor any efforts made to alter their content. It is very likely that – just as in neighboring countries – these first steps did not encounter viable opposition, as they were linked to a transition that no one could question openly. However, the impact of the laws also depended on their implementation, and here there were additional setbacks.

3.12 First, in many cases, their real impact depended, on the approval of additional laws and regulations, which either took too long or still have not been approved (new Organic Law of the Judicial Branch, Judicial Council and Judicial Career Law) (Palacios M., 2004). It is not clear whether the delays were intentional or were simply due to disagreements over their contents. The answer probably varies for each law, but what is clear is that the delays impeded the real implementation of many of the planned changes.

3.13 Second, the *de facto* powers (economic groups, the military, traditional political parties) tended to exert their influence to either impede changes or distort their effects.[71] They did this to protect themselves from the likely outcome of a more effective criminal justice process (capable of investigating and prosecuting crimes committed during the

[71] For a discussion on *de facto* powers in Honduras and their impact on other sectors (but not justice), see Centro de Documentación de Honduras (2007). For a discussion on *de facto* or non-institutional powers in judicial reform, see Romero (2008).

authoritarian regime or more recent illegal actions) and a more independent Judicial Branch (less willing to recognize their traditionally-privileged status), and to maintain the power they had customarily exerted over the sector"s actors. Reforms themselves have created new interest groups within the sector, which increasingly fight with each other to retain and advance their privileges and powers[72].

3.14 Third, new political dynamics – based on competition between political parties (and among their internal factions) and a reduction in military power – were transferred to the relationships with sector institutions and within a sector with a more complex organization. Thus, even though the legal framework aimed at depoliticizing personnel appointments, traditional parties and their factions found ways to maintain their influence (Due Process of Law Foundation, 2007; Romero, 2008).

3.15 Finally, changes in the country"s situation and, especially, the remarkable (and apparently inevitable) increase in crime and violence have altered the demands made by the public (A. Cálix, 2006). At first, curbing the abuse of due process rights by government authorities was the major concern, but over time, citizens have placed more emphasis on the need to combat crime. Other, lesser but still significant issues have also shaped demands on the sector, such as increasing complaints about the delay in resolving other types of cases, and the system"s inefficacy with regard to investigating and prosecuting alleged corruption cases.

3.16 Towards the end of the 1980s, reform objectives were therefore modified due to changes in the country"s situation, vested interests, and performance criteria. An assessment (ILANUD, 1987) carried out by Florida International University (FIU) in 1986 and funded by USAID, highlighted problems in the following areas:

- ***Access:*** This was limited for various reasons, including citizens" inadequate comprehension of the law, their lack of trust in the system"s actors (judges, police, and public prosecutors), and the cost of using the system. Furthermore, access for lower income groups was limited by the absence of a public defense system.
- ***Efficiency:*** Two indicators were used: delays and impunity. There was consensus among the individuals surveyed (citizen users and system staff) that "justice is too slow". However, only 52 percent of judges agreed with this statement while the national average was 90 percent. The system scored a little better on impunity, but still 54 percent of the population believed that little action was taken against criminals.
- ***Fairness:*** There were doubts about the impartiality of judges. When asked whether they believed judges were subject to external pressures, 82 percent of respondents nationwide answered affirmatively; only judges disagreed[73].

3.17 The study offered several explanations for these problems, most of them common to all sector institutions. They included: the lack of explicit objectives, planning, management, and

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[72] For a discussion on the same phenomenon in Brazil and the so-called "*interesses de classe*" (a "classe" being a functional group such as prosecutors or one of the many police forces), see World Bank, 2004.

[73] At the national level, 92 percent of respondents stated that justice favored the rich over the poor. Among sector actors, only in the case of Supreme Court, appellate, and first instance judges did the majority disagree (ILANUD, 1987: 213)

evaluation in relation to the reforms; scarcity of funds but also the inadequate institutional incapacity to prepare, defend, and manage their budgets; the deficient quantity and quality of personnel in each institution; and shortages of equipment and materials. The study"s conclusions about the Judicial Branch illustrate the seriousness of the problems and the relationship between them: "The Judicial Branch lacks organization manuals, internal regulations and written procedures; therefore, the objectives, goals, purposes, and policies of each of its administrative departments are disregarded. It also lacks an adequate system to implement and evaluate progress in each department, as well as to supervise workload, productivity, and on-the-job performance of judicial staff. Although data are available, they have not been analyzed or used for evaluation and control purposes, but are simply filed" (ILANUD, 1987; 205).

3.18 Four years after the new constitution came into force, and only two years after the new criminal procedural code was implemented, it was to be expected that there would be areas needing more development. However, many of the criticisms coming from this period continue to be relevant 20 years later.

Evolution of reforms and corrective measures (1986-1997)

3.19 During this period, efforts focused on implementing the new legal framework continuing the progress already made with the initial objectives, whilst at the same time taking into consideration the new demands. There were delays and setbacks. For example, it was not until 1993 that the Organic Law of the Public Ministry was approved, allowing the Ministry to assume the role that the 1984 and (later) 2002 criminal procedural codes assigned to it[74]. The Public Defenders" Office was established in 1989, but it relied on external financing until 1993. Police reform was not carried out until 1998 although, as mandated by the Organic Law of the Public Ministry, an investigative police (Criminal Investigation Division) was created within the new body. The creation of the "High-level *ad hoc* Commission for Institutional Reform to ensure security and social calm in Honduras" in March 1993 (Callejas Administration) was important in advancing these reforms along with other proposals (Code of Childhood and Adolescence, Domestic Violence Law) that were approved during the same period (Cálix, 2008).

3.20 A second assessment, once again sponsored by USAID (Rico *et al.*, 1996), revealed significant advances during these years. Among those emphasized in the report were: an increase in the number of judges, prosecutors and public defenders; the use of merit-based, competitive selection methods for the appointment of new judges and public defenders; increases in the judicial budget (which reached 2.4 percent of the national budget in 1996) and in the judicial salaries; a 10 percent increase in judicial output between 1992 and 1995 (and a 27 percent increase in the criminal jurisdiction); and the creation of the General Inspectorate of the Courts and Tribunals in 1991. In addition, a new version of the 1984 code

[74] This ministry had existed since 1880 but as a series of different functions performed by various organizations (ILANUD, 1987; 75-89). Prosecutors were part of the Judicial Branch (and were appointed by the Supreme Court); traditionally they did not need a law degree and thus their intervention in criminal proceedings was limited (Orellana, 2002; 11). Once the *Procuraduría* (Solicitor General's Office) was created in 1961, prosecutors worked also under its supervision. This office performed other Public Ministry functions, most notably, representing state interests in litigation.

was drafted to complete the transition toward an accusatory system. This second code was presented to Congress in 1996, but was not approved until 2002.

3.21 The assessment identified various problems still requiring attention: the lack of coordination between public prosecutors and police investigators, and between the investigative and the preventive police; the delegating of judicial functions to support staff (a long-standing practice that the new code had not eliminated); failure to observe of many of the due process protections; delays in the processing of cases, and the increase in backlog. Among the main causes it identified were: imperfections and irregularities in the legal framework; delays in the approval of key legislation; the persistence of traditional attitudes and practices (an "inquisitorial mentality") that were inconsistent with the new principles; insufficient training; and inadequate resources, especially in the Public Ministry.

3.22 The assessment mentioned two factors that in the longer run would lead to further changes. The first was political interference in the selection of Supreme Court justices and in the appointment of other judges. This had already been observed in 1986 when the first assessment noted its impact, not only on the quality of judges, but also on their remarkably short tenures. As the Court"s terms coincided with the Government"s terms of office, each administration appointed new justices, who, in turn, replaced a large number of the lower court judges. Job security was not yet guaranteed, despite being acknowledged by the Judicial Career Law. In addition, political criteria prevailed during the selection of justices, and some politicians interfered overtly in the process (del Cid, 2000; Romero, 2008; 14). On several occasions, they even negotiated a seat in the Court as part of electoral (political) deals and used judicial funds to finance political campaigns. All this had a negative impact on citizens" confidence in the judges and eventually provoked the decision to make changes in the system.

3.23 The second factor involved the constant complaints about the performance of the police, which remained under the control of the armed forces until 1998. During the eighties and early nineties, repression drastically increased to such an extent that the National Directorate of Investigation (DNI) was eliminated, and the Public Ministry was created to take over criminal investigations (M. Cálix, 2008; Orellana M. 2002.).

The third round of reforms (1998-2008)

3.24 Over the past ten years, three substantial changes were adopted: a new civilian police force was created (the last step in a process that began in the previous period); a new criminal procedural code was approved and put into effect (also a result of the previous administration"s efforts); and constitutional amendments were enacted to modify the structure, method of appointment and some of the responsibilities of the Supreme Court (Palacios M., 2007; Romero, 2008). These three measures aimed to correct a number of weaknesses – which were considered as serious by reformers – in the legal framework and the structures it created, either when they were initially conceived or upon their implementation.

3.25 It is important to note that although these were the most critical changes made during this period, they were not the only ones. Reformers created a longer list, of mostly legal changes, intended to eliminate contradictions in the legal framework and provide institutions with the means to fulfill their mandates. Many of them are still pending.

3.26 The creation of a civilian police and a supervisory ministry (Secretariat for Public Security) to replace the armed forces in its supervision, had been delayed since the 1980s due to the opposition from various groups (the military, certain politicians, and the economic elite) that were either afraid of losing their traditional influence or simply believed that a civilian force would be less efficient in controlling crime[75]. The process began with the creation of the Public Ministry and its incorporation of the investigative police. However, the final step in 1998 transferred the Ministry"s investigators to the civilian force. In fact, this was not unreasonable. Most international experts agree on the benefits of combining preventive and investigative police forces within the same organization. Nonetheless, there are indications that the decision was not based on this rationale, but was intended to punish the Public Ministry for carrying out investigations of a sensitive nature. Critics (Portillo, 2008) also note that the transfer ended some of the special training provided to the investigators by the Public Ministry, blaming this and the lack of other support, for the increasing backlog of cases pending investigation.

3.27 In subsequent years, the budget of the Secretary of Public Security and, consequently of the police, was increased to allow for the recruitment of more officers. This was a response to public concerns about rising crime rates. The police-to-population ratio continues to be low, but it has improved substantially. Accelerating its growth might have resulted in other problems (for instance, the recruitment of officers without adequate qualifications, training, and appropriate supervision mechanisms, although even the incremental strategy has left gaps in these areas). Eventually, the traffic police were incorporated into the civilian force, as a National Directorate (on the same level as the other General Directorates). Donors, especially the Spanish assistance agency, have contributed with the provision of technical assistance, training, and equipment in an effort to build capacity, particularly among investigators.

3.28 The approval and entry into force of the new Crime Procedural Code was a reform that had been pending since the early 1990s. The main impetus behind it came from a regional movement (Hammergren, 2007 and 2008; Langer, 2007; Llobet, 1995) promoting complete transition to a fully "accusatory" system. Despite considerable national opposition, the regional example and donor support (mainly USAID) and financing pushed it forward.

3.29 Local reformers had deemed the 1984 Code insufficient; they characterized it as a mixed model that preserved many inquisitorial details (Palacios, M. 2004). An examination of the legal arguments goes beyond the present topic[76], but the principal changes were: the elimination of the *juez de instruccion* – the judge formerly in charge of the investigative phase; the strengthening of the public prosecutor"s role in supervising police investigation

[75] Apparently, there is no interest in improving the investigation of political corruption cases.

[76] Various publications address these aspects in Honduras (Palacios Mejia, 2004) and worldwide (Langer, 2001, 2004, 2007; Hammergren, 2007 and 2008). Recently, analysts have realized that the inquisitorial-accusatory distinction is used in several ways (Iluminati, 2005; Langer, 2001), and that its influence in decision-making has been largely rhetorical – practices described as "accusatory" are adopted whether they belong to the accusatory tradition or not. Preexisting systems in many countries did not work because they were "inquisitorial" but because of institutional and political problems. Current systems do not respond to a single paradigm and are strongly influenced by old mental models. Moreover, traditional institutional and political factors continue to be the major obstacle to achieving desired improvements.

and carrying the case to trial; the elimination of a written dossier to inform of the deliberations of trial judges; and the creation of two categories of first instance judges – the trial judges (usually sitting in panels of three) and the supervisory judges (responsible for making decisions on pre-trial matters, including the authorization of searches and arrest, arraignments, preventive detention, and indictments, as well as conducting summary proceedings, and applying other alternative mechanisms included in the new code).

3.30 The implementation of a new procedural system implied modifying the internal structure of the Public Prosecutor"s Office and the Judicial Branch and recruiting additional personnel. The effect is most obvious in the Judicial Branch, which doubled the number of judges (see Table 3.1) in order to separate their functions. In addition to justices of peace and first instance (supervisory) judges, it now has trial and enforcement judges. It is possible that the increase in personnel has been excessive, since the productivity of judges (as well as of prosecutors and police officers) seems to have decreased substantially as has overall judicial output (see Table 3.5). As an Italian expert said in reference to changes in his country: the accusatory process aims to be fairer but it also must also be efficient (Iluminati, 2005). This issue is discussed further below.

3.31 The process of constitutional amendment began in the 1980s. It gained momentum in 1999 thanks to a dialogue held between the National Congress and civil society organizations, which "encouraged various national networks to establish the National Legislative Convergence, which was the precursor to the Coalition for the Strengthening of Justice" (Romero, 2008). The Convergence"s objectives included: "1) to prepare a shared agenda that, from the civil society perspective, would present legislative proposals; and, 2) to establish a formal body to serve as a liaison between congress and civil society" (Romero, 2008; 7).

3.32 Subsequently, the National Commissioner on Human Rights, Leo Valladares, prepared a special report in which he highlighted the importance of increasing judicial independence due to the "critical duties they [judges] perform" (Romero, 2008). As a result, President Carlos Flores appointed a "Commission of Notables" in May 2000 to explore the need to broaden judicial reform. "There was a clear consensus among wide sectors of civil society on the urgent need for judicial reform to advance the democratization process and strengthen the rule of law" (Romero, 2008).

3.33 The Coalition for the Strengthening of Justice was driving force behind the process. "It comprised the Federation of Private Development Organizations in Honduras (FOPRIDEH), the Association of Honduran Municipalities (AMHON), the Honduran Private Enterprise Council (COHEP), the National Commission on Human Rights (CONADEH), the Investment and Export Promotion Foundation (FIDE), and the Episcopal Conference; subsequently, the Human Rights Research and Promotion Centre (CIPRODEH) and the National Anti-Corruption Council (CNA) were included. Its main purpose was to pave the way for judicial reform, which was aligned with the attention that international donors in the sector, particularly USAID, were giving to the issue" (Romero, 2008, 11).

3.34 According to Romero (2008; 12), the context was favorable for the coalition (it was during the period following Hurricane Mitch, and had the backing of the donor community). His analysis of the interests of the member organizations suggests that the common objective linking their diverse approaches was advancing legal security – that is, achieving a level of

consistency in the application of the law by impartial judges. This paved the way for a constitutional reform aimed at strengthening the independence and powers of the judiciary through:

- Changes in the mechanisms for selecting Supreme Court justices – through the creation of a Nominating Board responsible for submitting a list of potential candidates to congress, based on the nominations made by the Board"s members.
- An extension of the terms of office of Supreme Court judges (from four to seven years) so that the terms would not coincide with those of the government.
- An increase in the number of Supreme Court justices (from nine to 15)
- The creation of a Constitutional Chamber within the Supreme Court
- The creation of the Judicial Council
- Direct submission of the Supreme Court"s budget proposal to congress
- The concession of responsibility, regarding the establishment of territorial jurisdictions, and the creation, elimination, and merger or relocation of courts, to the Supreme Court[77].

3.35 The constitutional reform was approved through Legislative Decree No. 262/2000 (December 22) and ratified through Decree No. 38/2001. The Law on the Nominating Board was approved in November 2001, and came into effect in January 2002 with the election of new Supreme Court justices for the 2002-2009 period. Nevertheless, despite the fact that the reform was a critical step forward in this regard, it was not able to eliminate political interference. The selection of both the members of the Nominating Board and the Supreme Court justices became politicized, and the new justices all have allegiance to one party or the other.

3.36 Just as before, the governing party obtained the majority of seats (i.e. eight) on the Supreme Court, whereas the opposition obtained seven. Board members even sabotaged the move to prohibit the nomination of representatives from their own organizations, through internal agreements (one member nominated a representative of another member"s organization). As explained by Romero (2008; 31), "the majority of members in the Nominating Board (representatives of the Supreme Court of Justice, the Bar Association, the Commission on Human Rights, Honduran Private Enterprise Council, law professors, civil society organizations, and workers" confederations) are influenced by the traditional political parties. Traditional political parties promote previously selected individuals in alliance with Board members and, of course, the same parties ultimately make the final appointments in the congress".

3.37 Consequently, the three main lines of reform in the last period were problematic from the outset. Constitutional reform was perhaps the worst-affected of these, since its overall impact depended on depoliticization, which did not transpire. Nevertheless, extending the tenure of justices may bring about some changes, as there is the potential for the court to remain in place after the party which (for the most part) was responsible for its selection, is no longer in power, thereby removing the risk of automatic support for government programs.

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[77] According to EMIH and IRSTD (2007; 30), until then, National Congress performed a number of these functions.

CURRENT SITUATION AND NEW CHALLENGES[78]

3.38 As a result of the reforms, Honduras has established basic structures and rules to improve the situation in two key areas: institutional development (linked to an increase in independence) and citizen security. However, citizens continue to complain about poor performance throughout the sector. It is one thing is to create new institutions and another, to guarantee that they function well; it is here where challenges remain. When institutions are examined separately, the gap becomes more evident. What follows is an assessment of the reform efforts and the main challenges faced by the key institutions in the judiciary chain: the Judicial Branch, the Public Defense, the Public Prossecutor"s Office and the Police.

Judicial Branch

3.39 The judiciary more than any other institution has benefited materially from the reforms. Thanks to a budget now guaranteed by constitutional mandate, as well as the funds from various donors, the judiciary has been able not only to increase the number of judges and auxiliary staff, but also to raise their salaries, carry out a construction program, install automated equipment, expand the training program, add new offices, and introduce innovations like mobile courts and an automated fingerprint registry to strengthen parole administration. Furthermore, in alliance with the police and Public Ministry, it is implementing a new case management system that will track case processing from initial complaint to final disposition, and will later be expanded to include sentence execution as well. All of these innovations are in the experimental stage, but there is a good chance they will be extended nationwide. In brief, the Judicial Branch stands out as the most technologically-advanced institution in the Honduras justice sector, and is among the most open to new technologies in the region. In terms of human and physical resources, the situation has significantly improved significantly since the eighties (see Table 3.1).

3.40 The ratio of judges to 100,000 inhabitants has remained stable since 1986 and always above the regional average (8.1 in 2005, CEJA, 2005; see Annex III for more country statistics on the justice sector). However, workload and performance indicators have remained low. It is important to recognize that Honduras is one of the few countries in the region with data available since the eighties, which facilitates this type of analysis. However, there are concerns about their reliability and their use within the Judicial Branch. Nonetheless the availability of the data is remarkable and has allowed an analysis that would be impossible in many other countries.

[78] This section is based on information collected by Miguel Cálix (2008) and, in some cases, incorporates his text verbatim.

Table 3.1. Number of Judges in 1986 and 2008

Type of Court/Judge[79]	1986	2008
Supreme Court	9	15
Court of Appeals	24	33
Specialized Trial Judges (criminal only)	N.A.	70
Enforcement Judges (criminal only)	N.A.	30
General Jurisdiction First Instance Judges (civil matters and pre-trial criminal issues)	28	163
Specialized First Instance Judges (civil matters and pre-trial criminal issues)	21	127
Justices of the Peace	317	330
TOTAL	399	768
Number per 100,000 inhabitants	10.5	10.6

Source: ILANUD (1987; 140) and Judicial Branch, 2008.

3.41 According to the ILANUD report, 48,248 cases were filed in 1985 in first instance and peace courts, with an average of 132 annual cases per judge (ILANUD, 1987). Distribution was unequal; the 317 justices of the peace each received an average of 11 cases annually, whereas the 49 first instance judges each received an average of 912. The justices of the peace, despite their modest workload, resolved only half[80], whereas first instance judges resolved almost a third (295 per judge). Since then, the demand has increased but not as rapidly as the supply (number of judges). As a result, in 2006, the average annual incoming workload per year reached 115 new filings for sentencing, first instance and peace judges in 2006, as calculated on the basis of 80,613 new cases in all subject-matters[81].

[79] Given the several procedural changes, categories have been modified. The criminal procedural code required the introduction of three categories of judges: "first instance" (retaining the old title but now only handling pre-trial matters), "sentencing" (for oral trials) and "enforcement" (for supervising sentence execution). However, the data provided by the Supreme Court divide first instance courts into two additional categories: "coordinators" (main judge of a first instance court) and "supernumerary officials" (remaining judges in a court). It is worth mentioning that there are substantial disparities between official data provided by the Supreme Court and other sources. We have particular concerns regarding the figure of 30 enforcement judges (another source indicated 80 and CEJA, 2007, indicated 13, based on its own calculations using information posted on the Supreme Court"s website).

[80] As it is impossible to identify the year of entry for outgoing cases, it cannot be assumed that half of the new incoming cases were resolved; it is very likely that a large number were from previous years. However, the ratio of outgoing/incoming cases is the most common efficiency indicator and serves as a proxy to determine delay. Some of the Judicial Branch data try to determine the entry year of outgoing cases, but are incomplete (they cover 10 out of the 12 months and only first instance judges) and, thus are not suitable for this purpose.

[81] Even though sentencing judges work in panels of three, calculations are based on the total number of judges – as this is an efficiency indicator, organization does not matter. Calculations do not include executing judges as they only work in criminal matters. New criminal proceedings require the involvement of a larger number of judges to reach sentence in first instance courts. This specialization was not done according to the efficiency principle but to avoid conflicts of interest (which are not recognized as such by Anglo-Saxon tradition). Iluminati"s (2005) observation is particularly relevant at this point as proceedings must also be efficient. If in the past, only one judge was required to complete a proceeding in first instance courts, whereas now five are, then the five judges" shared output must be equivalent to the output of five individual judges in the previous scheme.

3.42 There are more detailed available data on the output and productivity of judges for 2006. The annual case dispositions (judgments or other definitive resolutions) range between 12 and 348 depending on the jurisdiction. These numbers are very low and indicate, *inter alia*, that productivity (cases resolved per judge) has substantially decreased in the last twenty years. Clearance rates (incoming/outgoing cases) show some improvement but only because the workload of judges has decreased (see Table 3.2).

Table 3.2. Productivity of first instance and peace judges by category in general matters, 2006

Type of Judge[82]	No. of judges	Total monthly incoming cases	Monthly incoming cases per judge	Total monthly outgoing cases	Monthly outgoing cases per judge
Specialized in Criminal Matters (new code)[83]	48	227	5	112	2.3
Specialized in Civil Matters	20	493	20	149	7
Specialized in Civil Non-contentious Matters	5	235	47	176	35
Specialized in Labor Matters	10	194	19	134	13
Specialized in Juvenile Matters	19	305	16	221	12
Specialized in Family Matters	12	678	57	293	24
Specialized in Contentious Administrative Matters	4	70	18	26	7
Specialized in Landlord-Tenant Matters	3	28	9	35	12
Specialized in Domestic Violence Matters	4	492	123	117	29
Specialized in Fiscal Matters	2	2	1	2	1
Courts of Mixed Jurisdiction	163	1,882	12	1,042	6
Justices of the Peace	330	2,031	6	1,151	3

Source: Judicial Branch, Centro Electrónico de Documentación e Información Judicial, 2008.

3.43 As seems true universally, the most productive judges are those handling family and domestic violence issues. This may be because they tend to deal with less complex issues, but experience suggests these types of judges often work more. The relatively high productivity of judges specializing in civil non-contentious matters is less significant, since they are responsible for registering legal documents (e.g. wills) that could be done through public notaries, but they charge a fee. What is noteworthy, however, is that despite increases in the numbers of judges handling criminal matters – mixed-jurisdiction judges, first instance

[82] Monthly output was estimated based on 12-month-years although statistics on the *Memorias* published only refer to 10 months. However, as the Supreme Court provided those figures in response to our request, those are deemed official.

[83] This figure does not include sentences issued according to the former criminal procedural code. CEDIJ provided data on cases processed under the new code. According to calculations based on the *Memorias 2006*, if cases processed under the old code are considered, monthly output per judge reaches 6.3 cases. As these judges, as well as judges of mixed jurisdiction and justices of the peace also handle the preliminary stages of cases that will be resolved in sentencing courts, there may an additional problem regarding data on caseload – this part may not be included. The source does not indicate if outgoing cases include resolved cases at this stage or only those resolved in trial.

judges, trial judges, and enforcement judges – their productivity is among the lowest (see Table 3).

3.44 Of course in the criminal area, productivity depends on various factors beyond the control of judges. For example, if demand is low, it does not allow for high levels of output. Output is also affected by delays in the investigation process and dilatory tactics used by the parties concerned (which have a negative impact on the other jurisdictions as well). In addition, first instance judges and justices of the peace (the latter are not included in the Table 3.3) are responsible for conducting hearings during investigations and are in charge of summary proceedings, conciliations, and other alternative forms of case resolution.

Table 3.3. Productivity of trial, first instance, and mixed-jurisdiction judges in criminal proceedings, 2006[84]

Type of Judge	No. of judges	Monthly incoming cases	Monthly incoming cases per judge	Monthly dispositions[85]	Monthly dispositions per judge
Trial Judges	60	182	3	106	2
Specialized First Instance Judges	48	227	5	303	6.3
Mixed Jurisdiction First Instance Judges	163	505	3.1	287	1.8

Source: Supreme Court Memoria 2006 except for incoming cases for trial judges (CEDIJ; Justices of the peace are not included since available data do not distinguish among the different types of proceedings they handle.

3.45 Judges of mixed-jurisdiction courts are not limited to criminal proceedings, so the above figures only represent part of their workload and output. However, with such low demand, even including cases pending from previous years, it is hard to understand why judges, whether in criminal or other areas, cannot keep up with their work. Two recent evaluations (Vargas, 2005 and Tijerino, 2007) highlighted the small number of hearings carried out in trial courts, and indicated that this consists of less than one per day.

3.46 For comparative purposes, Table 3.4 below shows some figures for other Latin American countries, and for some European nations and the United States. Differences exist due to many factors, for instance the use of filters (to dismiss cases for inadmissibility or to transfer them to alternative forums); powers assigned to other judicial (e.g. prosecutors) and extrajudicial officers (the French *hussier*[86]) to handle conflicts without the involvement of a judge; complexity of proceedings; and in countries like the United States, a tendency to promote extrajudicial negotiation (settlement), which means that a majority of cases do not go to trial. However, it is worth mentioning that Honduras has a low litigation rate, does not use filters, and most incoming cases are fairly simple. We have not included data on

[84] According to judicial sources, 29 justices of the peace handle criminal proceedings. They are not included in the Table as there is no information on their performance.

[85] Except for trial judges, this figure includes cases from previous years processed under the old code. The majority of these dispositions are dismissals, many of them because the statute of limitations has expired.

[86] The *hussier* can order debt repayment based on an executive title that does not need to be validated by a judge – if the debtor does not protest. This, or the issuance of a payment order by a judge (with no further action), substantially reduces the use of courts for "enforcement trials," as these proceedings are known in Latin America.

dispositions for the remaining countries as they are not comparable. In any event, available data indicate that in most of them, clearance rates (disposed/incoming cases) stand at 90 percent or above (Ecuador is an exception). Admittedly, any rate below 100 percent represents a problem, especially if the backlog from previous years is high. Thus, all countries are seeking ways either to reduce demand or increase efficiency.

Table 3.4. Judicial workload – selected countries

Country	Incoming cases per 100,000 inhabitants	Judges per 100,000 inhabitants	Incoming cases per judge
Honduras (2006)	1,089	10.1	108
Ecuador (2006)	1,802	6.7	269
El Salvador (2006)	2,375	9.2	258
Colombia (2006)	2,893	10.2	283
Peru (2006)	3,919	7.7	509
Argentina (2004)	10,225	11	930
Brazil (2004) (1)	8,568	5.7	1503
Chile (2004)	12,305	5.0	2461
Costa Rica87 (2004)	22,911	17.4	1316
The Netherlands (2004)	7,224	12.3	587
France (2004)	4,411	10.1	436
Italy (2004)	8,611	10.4	828
Germany (2004)	7,151	24.7	289
Spain (2004)	14,000	9.8	1428
USA (2004)	33,848	10.2	3351

Sources: Unidos por la Justicia, 2006 (Latin America and USA), CEPEJ, 2006 (Europe) and official country data (Colombia, Ecuador, El Salvador, Honduras, and Peru). (1) federal, labor and state courts – does not include military or electoral jurisdictions or small claims courts

3.47 Based on the statistics cited it can be concluded that: i) the Honduran overall average of incoming cases per judge is well below regional and international levels, and even below the country"s own levels 20 years ago; ii) although there are relatively few new filings in Honduras, productivity is very poor in almost all jurisdictions and, even the performance of the most productive ones is barely satisfactory; and iii) as neither delays nor the low clearance rate can be explained by the amount of workload (or its content[88]), additional research will be needed to identify the causes. Part of the problem could the result of an extremely uneven distribution of workload among judges and jurisdictions. Although available data do not allow this conclusion, the uneven workload may be a by-product of policies aimed at expanding access (thereby relocating judges to places where demand is low).

[87] After 2004, the litigation rate and number of cases per judge decreased by half as transit cases were transferred to administrative forums.

[88] The judges" typical response (or prosecutors" or defenders") to this type of comparison is that they handle very complex cases. However, a content analysis of the incoming (and outgoing) cases demonstrates that most are fairly simple (debt collection, minor offenses and criminal actions based on *in flagrante* arrests, etc.)

3.48 This basic analysis of the demand for, and supply of, judicial services reveals the problematic situation of the Honduras Judicial Branch even after 20 years of reform and substantial investments. In addition to general inefficiency and in the criminal area in particular, there are important concerns about more qualitative elements: transparency, politicization, corruption, and access. With regard to the first three elements, it would appear from experience and supporting evidence (Due Process of Law Foundation, 2007; Cálix, 2008; Romero, 2008; USAID, 2007) that despite the recent reforms, political interference has not ceased, which increases the likelihood of corruption, hampers transparency, and may also reduce access not only to courts but to justice in general..

3.49 It should be stressed that there is only conclusive evidence with regards to politicization, and that claims regarding problems in the other areas are less substantiated.[89] Nonetheless, when the judiciary has strong and visible political links, it loses much of its credibility and legitimacy, and this is indeed worrisome.

3.50 Thus, Honduras" court system displays an interesting paradox: a substantial increase in funding has allowed for significant improvements, such as: increases in the number of judges and the expansion of service delivery to more regions of the country; improvements in court facilities and salaries; adoption of cutting-edge technology and the introduction of impressive innovations[90]. However, indicators of the quantity and quality of service delivery to the public remain low, mainly due to the persistence of traditional practices. Although this pattern is common to many countries, it is perhaps extreme in Honduras. There are two explanations for this situation: the persistence of political interference in the appointment of key personnel and internal operations and, perhaps as a result, the lack of attention paid to the following series of institutional reforms that experts have been recommending for the past 20 years:

- *The adoption of statistical information systems to facilitate the monitoring of procedures and the evaluation of judges' performance:* The new SEDI system may be successful in achieving this, but it has only been installed recently, as a pilot, and it only comprises cases that have been filed recently in Tegucigalpa"s and San Pedro Sula"s criminal

[89] For examples of fairly questionable decisions that involve economic and political elites see Romero (2008) and Due Process of Law Foundation (2007). Evidence as to the level of corruption in cases which do not interest powerful groups is less systematic, but for a brief discussion, see USAID (2007).

[90] See M. Cálix (2008; 63-66) for a complete list of innovative programs; see Romero (2008) for a summary of judicial reform efforts, characterizing them as "focused organizational, technical, and administrative aspects, related to modernization," and concluding that "these measures have barely contributed to strengthening judicial independence in respect to other branches of government."

courts[91]. It is not clear whether SEDI is already being used to monitor and detect problems. The Judicial Branch currently uses statistical data from other automated and manual systems, but even Court officials have expressed concerns about their reliability. Available data have been mostly used in the publication of annual reports, however, it is hard to interpret published data since they only cover the period from January to October of each year and do not provide much detail about the justices of the peace.

- *The depoliticization of the appointment of Supreme Court justices*: This was attempted through the 1982 Constitution and when this was not sufficient, with the 2001-2002 reforms. Nevertheless, these reforms were not successful in reducing the traditional political parties" influence or the resulting identification of each justice with one party or the other. Before the reforms, the division by party identification was five to four; now it is eight to seven (Romero, 2008). The recently-created multi-sector Nominating Board did not succeed in reducing political interference since, according to observers, the Board itself became politicized (Due Process of Law Foundation, 2007; Romero, 28-32).
- *The complete implementation of the judicial career*: This implied the appointment of all new judges through a merit-based competitive process supervised by the Judicial Council, pursuant to the law. Although the Judicial Council was created, it is ineffectual. The justices delegated all their appointment powers to the Supreme Court President in 2002. The most recent judicial appointments have included competitive examinations, but the impression remains that the final selections ignore the resulting rankings, and that transfer and promotion decisions are based on other criteria (Romero, 2008; 32-34; López Lone, 2007; 17-18). Although Supreme Court justices and appeals judges are included in the law, they remain effectively outside of the judicial career.
- *The creation of a career for auxiliary and administrative staff and their selection, promotion, and transfer according to merit criteria and institutional needs:* Up to now, no inventory or classification of positions has been done, and as with the selection of judges, the recruitment of all other staff was delegated to the Supreme Court Chief Justice in 2002.
- *The development of an effective and transparent internal control system (Inspectorate of the Courts):* The system is operating but many of those interviewed complained about its poor performance (Romero, 2008) and its dependence on the Supreme Court Chief Justice.
- *An administrative reorganization positioning the Administrative Director as head of the whole apparatus and the unique liaison with the governance body (currently, the*

[91] SEDI is one of the first attempts, perhaps in the world, to track proceedings from the filing of a complaint through the criminal chain, up to (eventually) the penitentiary system. Its future implementation in other areas will be easy, as these are centered in courts. Even in its rudimentary form, the system has faced numerous problems and strong resistance. It is slow, training seems insufficient, and assistance to those who enter the data is limited. For instance, in Tegucigalpa"s integrated reception centre, technical support staff is only present during the day although the centre operates 24 hours. There may be some conceptual shortcomings as well, for instance, the use of a single ID number from the moment the claim is filed, given that claims can generate several judicial cases (multiple authors or multiple offenses). The firm that is developing the system has designed similar systems in Mexico, but has never linked such a large number of institutions (and or included the police). The idea is excellent, but its implementation seems more complicated than expected. During the interviews conducted, some respondents (a minority) said they liked SEDI, but even they pointed out a series of problems.

Supreme Court). The Director would also be responsible for day-to-day decision-making: As in the rest of the region, in spite of continual complaints (even from sitting justices) about the Supreme Court"s heavy administrative workload, the Court"s members have been reluctant to delegate these tasks to administrative staff. This concentrates power in the Supreme Court and its Chief Justice, but fragments the administrative apparatus, as the Administrative Director acts only as the head of one department. It is worth mentioning that some local reformers believe these problems could be solved with a new Judicial Career and Judicial Council Law transferring the Supreme Court"s administrative oversight to the Judicial Council. There seems to be a misunderstanding here. The Council would replace the Supreme Court as the judicial governance body, but regardless of which institution fulfills this role, the key issue is creating an administrative structure capable of carrying out day-to-day "housekeeping" tasks[92].

3.51 When confronted by external (and internal) critics, supporters of the current system usually point out its consistency with Honduran "values". Whether or not this is true, it is important to differentiate positive values, from those responsible for decades – if not centuries – of poor results. Unless the latter are changed, it will be very difficult to advance further in realizing the objectives of the past 20 years of reform.

Public Defense

3.52 Even though the right to defense was guaranteed by the 1982 Constitution and a public defenders" office figured in both criminal procedural codes, the institution was not established until 1989, financed initially by USAID. In 1993, it became part of the Judicial Branch. Since then, the number of public defenders has increased, currently reaching 239 nationwide.

3.53 More than half of the defenders (127) perform their duties in Tegucigalpa and San Pedro Sula. This figure is not bad in itself, but their caseload is very light with an annual national average of 25 new filings per defender, dropping to 15-20 in the two main cities. Attorneys working in countryside receive an average of 30-40 new cases each year[93]. This distribution seems inefficient given that the defenders in the provinces cover broader territories. One possible explanation is the influence of political commitments (providing jobs where people want to work). In any event, the appointment and location of public defenders is decided not by the program director, but by the Supreme Court (now the Chief Justice). The defenders" workload comprises not only incoming cases but the backlog from previous years. However, this is generally the case and thus does not represent an unusual obstacle to productivity[94].

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92 It should be noted that in the region and among the first European countries to adopt them (France, Spain, Italy and Portugal), judicial councils have not been very successful, especially in overseeing judicial administration (Hammergren, 2002). Hondurans are apparently unaware of the regional debates about the councils" shortcomings. There are more interesting models in Europe, among Nordic countries, but they are barely known in Latin America.

93 See M. Cálix, (2008) with data from the Program"s Director.

94 It is true that delays caused by other institutions, especially during the investigative phase, may increase the defenders" backlog, but these cases "on hold" do not require much of their attention.

3.54 The program has other weaknesses (Cálix, 2008). There is no career system for defenders; there are no grades or salary scales, and it is assumed that defenders will be "promoted to judgeships" and their selection is not very transparent. According to the Program Director, there are insufficient vehicles and funds to transport staff to prisons and criminal courts, so defenders must use their own cars. As a dependency of the Judicial Branch, the office lacks administrative and budgetary autonomy[95]. It also lacks an appropriate database for performance oversight and monitoring, and there are major inconsistencies between data provided by individual defenders and the consolidated reports sent by Regional Directors. There are also complaints about the insufficient training offered (through the Judicial School)[96].

3.55 The continual complaints from all institutions about insufficient resources should be received with caution. However, in the case of the Public Defense office, the lack of operational funds may be a real problem. Staffing seems to be adequate, even if the distribution could be improved, but the low output is inexplicable (as is the proposal to broaden their responsibilities to civil and labor cases). Arguably, the program"s director lacks the power necessary to motivate staff. There may also be a lack of strategic vision – clearly, the extremely low productivity should be addressed before expanding coverage to other types of cases. It is worth recognizing that only a few countries in the world are able to provide free legal services beyond the criminal area.

3.56 In short, there is no paradox in Public Defense. Services are badly structured and the institution seems to lack the power to allocate them where they are needed. Political interference is again one of the main causes, although in this case the desire to manipulate outcomes seems less important than the desire to control sources of employment. The sector"s output is among the lowest in the region, and the quality of services provided has also been questioned. However, raising current levels of output (at least fourfold) is arguably the most immediate priority.

Public Ministry (Public Prosecutor's Office)

3.57 The Public Ministry was established, in its present form, in response to complaints about police abuse. It was included in the 1982 Constitution (Article 316, and in a similar way in previous constitutions[97]) and also in the 1984 Procedural Code, but only in 1993 did it emerge as an independent body with its own investigators (the then Criminal Investigation Division, DIC). When the new civilian police force was established, the DIC was transferred to it, its name was changed (to General Division of Criminal Investigation, DGIC), and it soon lost most of its original staff.

[95]However, this is also the case of Public Defense in Costa Rica, which is widely regarded as an exemplary model. This is explained partly by the fact that the Costa Rica Supreme Court is careful not to interfere with its operations.

[96]According to one local observer (Portillo, 2008), the defenders" expectation that they will be promoted quickly to the judiciary, also reduces their incentives and, moreover, accounts for a high level of turnover in their ranks.

[97]None of these references acknowledged it as an independent entity, thus many reviewers have disagreed with this sentence. Also, the 2000 constitutional reform removed it from Article 316.

3.58 Local experts (Orellana, 2002[98]) assert that during its early years (1993-2000) the Public Ministry"s performance was significantly better than it is at present, partly because of the presence of the investigators but mostly due to the staff it attracted and the mystique of the new organization. Nevertheless, its relationship with the police and political elites was tense because the ministry chose to investigate some fairly sensitive subjects. In 1998, many of the investigators lost their jobs with the DIC"s transfer to the civilian police. Local critics also contend that senior management appointments in the ministry have become increasingly political, reaching a crisis in 2004-2005, when the Prosecutor General and the Deputy Prosecutor General had to be removed from office for abuse of power (Due Process of Law Foundation, 2007; 313-315; M. Cálix, 2008). The selection of their replacements was negotiated among the political parties, and according to various observers, was illegal because as members of congress, they were prohibited from taking these positions.

3.59 The Association of Prosecutors has filed a series of public complaints protesting these practices and an alleged tendency to disregard the prosecutorial career law[99]. The ministry"s hierarchical structure gives its head the final decision as to when an investigation should end and when the *requerimiento fiscal* (i.e. formal accusation) can be filed. The Association argues that these decisions often respond to political interests It also complains about non-competitive salaries, hiring of unqualified staff, inadequate budgets, and lack of basic tools and materials to perform their duties (especially vehicles, but also supplies and equipment for the forensic laboratory and for the collection of evidence in the field).

3.60 The number of prosecutors (482) and the ratio of four to six per 100,000 inhabitants in the past six years do not seem inadequate. The caseload does not seem excessive either – 132 cases filed per prosecutor in 2006.[100] The real workload may be lower as many of these claims will not proceed beyond the police investigation stage. Total productivity (cases resolved in trial or by other alternative mechanism) is very low – 10.5 per prosecutor in 2006 (see Table 3.5).

Table 3.5. Evolution of criminal cases, from filing to resolution, 1999-2006

Criminal cases	1999	2000	2001	2002	2003	2004	2005	2006
Complaints received	56,845	64,236	51,700	41,689	52,965	59,561	62,463	63,537
Complaints referred for investigation	31,977	39,785	35,336	23,644	26,104	35,094	48,507	49,198
Complaints investigated DGIC	15,633 (48.89%)	17,514 (44.02%)	12,749 (36.08%)\	4,987 (21.09%)	8,005 (30.67%)	8,697 (25.55%)	7,825 (16.13%)	9,213 (18.73%)
Prosecutor appearances (during summary	9,931	11,135	10,525	8,056	9,407	4,392	5,157	3,367

[98]This assessment must be carefully analyzed as the author is the Prosecutor General. However, many other people agree with his findings.

[99]In April 2008, the Association unsuccessfully approached the National Council on Corruption and the National Commission on Human Rights. As a result, four prosecutors went on a hunger strike in Congress that lasted 28 days.

[100]According to M. Cálix (2008), prosecutors themselves estimate their workload to be around 200 new cases per year, and the *"Diagnóstico Estratégico"* (Republic of Honduras, 2005) sets a workload between 150 to 160 cases per year. Even so, figures are not excessively high considering the nature of complaints.

stage) 1984 Code								
Formal accusations filed (2002 Code)	---	---	---	4,537	6,390	6,696	6,732	7,181
Formal order of Commitment	3,306	4,151	4,634	2,442	3,700	4,451	4,745	4,621
Preventive detention	---	---	---	1,470	2,463	2,710	2,678	2,643
Sentences	4,582	4,123	4,969	3,490	982	1,349	1,317	1,347
Convictions	1,844 (40.25%)	1,897 (46.01%)	2,208 (44.44%)	2,523 (72.64%)	759 (77.29%)	1,033 (76.57%)	996 (75.63%)	1,015 (75.35%)
Alternative measures	---	---	---	4,400	4,870	4,011	3,431	3,744
Opportunity Principle (Plea Bargains)	---	---	---	3,542	3,231	1,943	1,356	1,194
Summary proceedings	---	---	---	399	808	991	915	906
Conciliations	---	---	---	156	274	404	479	648
Suspension of criminal prosecution	---	---	---	294	549	643	640	919
Strict Accordance	---	---	---	9	8	30	41	77
Total formal and alternative resolutions	4,582	4,123	4,969	7.042	5,952	5,360	4,748	5,091
Compensation amounts (in MLps.)	---	---	---	13,377	11,181	16,693	17,740	21,428

Source: M. Cálix (2008) based on data from the Public Ministry (Anuarios Estadísticos).

3.61 Under both procedural codes (1984 and 2002), prosecutors participate in all stages of the criminal proceedings, but their involvement has increased with the elimination of the *juez de instrucción* (who until 2002 was in charge of supervising investigations). In the current system, once a complaint is filed (usually with the preventive or investigative police), the prosecutor (on duty or appointed) determines whether it should be dismissed or will be submitted for "investigation"[101]. On receiving the investigative report prepared by DGIC, he examines it and if necessary, requests further investigation. Once a suspect is identified, the prosecutor requests an initial hearing102 to produce the equivalent of an arraignment, request preventive detention or alternative measures (bail, limitations on travel, etc.), and if it seems feasible, suggest a summary process or conciliation. After the investigation is completed, the prosecutor participates in the preliminary hearing in which the equivalent of an indictment may be requested, allowing the process to move forward to trial. Finally, he represents the case against the defendant in the trial and any appeals.

[101] It is very likely that the police make similar decisions (as in other countries) but they are not officially recognized by the law in Honduras, which assumes they belong to the prosecutor.

[102] In cases where the suspect is detained, the hearing must take place within six days after detention or within 30 days after identification.

3.62 Workload varies according to the stage and complexity of the case, but in Honduras, as in most countries, the majority of the cases are simple and the findings included in the first police report can constitute the full investigation[103]. Otherwise, in modern systems, be they common or civil law, the investigative police get involved almost automatically. In these systems, prosecutor "oversight" is minimal since it is assumed that the police know what they are doing, and it is in the prosecutor"s interest that they complete the investigation as soon as possible and gather useful evidence for decision-making and presentation before the judge[104].

3.63 In Honduras, for reasons probably related more to custom than any other factor, the prosecutor tends to be more involved and in many cases duplicates the work of the police. This could also be associated with a lack of confidence in the work of the police, or a certain degree of distrust between both institutions. For instance, the prosecutor"s order to initiate the investigation (*auto de requerimiento)* seems superfluous. Typically, in modern accusatory systems (USA, United Kingdom and other countries) and mixed European systems, the police perform an independent investigation until they find some evidence that is worth presenting to the prosecutor. If a suspect has been arrested, the prosecutor must be notified so as to make decisions on the arraignment (formal charging) and any request for preventive detention; otherwise, he may only be minimally involved for some time. The prosecutor"s presence at the crime scene is optional, whereas in Honduras it is compulsory. Depending on the type of crime and previous (informal) agreements entered into with the Public Prosecutor"s Office, the police need not even notify prosecutors. Furthermore, the prosecutor does not "oversee" investigations as such. There is communication between the prosecutor and investigators, but not a hierarchical relationship. The police investigate and the prosecutor determines what is needed to make the case.

3.64 The first issue and part of the explanation for the alleged work overload is that the new procedural code assigns new duties to the prosecutor, which are normally performed by the police. As a result, especially in main cities, the Public Prosecutor"s Office has adopted an internal specialization scheme, in which different prosecutors are assigned to the various stages in the process. There are prosecutors "on duty" to receive the complaints, visit the crime scene, organize the initial investigation, decide whether to request preventive detention, and attend the initial hearing once a suspect is identified. In addition, there are investigative prosecutors to supervise the police, hearing prosecutors to attend pre-trial hearings, prosecutors to argue the case during the trial, and other prosecutors to manage any appeals. In principle, the division of labor is more efficient, but in practice, it may cause problems, not only because it generates conflicts between investigation prosecutors and police investigators, but also because it gets a new prosecutor involved in each step. Even in Honduras, having a prosecutor with little knowledge of the case"s evolution (and investigation) present arguments during the oral trial is already being questioned.

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[103] Caballero (2007) highlights this, and Tijerino's (2007) findings, that few changes are introduced during the 60 days allowed for further investigation between the initial and preliminary hearings, suggest the same.

[104] See Díez-Picazo (2000) for information on the functioning of the Public Ministry (Public Prosecutor) in other systems. Fionda (1995) and Macauley (2007) are also relevant.

3.65 The relationship with the police seems unlikely to improve under the existing arrangements. However, the problems are also rooted in the history of both institutions (and their rupture in the 90s) and the exacerbation of the general (and universal) police resistance to having prosecutors try to direct their work. Difficult relationships among institutions are not limited to the police. Prosecutors also complain about forensic doctors" lack of commitment to the institution (where they only work six-hour shifts[105]) and their resistance to fulfilling prosecutors" orders and requests.

3.66 The prosecutors" additional responsibilities partly explain their complaints about insufficient equipment. Their need for transportation – be it to visit the crime scene or carry out investigations (if the police do not abide by the established deadlines) – exceeds what is currently made available. Prosecutors, like other actors in the system, also cite the need for additional staff, better office facilities (their own buildings), and larger operating budgets. The current Prosecutor General has submitted a proposal for a constitutional earmark of four percent of the national budget, even higher than that of the Judicial Branch (Public Ministry, 2007). It is doubtful the request will be granted (it would be a regional – if not worldwide – record) but any funding increase, for this or other institutions, should be based on an analysis of current expenditures and the likely uses of additional financing.

3.67 As a result of their dissatisfaction with police performance, prosecutors are currently circulating a proposal to create their own body of investigators, along the lines of the previous DIC, to handle high impact crimes. Some specialized prosecutors" offices (minors, domestic violence) already have dedicated investigators, and according to the Prosecutor"s Office their performance is better. In addition, the anti-narcotics division (Dirección de Lucha Contra el Narcotráfico) has 60 assigned investigators, although its members still complain about the need for additional staff (M. Cálix, 2008). Observers and prosecutors note that inter-institutional relationships are more fluid in the country"s interior, despite lower staffing levels and less specialization. It is worth mentioning that the integrated complaint reception centres, located in three different cities, seem to be successfully coordinating police and prosecutorial services. However, the ministry is finding it difficult to support their costs, and the La Ceiba centre is on the verge of being closed[106].

3.68 It is clear that the Public Prosecutor"s Office could use its budget more efficiently[107], but implementing changes without modifying its current internal structure and division of labor between prosecutors and the police, would require a substantial increase in funding. This increase would not solve other problems related to the politicization of appointments, transfers and promotions, the interference of senior officials in the investigations, and the

[105]According to their employment statute, doctors work in six-hour shifts, regardless of their place of employment. This means that many hold multiple jobs. As soon as they complete their six hours at the Public Prosecutor"s Office they leave, even if they are in the middle of a task or – all too frequently – refuse to start any work that they will not be able to complete within their shift.

[106]Portillo (2008) notes that initially the centres were to be co-financed by all participating institutions, but that the funds from the others never materialized.

[107]This was evident in the interviews conducted for the field work. For example, vehicles provided to the prosecutors on duty were in very poor condition, although we were told higher officials had much better cars despite rarely having to use them for their official duties. Portillo (2008) also maintains that the Ministry"s administrative offices are overly large and filled with political appointees.

tension between prosecutors and investigators, forensic doctors, and other actors they depend on to do their job. Nor will it guarantee the efficient control (without political interference) of institutional performance.

Police

3.69 In 1998, the police changed dramatically. Military control of its operations officially ended (and it was no longer called Public Security Forces, FUSEP), and a real Police Ministry – the Secretariat for Public Security – was created to oversee and coordinate its operations.

3.70 The former Criminal Investigation Division (DIC) was transferred to the new civilian force as one of its five (now six) General Directorates, leading to the prosecutors" complaints that the investigators no longer served their needs. However, the transformation was incomplete. The fear of centralizing too much power in one official, militated against the creation of a Police Director, and each directorate was thus left with an unusual degree of independence and the ability to define its own policies. Initially, the appointment of general directors was intended to incorporate the recommendations of the National Council for Internal Security (CONASIN), an institution comprising representatives from the government and civil society. However, this provision was never respected and, in practice, the Secretary of the Police (and the President) made the appointments based on their own criteria. To avoid open violation of the law, the "general directors" are really deputy directors (who can be appointed without CONASIN assistance). The position of general director has remained unoccupied despite being included in the budget, and deputy directors are paid lower salaries; a situation they understandably do not like. Currently, almost all deputy directors come from the police (altering the earlier tendency to appoint former military officers to these positions), but the Secretaries continue to be retired military officers.

3.71 Currently, the police structure incorporates six divisions: Preventive, Criminal Investigation, Special Investigation Services (smuggling, fraud and tax evasion, laundering of assets from drug-trafficking, international cases, and control of private security agencies), Special Preventive Services (prisons), Police Education, and Transit. Concerns about the country"s rising crime rate have resulted in an increase in the Secretariat"s budget. This has mainly been used to recruit more police officers, especially in the Preventive Police (see Table 3.6).

Table 3.6. Police Officers by General Directorate, 2007

Police Division	Staff
Preventive Police	9,449
Criminal Investigation	1,518
Special Investigation Services	664
Transit	1,251
Police Education	178
Special Preventive Services	1,572
Total	14,632[108]

Source: M. Cálix (2008)

[108] This includes 1,500 administrative personnel.

3.72 Even with the increase, the ratio of police to population (148 per 100,000 inhabitants[109]) is just half the regional average, and the training and preparation of recruits could be significantly improved. Both factors have a negative impact on their capacity to fulfill their current responsibilities and will hamper any effort to reassign duties within divisions, and between them and the Public Prosecutor"s Office. The police budget, despite recent increases, seems insufficient to meet the needs for equipment or improved facilities, but the real obstacles to improved performance are the quality, number and distribution of staff.

3.73 There is still no general policy (which, in principle, should be set by the Secretariat in the absence of a director for the whole police force) to guide police development and operations. Nor, it appears, do the divisions have a policy to orient their own actions. CONASIN – which was created in 1998 to provide assistance in the formulation of policies, supervise police activities and guarantee the political independence of the National Police – has been marginalized. Since it does not have a technical secretariat, it also lacks the capacity to carry out its designated role. Although the Preventive Police have frequent contact and interaction with citizens, there are complaints of abuse of power, inefficiency, and even involvement in criminal activities. As a consequence, the suggestion that its members take a more active role in criminal investigations is normally dismissed. However, if no progress is made in this direction (starting with the training and selection of the most highly qualified staff), the pressure on the investigators and prosecutors will become unbearable. Viewing the Preventive Police"s function as mere street presence is a waste of its real potential and it may also discourage those who are capable of doing more.

3.74 Were it not for these problems, the ratio of investigators to preventive police officers (one to eight) could be deemed more than adequate. However, given the current circumstances, it is not. Since investigators are also responsible for "investigating" misdemeanors and *in flagrante* crimes, they dedicate less time to their regular duties, i.e. investigating more serious, high-impact crimes. Even so, the number of investigations completed annually (6.1 per investigative police officer, see Table 3.5 above) is low and the number of investigations opened is not that great (32.1 per investigative police officer)[110]. In addition, there are strong indications that those "completed" are the simplest cases (Due Process of Law Foundation, 2007; Tijerino, 2007, both authors indicate that 90 percent of investigations focus on *in flagrante* cases of lesser impact).

3.75 Transferring the Investigative Police back to the Public Prosecutor"s Office, as proposed by prosecutors, or letting the office create its own investigative body will not put an end to the problem. In addition, there are solid arguments for keeping the investigators where they are, given the potential for better coordination with the police on the streets and the ability to benefit from their knowledge in the field. The prosecutors" complaints about the poor quality of both police entities, their resistance to "cooperate", and the low quality of the investigations delivered, may have some foundation. Nevertheless, much of the problem

[109]This figure is calculated against the number of preventive and investigative police officers only, as is usually done (Republic of Honduras, 2005). If transit officers are included, the figure reaches 169, which is still low. The region"s average (and recommended ratio) is 300 per 100,000 inhabitants.

[110]Once again (see M. Cálix, 2008), investigators calculate a much heavier workload, of 90 cases each. We cannot explain the difference.

originates in the inefficient division of labor, inter-institutional distrust, and the tendency, clearly inspired by the new code (and some carry-overs from the old "inquisitorial" system in its Honduran and Latin American versions[111]) to give prosecutors a role in conducting investigations they do not have in modern systems. It is evident that it will not be easy to move past these vicious circles, especially given the weaknesses of the police, but continuing on the current path implies more duplication of efforts, inefficiencies, and expenditures that the country cannot afford.

3.76 Although this study has not examined the remaining divisions, it is worth mentioning a few details about the Division of Special Preventive Services and the prison system in general.

3.77 Despite the reformers" aim of creating a more humane and rehabilitation-oriented system – as stated in the Constitution, the Criminal Procedural Code, and the Law on Criminal Rehabilitation (approved in 1984, but until now without regulation) – the prison situation continues to be deplorable, with high levels of overcrowding, escalating violence and only limited improvement in the percentage of pre-trial detainees (which fell from 88 percent of the prison population in 1997 to nearly 50 percent currently).

3.78 The problems go beyond the quality of human resources, but this is compounded by the absence of a career system and the low educational level of most personnel. Only 72 are considered technical staff (lawyers, doctors, psychologists, and social workers), and they are mostly concentrated in the National Penitentiary. The staff in charge of security and custody is overburdened, and has to work extra hours because of understaffing and their inefficient distribution across the prison system. There is a high rate of staff resignations (mainly police officers) because of low salaries and the absence of other types of incentives. Enforcement judges (a position created by the new code to ensure, among other things, an adequate control and management of prison conditions) are also insufficient in number and lack adequate transportation and communication facilities to support their work. It is worth noting that the effectiveness of enforcement judges has increasingly come into question in the other countries where they are utilized.

3.79 The prison situation has changed little over the years, as it has been a low priority for the Government and the general public. The only major initiative was a construction program carried out in the 1980s. The legal framework may be too ambitious, given the country"s possibilities, and given that there is no country in the world with an effective rehabilitation program. However, much more could be done to improve the conditions in which prisoners live, eliminate abuses, and control violence. A key obstacle is donors" reluctance to provide funding for such purposes, not because of the amounts needed, but because they fear the repercussions for their image if efforts fail.

3.80 Although the point is debatable, the police seem to be the weakest link of the criminal chain and perhaps the key to achieving improvements in overall performance. New programs to finance equipment and infrastructure, and a series of outreach initiatives to bring the police

[111] It should be noted that neither the classic inquisitorial system nor the modern ones (France) give instructional judges such a leading role. The judge never conducts the investigation and his "supervision" of the police is limited to requesting lines of inquiry that will enable him to reach conclusions. He acts as a user of services provided by the investigative police.

closer to the community and foster citizen cooperation hold some promise[112]. However, what is needed most is organizational restructuring, efforts to improve the quality of existing staff and to attract more qualified recruits, a more efficient control of performance (including information systems, which are significantly underdeveloped[113]), better coordination among all parties, and the formulation of policies for the overall sector and individual police divisions. In order for such actions to be successfully undertaken, representatives from the political parties, from each organization involved and from other organizations, must be engaged.

RESULTS OF THE REFORMS

Institutional quality – independence, professionalism, efficiency, and access

3.81 Over 25 years of judicial reforms in Latin America, institutional quality has been gaining importance. Institutional quality, with its subdimensions of independence, professionalism, efficiency and access, were reform objectives from the beginning, but it is now understood that it takes more than new laws to facilitate their realization. These are long-term processes. It is also increasingly recognized that because of potential conflicts among the subdimensions, each country must decide how it wants strike a balance among them. Additional subdimensions have been added over time: transparency, accountability, and equal treatment. Equality of treatment was always considered implicitly, but it now receives separate attention and special efforts to compensate for the disadvantages faced by low-income individuals.

3.82 The process, it can be argued, starts with ensuring adequate levels of institutional independence (which vary according to each institution) aimed at improving the quality of services delivered to the public and thus, entailing the required increases in professionalism, efficiency, access, and other characteristics like efficacy, honesty, and equity. Total independence is never feasible, but it must at least be sufficient to allow the institution to function properly.

3.83 The principle obstacle is usually a lack of political will, at the highest level, to relinquish traditional controls and influence. In Honduras, this will has not increased much since 1982 and, in some sense, it seems to have decreased because of competition within and among traditional parties, and the feared negative impacts that a functional justice sector could have on vested interests. The other effects of the reforms on the various institutions have been diverse, if in the end somewhat negative.

3.84 The Judicial Branch has been the winner in financial terms – with a percentage of the government budget above regional and international averages[114]. However, it has maintained strong ties to the centers of power; central leadership exercises an unhealthy control over

[112] These are described in some detail in Republic of Honduras (2005) and other documents related to the new security strategy. For additional discussions, see M. Cálix (2008).

[113] See M. Cálix (2008) on this issue.

[114] Of course, the budgetary base is smaller in Honduras, but this affects all sectors, not only justice. A Judicial Branch receiving four percent of the national budget is among the best-financed in the region and worldwide.

subordinates" decisions, and the improved financial situation has not translated into substantial improvements in performance and quality (Romero, 2008 for a review on quality). Negative results are clearly illustrated by the very low levels of productivity, questionable and questioned judgments, and the low rankings obtained in regional and international surveys on transparency, corruption and public trust. The judiciary has not shared its additional resources with the Public Defenders" office, except in the hiring of more personnel. However, defenders" salaries remain low and incentives and operational budgets, insufficient.

3.85 The Public Ministry and the Police have also benefitted financially, but on a smaller scale than the Judicial Branch. Deficiencies in their internal structures and in the division of labor have undermined a more efficient use of funds. If these deficiencies are corrected, existing investments would have higher returns; if they are not, additional funding would have only a minimal impact. Although less often mentioned than in the case of the judiciary, political interference is a problem in both institutions. Two new factors warranting attention are the emergence of internal interest groups (based on the new functional divisions) and their development of corporatist policies that run contrary to more efficient practices.

3.86 These new developments are illustrated by the difficult relationship between prosecutors and police officers, which apparently revolves around police resistance to prosecutors" control. This is discussed further in the following section since it directly affects citizen security and also the internal development of each institution. The situation in the judiciary is similar; there are conflicts between first instance and trial judges, and between those recruited, more or less, on the basis of the new career rules and those who were appointed earlier.

3.87 Lawyers are another interest group that merits mention, as they (especially those engaged in litigation) have vested interests in the current system. They may also be guilty of corrupt activity, delaying tactics and excessive complexity (EMIH, 2007 comments on their practices in labor trials). Lawyers do not police their own ranks, there is no internal disciplinary system for the bar, and it seems that no one has ever thought of creating one. Recently some observers have commented on a similar situation in southern and eastern Europe (Uzelac, 2008); a sort of traditional practice developed over time by this group but contrary to contemporary needs – in southern and eastern Europe (Uzelac, 2008).

3.88 In brief, institutional quality has improved as regards staffing and resource levels and their distribution nationwide, the organization of internal processes, and especially in the Judicial Branch, the adoption of technological innovations. However, there is a long way to go in terms of product quality. This is mainly due to persistent political interference in institutional operations, especially in the selection of leadership and in the handling of cases that affect elite interests (i.e. those related to economic matters, corruption, and the traditional political parties). Without broad commitment at the highest levels to eliminating these traditional practices and providing institutions with sufficient independence to perform their duties and appropriate leaders to direct them, it is doubtful that service quality will improve, regardless of the amount of additional funds committed.

3.89 Politicization is also a contributing factor to the low standard of institutional management and governance systems and as a consequence negatively impacts the institutions" capacity to organize programs and operations. While this is a secondary

problem, it deserves attention. A more independent institution with no self-management capacity is no real improvement over an institution completely subservient to external powers. It is also clear that inter-institutional coordination needs attention, and that it suffers because institutions lack a clear vision of the common products they must deliver to the public. Given the amount of resources Honduras has invested in the sector, results should be much better. The improved financial situation of the institutions does not correspond with their performance. Further explanations for this performance gap are discussed in subsequent sections.

Citizen security

3.90 Enhancing citizen security involves more than the courts and the criminal justice system, but this study only focuses on their contributions. The concerns about insecurity and the increase in crime were already evident at the beginning of the period under analysis. The levels of violence have fluctuated, but have consistently been among the highest in the region. In 2007, Honduras" homicide rate ranked third, exceeded only by El Salvador and Colombia.

3.91 The situation has improved somewhat since 2001-2003 when the homicide rate reached its peak[115]. Apart from demonstrating the country"s status as one of the region"s most violent, the data published by criminal justice institutions show worrying trends. The Table below contains data on officially recorded crimes for the last years.

Table 3.7. Main Crimes Reported to the Public Ministry (2002-2006)

Crimes Reported	Years									
	2002	Order	2003	Order	2004	Order	2005	Order	2006	Order
Robbery	8,570	(1)	9,988	(1)	11,553	(1)	14,146	(1)	17,363	(1)
Domestic violence	3,900	(3)	4,537	(4)			9,382	(2)	9,946	(2)
Threats			6,086	(2)	7,587	(2)	7,893	(3)	7,620	(3)
Theft					4,523	(4)	5,457	(4)	5,447	(4)
Injuries	4,559	(2)	4,500	(5)	5,119	(3)	4,647	(5)	4,453	(5)
Homicide	3,799	(4)	4,857	(3)	2,388	(6)	3,814	(6)	3,891	(6)
Murder	226	(9)								
Damages			2,250	(6)	2,633	(5)	2,789	(7)	2,821	(7)
Intra-family violence	909	(7)			1,816	(8)	2,552	(8)	2,406	(8)
Fraud			1,820	(7)	2,270	(7)				
Rape	936	(6)			1,498	(9)				
Abuse	606	(8)								
Motor vehicle theft	1,339	(5)	1,294	(8)						

[115] The higher rates have not been satisfactorily explained, but two factors considered important are the budget cuts and reductions in the number of police officers at the beginning of the decade, and the adoption of the new criminal procedural code. Damages caused by Hurricane Mitch may have had an impact as well. Finally, given the poor quality of statistics there are doubts as to the veracity of the figures.

Source: M. Cálix (2008) based on data from the Public Ministry"s Record 2002-2006.

3.92 As the table demonstrates, the eight most frequent offenses have maintained the same order of importance in 2005 and 2006. Among them, are crimes against property (robbery and theft) and crimes against personal integrity and life (domestic violence, injuries and homicides). During 2002-2006, reported robberies have doubled and domestic violence has almost tripled (the latter may be due to an awareness campaign to promote the reporting of domestic violence and overcome victims" traditional reticence to filing complaints). Data on threats, theft, injuries and homicides are similar in 2005-2006, though the first three decreased slightly while homicides increased somewhat.

3.93 Two factors that have definitely contributed to this situation (and to other problems in the country) are the increased presence of drug traffickers and their penetration of government institutions (including the justice sector), and the economic situation (high levels of unemployment and inequality). The contribution of the *maras* or gangs (and especially of members who have been expelled from other countries) is still debated however, the country is clearly dealing with crimes committed not only by single individuals but also by organized groups.

3.94 Comparing the number of offenses reported against the number of cases resolved, submitted for investigation, or with investigations completed, the problem becomes evident. The level of impunity remains high and thus a source of citizens" complaints[116]. Despite the reforms, the system"s growth, and a better ordering of internal processes, the criminal justice system continues to be inefficient, thus limiting its ability to deter crime. None of the system"s actors delivers an adequate level of output, and their collective output is very low – less than 10 percent of reported crimes are resolved. While the available data do not allow confirmation of this claim, some sources (Tijerino, 2007) allege that one cause of this inefficiency is that the system focuses mainly on minor offenses and/or *in flagrante* arrests, leaving the more serious or complex cases unattended (among them, corruption). This is another aspect of the gap between investments and results. In this section, we have offered some explanations for this low performance. In the next section we review them more systematically.

ANALYSIS OF THE CAUSES OF POOR PERFORMANCE AND POSSIBLE SOLUTIONS

3.95 The analysis of the causes of the poor performance identified in previous sections, focuses on two levels of causation: proximate causes, which are mostly related to technical deficiencies and the quality, quantity and distribution of human, material and financial resources; and fundamental causes, which refer to political and institutional factors.

3.96 There are links between these two, and some proximate causes undoubtedly originate in fundamental ones. In other words, sometimes apparent technical deficiencies are not involuntary but are a form of intellectual sabotage. Nevertheless, there are others that seem to be the result of certain misunderstandings or an inadequate approach despite the good intentions of the authors.

[116] We have not been able to get a hold of victimization studies to define the "black figure", that is, unreported offenses. Nevertheless, the majority of them tend to be of lesser importance. Homicides are always registered.

3.97 We mention proximate causes first, but with an important reservation: solutions for these matters are not possible without addressing the fundamental causes. There have been cases (a few) in which proximate causes were addressed without modifying fundamental ones. However, this is an unlikely strategy for Honduras. Exceptions are found in countries with authoritarian, highly-centralized governments (e.g. Singapore), where it is possible to improve sector efficiency according to a single criterion (defined by the interests of a unified elite). This model is not advisable, and even if it were, conflicts within the elite and between the political parties would make it almost impossible to implement in Honduras.

Proximate causes

3.98 Designing a reform for a complex system requires in-depth knowledge of the context and of general principles and broader experience. It is common to find that reforms are designed and implemented without meeting these conditions. The Honduran experience is no exception; in fact, the country replicated some of the regional model"s weaknesses.

3.99 Throughout the region, the preferred model for reform was based on changes to the legal framework, inspired in large part by a series of principles and practices supposedly supported by international experience. This facilitated implementation but incorporated a series of problems, including: an excessive degree of faith in the power of the law to modify behavior; imperfect imitation of or unquestioning confidence in imported models; overreliance on "magic bullets" or multi-purpose global solutions; certain errors, of commission or omission, in the drafting of laws; and the common failure to analyze the financial implications of any bill to ensure sufficient funding would be available for its implementation.

3.100 Reformers are gradually realizing that improving the legal framework is only the first step in a process of institutional change, and that its success requires the support of various additional mechanisms. This is particularly true when there is resistance to change, but it must be considered even when there is no active opposition.

3.101 In order to overcome the human tendency of retaining old habits, institutional actors require – more than vague instructions on the new rules – incentives[117], resources, knowledge, and most of all, clear guidelines on how to organize their work schedules. In the absence of these elements, as has been observed in other countries, prosecutors keep acting as instructional judges, and the selection of judges, which should be merit-based, continues to be done according to traditional criteria. The law is helpful, but not sufficient.

3.102 As regards the use of imported models, there is often considerable misinformation as to how they work, or do not work, in their countries of origin. In Honduras, as in the rest of the region, many of the "axiomatic" principles behind the imported models were not so axiomatic after all. A criminal accusatory proceeding is not necessarily as transparent or efficient as reformers claimed. In fact, it is as vulnerable to traditional vices as the previous system. Therefore, these vices must be confronted directly. Use of oral proceedings is

[117] It is worth highlighting that while adequate salaries constitute one incentive, an effective performance monitoring system is more important. Unfortunately, the current system depends, perversely, on "monitoring" by political interests.

another "magic bullet" with similar risks. If not implemented appropriately (and there are situations in which oral procedures are not advisable) it can create additional complications, and just as with written proceedings, it leaves opportunities for dilatory practices (including simply not showing up for the hearing) and corruption (Uzelac, 2008).

3.103 The same is true of other models and practices that are imported with the expectation of triggering automatic improvements. Judicial councils have been subject to strong criticism in Latin America and even in Europe (Hammergren, 2002) as they become politicized too easily and have not demonstrated great success in running the courts (where that is one of their functions). When new models perform well, it is usually due to favorable contextual conditions. For instance, Chile had fewer problems when implementing its new criminal process because of its more advanced institutional development. It is interesting that Chile, despite maintaining judicial governance with the Supreme Court, has a fairly successful justice administration (as well as a highly-organized administrative apparatus capable of performing day-to-day operations).

3.104 Finally, because of inexperience or excess creativity, the drafters of the codes and other laws have added some infelicitous details. One example, already mentioned above, is the impact of specific sections of the criminal procedural codes on the tense relationship between prosecutors and the police. This addition, common to all new codes in the region, seems to arise from an imperfect understanding of how these two institutions usually function in developed systems (Macauley, 2007; Díez-Picazo, 2000; Fionda, 1995). As many observers have commented (Tijerino, 2007; Rubio, 2001), the decision to include deadlines for the stages of the proceedings is often made (as in Honduras) without considering the different needs of different types of cases. As a result, simple cases last too long and more complex ones may not be resolved at all. And, although frequently motivated by special local conditions, the composition of various key organizations (CONASIN, National Police, Nominating Board, and Judicial Council) and the power assigned to them, have sometimes resulted in additional problems.

3.105 Any flaws originating in the legal model were compounded by the lack of skills in organizational planning – i.e. how to structure new or existing institutions to work under the new rules and, what proved an even greater challenge, how to do so with insufficient human and material resources. The choices made sometimes seem to be the most expensive and the least efficient. The proliferation of judges to comply with the principle of ensuring trial judges have no prior knowledge of the case is one example; similar results might have been attained at a lower cost (and without creating new types of judges) by utilizing better scheduling techniques. The most extreme example, however, is the prosecutional process. In a high-income country, the degree of specialization present in the Honduran Public Ministry might work. However, in Honduras it makes little sense to require that a single case passes through the hands of four prosecutors only in the first instance, or that every investigation, even of minor offenses, be conducted by a specialized investigator (and then be submitted for prosecutorial investigation). This apparent inefficiency is partly due to the lack of preparation of the various actors, and especially the police. However, it is imperative that this problem be addressed in order to prevent time being wasting by repeatedly covering the same ground.

3.106 It is clear that other decisions were motivated by the fear of concentrating power (for example, like the decision to reject the proposal to create a single chief of police or administrative director with broader powers), but consequently did not take into account the

associated negative effects that might ensue. This same fear might explain the preference for an exaggerated vertical specialization (horizontal specialization is another matter, but it can also impede the efficient use of resources) where every decision requires review from higher-level staff. However, current thought suggests that review should not be so formulaic or predictable. This is the foundation of an accountability system – not clipping the wings of managers but making them aware that their decisions and actions could be subject to the review and audit of other institutions.

3.107 Apparently, authorities responsible for organizational planning lacked clear ideas on what constituted reasonable workloads for each type of actor. It is interesting, for instance, that no one in the Judicial Branch commented on the poor productivity of all types of judges, or the fact that police investigators complain about an annual workload of 30 investigations (many of which are very simple), using this to substantiate their requests for additional staff and funding. The absence of this comparative data and an overall lack of familiarity with organizational alternatives worldwide, have led to the design of structures based on extrapolation from historical experiences and practices, which in turn results in difficulties responding to new levels of demand. An increasing workload poses challenges for all justice systems, but while in other countries (even within the region) judges encounter problems handling 700 or 1,000 incoming cases, in Honduras, judges find it difficult to cope with only 100. To makes matters worse, possible solutions to the problem, such as improving the courtroom organization, trying out new schemes for the division of labor[118], and finaliy, filtering demand (Uzelac, 2008) – are not being considered.

3.108 Part of the gap between societal demands and the sector"s response, may be explained by a series of methodological failures. Honduras faces a scarcity of basic resources, but the most significant deficiency is the capacity to program, organize, and monitor the use of all the other inputs. The typical response – to request additional resources, with no modification to how they are managed – is not unique to Honduras, but it is not the best solution; nor will the implementation of modern technologies suffice, though Honduras" progress in this area is noteworthy. Reformers will have to overcome technical weaknesses compounded by a history of political and institutional obstacles, in order to develop more effective solutions.

Fundamental causes

3.109 We start with an assumption: if reforms in the overall justice sector and citizen security succeed, all citizens will benefit, but the process implies costs for certain groups. In most cases, these groups do not oppose the entire reform package (nor the adoption of modern mechanisms and techniques), but only specific elements. However, these elements are often critical for the success of the overall reforms. Maintaining partisan influence in the appointment of judges, for instance, not only affects rulings on particular cases but provides negative incentives for judicial staff, undermines management capacity of senior authorities, and so distorts the overall performance of the institution.

[118] This does not refer to creating more specialized jurisdictions but to courts" division of their own workloads (called multi-tracking) – separating cases that do not require much work from the judge (and so can be handled more rapidly) from those that do require more of his time (see Uzelac, 2008).

3.110 The fundamental causes thus arise from the efforts of various actors to maintain their traditional control over sector institutions and over specific rulings and actions. Included among these actors are the traditional political parties, economic elites, and functional groups like the military (Romero, 2008). Despite officially accepting the reforms, all of these groups have worked to ensure that their power was not diminished as a result. The basic maneuver has been to maintain control over key institutions like the Supreme Court, the Nominating Board, the Secretariat for Public Security, and high level officials in the Public Ministry. This control then extends to the selection of subordinate personnel and thus to the incentives shaping their activities.

Box 3.1. Citizen perceptions of insecurity[119]

Although Honduras was not a direct party to the civil wars afflicting its neighbors during the 1970s and 1980s, it currently has a very high crime rate, approaching that of Guatemala and El Salvador. (Interestingly, Nicaragua, despite its civil war, has a relatively low crime rate for reasons no one has satisfactorily explained.) Currently, crime vies with unemployment as the greatest concern of Honduran citizens. Unfortunately, figures on crimes rarely coincide, even from Honduran government institutions, and there is no good measure of the "*cifra negra*", as the number of real as opposed to reported crimes is termed throughout Latin America. Some information on victimization has been made available by recent surveys. The 2005 *Survey on National Perceptions on Human Development (Encuesta de Percepción Nacional sobre Desarrollo Humano)* for example found 40.5 percent of respondents reporting that they or members of their family had been victims of crime within the prior 12 months. Moreover, 10.8 percent reported a family member having been a homicide victim.

The same survey demonstrated an unsurprisingly higher incidence of victimization in urban areas – the numbers for homicides was 13.1 percent in the central district and 8.8 percent in rural areas. Figures for those reporting being targets of death threats were nine percent urban and six percent rural. There are also socioeconomic differences, with those of the higher strata being the most frequent victims of property crimes; again not a surprising statistic. While absolute numbers are not given in the survey, the responses do suggest that many crimes do go unreported, in part because of an accompanying lack of faith in the justice sector, and especially in the police. Another consequence is recourse to self-protection; 23 percent of the non-victims and 27 percent of the victims questioned in the 2005 survey reported they were disposed to arming themselves as a means of protection.

3.111 More recently, without affecting the actions of the first set of interest groups, a series of new vested interests have emerged. They comprise functional groups within institutions, for instance, judges, prosecutors and police officers, and the subcategories of each. We can also add practicing lawyers and their subdivisions to the list. As has been observed in other countries (World Bank, 2004), the politics of judicial reform is not only a conflict between non-institutional elites and those who want to limit their influence, but also encompasses struggles among the members of the sector. This second conflict is both inter- and intra-institutional. The danger it poses is that the larger purpose, i.e. improving service delivery to

[119] Based on data provided by Rigoberto Portillo (2008).

the public and contributing to the country"s development, may be forgotten in favor of disputes over the distribution of power.

3.112 To some extent, the technical obstacles originate here, first in determining who will occupy leadership positions and whose interests will be promoted; and second, because the necessary organizational and procedural changes clash with the interests of those who work in the institutions. The structure created to implement the new laws, whether appropriate or not, has given rise to new interests among sector staff. To tell the prosecutors that they will be consumers and not managers of the police investigation implies a loss of power for them. Setting productivity goals for any of the actors means that they will need to change their standard practices. A public defender should obviously handle more than 25 cases annually, but insisting on a higher workload implies modifying his normal pace or changing the manner in which he works. Unfortunately, as work practices are already established, demanding changes will provoke resistance from vested interest in the sector.

3.113 This second tier of interests is less important, but still worthy of consideration. Still, the main resistance comes from higher levels and their reluctance to allow sector institutions to operate without interference. Politics always plays a role in the selection of institutional authorities; however, if decisions are linked to specific improvements in performance, positive results can be achieved nonetheless.

3.114 It is worth mentioning an additional interest group – donors. They too have influenced the choice of strategies and not always positively. It is in their interest to have programs and, sometimes, to influence specific policies of the sector (Salas, 2001). Donors are important in providing funding and technical assistance, but sometimes due to ignorance or their individual agendas, their recommendations are not the most appropriate. Donors should not attempt to define sector policies, but they can be more demanding as to the initiatives they support and the conditions they place on their financing[120]. However, it is ultimately up to the country to establish priorities and consider whether to use external funding as part of a limited basket of funds. Allowing donors to finance some less necessary actions squanders resources, and needs to be evaluated in this regard.

MAIN OPTIONS TO ADVANCE REFORMS

3.115 During the last two and a half decades of reforms, Honduras, and the region in general, have made improvements to the legal framework, the overall organization of the sector, and the provision of infrastructure and equipment. It is now time to address actors" behavior and the quality and quantity of their output. These changes require the adoption of new attitudes and mental models. Although it would be possible to continue efforts with the same structures and practices, as stated above, given the scarcity of resources and the many demands place upon them, it would be preferable to use more efficient modalities.

3.116 There are three critical steps here:

[120]On this issue, see Romero (2008; 37), where the author contends that donors have funded mostly organizational and technical aspects, "as well as infrastructure...but has not been aimed at strengthening judicial independence".

- *Reach an agreement on the need to improve the current situation and establish broad consensus to support it:* This agreement should be based on objectives and not strategies and tactics, since once a discussion of the latter begins, conflicts arise regarding models, laws, and the distribution of power.
- *Reach a political agreement on reducing political interference in the operations of the various institutions (starting with changing the criteria for the appointment of their leaders and other staff):* In Latin America, the few countries that have overcome this obstacle (Chile, Colombia, Costa Rica, and to a certain extent, Brazil, and Argentina at the level of the Supreme Court and in some provinces) have done so through political agreements, which are not always respected, but are a first step. Based on their successful promotion of legal and organizational changes during the two earlier decades, Honduran civil society groups should be able to lobby for this agreement as well, but only if they redefine their demands to emphasize specific improvements in output as opposed to more laws.
- *Define, based on the two previous agreements, the appropriate measures to accomplish the objectives:* On this issue alone, would it be possible to include changes to the legal framework, but as stated above, such changes are of the least importance. If the law blocks reforms, then it should be modified, but new laws without key agreements in place will not be very productive.

Establish a basic consensus

3.117 The first step would be to acknowledge the poor level of performance within the sector and all of its institutions. Quantitative issues can be examined objectively without placing the blame on any person in particular. Data speak for themselves, and in Honduras, what they say is not positive. Even taking into account the poverty of the country, the lack of resources and the shortage of qualified human resources, the sector could perform much better. Some explanations for its poor performance that will be discussed below. Qualitative issues are more controversial, but there are sufficient criticisms and highly publicized cases to demonstrate that there is also a gap in this respect.

3.118 Once these low quantitative and qualitative levels of performance are acknowledged, the next step would be to define clear short-, medium- and long-term goals. We are still not exploring strategies and tactics, but only defining the specific improvements in performance that will be sought. These may be quantitative (reduction of certain types of crimes, number and type of complaints processed, corruption cases or major crimes ending in convictions) or qualitative (better treatment of users, "better" resolutions, more equitable treatment of interlocutory and final decisions so that the tough and soft approaches are applied to everyone equally). The exercise of identifying reform goals should involve users as well as staff interested in reforming their sector. The focus should be on defining the goals and not yet on how to achieve them. Consideration in that regard will be addressed later. During consensus building, donors could contribute by in sponsoring and facilitating meetings, but making the decisions is not their responsibility.

Consensus to reduce political interference in the sector

3.119 As has already been emphasized, the reduction of political interference has been key in countries that have been able to achieve advances in the sector. It does not guarantee better performance, but it is definitely a necessity. Those supporting the first (basic) consensus would need to exert pressure, but making improvements, without committing to addressing the underlying, obstacle is worthless. Obviously, consensus alone is sufficient and, at this point, concrete steps such as the following would need to be taken:

- The creation of a Judicial Council and a judicial career, for which the Council would be responsible.
- The creation of profiles for each type of judge, including Supreme Court justices, to be used for appointment and promotion purposes. The appointment of the new Supreme Court provides an opportunity to implement this proposal, and if effected imminently, would have sufficient time to realize an impact.
- The creation of profiles for senior staff and other members of the institutions in the sector and their consistent application in the future.
- The creation of administrative careers in each organization and the preparation of profiles for all administrative positions (which should be awarded according to merit-based criteria and no longer on the basis of friendship or political contacts). The requirement for this is less pressing, but should nonetheless be initiated.
- Transparent processes (with the participation through voice or vote of civil society) in the appointments of Supreme Court justices and senior management positions in the remaining institutions.
- Frequent performance evaluations, based on transparent criteria. Implementing this practice would take time, but should be initiated now.

3.120 Many of these steps will eventually be modified depending on the future evolution of the program. However, if they are not implemented imminently, particularly the transparent appointment of senior officials, the consensus on depoliticization will be valid only on paper. Introducing concrete changes is an integral part of this step as it demonstrates a level of commitment.

3.121 Donors could also participate in this process, especially by providing technical assistance based on the experiences of other countries. As a more radical step, they could condition their support on concrete advances.

Refinement of models and other technical steps

3.122 This step will take longer, but organizational alternatives should be considered from the outset in order to achieve the desired improvements. Following practices in other countries, both within the region and worldwide, a reevaluation of the structures implanted under the new legal framework will be needed. Assuming that financial constraints will not permit substantial increases in personnel, much can be done to improve the performance of the existing staff. Preventive police officers must be trained to carry out simple investigations, leaving investigators in charge of more complex ones.

3.123 It would be advisable to consider reorganizing the Public Ministry to eliminate part of the vertical specialization. Horizontal specialization (in areas such as domestic violence, drugs and minors) is more debatable but also affects productivity. With regards to the judiciary, Honduras might reconsider the need for a separate category of judges to handle preliminary proceedings, as has been done in Chile and several other countries. If these judges are retained, it is still worth reviewing their numbers relative to the underutilized trial judges.

3.124 This process can draw on the several alternative models. In criminal justice, there is an Anglo-Saxon model, British and American versions, and the European model in all its different forms. Organizational models for other sector institutions also vary and demonstrate different advantages and disadvantages. Although Judicial Branch governance takes several forms (e.g. centered in ministries of justice in many European countries, judicial councils, or the Supreme Court) it is evident that regardless of the model selected, it will not operate well without a well-structured (and usually separate) administrative apparatus. The judicial governance body should not administer day-to-day activities, but monitor the performance of administrators and define policies to guide their actions.

3.125 It is worth reiterating that none of the above will work without the two preliminary steps and, most of all, without the political decision to reduce external interference and maintain it over time. This is not a matter of modifying laws because, as the Honduras example shows, the law is easy to manipulate. Advances in this direction will depend on the demand, not only for more effective systems, but for transparency in their application. It would be useful to explore the possibility, for instance, of having an outside monitoring body for appointments, instead of trying to depoliticize them by including representatives from civil society in the processes. The current system is vulnerable to the representatives" co-optation. Perhaps through an effective check and balance system, the same groups could have a greater impact.

CONCLUSIONS AND PRIORITIES FOR THE SHORT-TERM

3.126 The Honduran paradox – significant investment, systemic expansion, and an admirable level of new technology, with stable or decreasing productivity and many complaints regarding the end product – can indeed be explained. However, addressing the situation will not be easy, not only because of long-standing political obstacles, but also because of the potential problems that new institutional vested interests might cause, and the lack of knowledge regarding international experiences and the lessons that may be learned from them.

3.127 Donors could provide further support with the latter, but the rest is up to the country"s willingness to maximize the results of its investments in the sector, and reexamine initial options and the values behind them. It is important to recognize that no guaranteed models exist and whatever choice is made should be considered as a hypothesis to be verified in action. The key is not the model, but the commitment to improving outcomes. Without this commitment, debating over alternative solutions will lead nowhere. If Hondurans wish to overcome the problems in the sector, they will need to make some sacrifices, but the results will benefit everyone.

3.128 As we have seen, the large investment that has been made in the sector, over the last decade, is not yielding the expected results. Data speak for themselves, and in Honduras, indicators are very poor. Even taking into account the poverty of the country, the lack of resources and the shortage of qualified human resources, the sector could perform much better. The first step should therefore be to acknowledge the poor level of performance within the sector and all of its institutions, and generate a public discussion about institutional performance, holding each institution accountable for the resources it receives and the services it provides.

3.129 In addition, it would be critical to implement and deepen the reforms carried out in 2000-2001 aimed to restrict political interference through a new process of selecting the judges and the exension of judges" terms to seven years. The establishment of this new selection process in which actors can veto any candidate who is considered incompetent or corrupt is an important achievement that needs continuous support so there are not major setbacks during the upcoming renewal. The next step on the Supreme Court would be to move a rolling renewal process so a couple of judges are replaced every year, instead of having a big bang replacement which is exposed to backsliding on the politization of the process.

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ANNEX III. HUMAN RESOURCES OF SECTORAL INSTITUTIONS IN THE REGION

Table A3.1. Number of judges per 100,000 inhabitants, Latin American (2005-2006) and selected European countries (2004)[121]

Country	N° of Judges	Population	Per 100,000 inhabitants
Argentina (national 2004)	834	38,226,000	2.2
Argentina(subnational 2004)	3429	38,226,000	9.0
Bolivia	933	9,627,000	9.7
Brazil (federal and labor)	3835	187,600,000	2
Brazil (state)	9469	187,600,000	5
Chile	1,023	16,598,000	6.2
Colombia	5,179[122]	42,090,000	12.3
Costa Rica	767	4, 402,000	17.4
Dominican Republic	610	9,250,000	6.6
Ecuador	902	13,215,000	6.8
El Salvador	642	6,990,000	9.1
Guatemala	783	12,700,000	6.2
Haiti (2003) includes 368 lay justices of the peace	573	9,151,000	6.3
Honduras	768	7,200,000	10.6
Jamaica	84	2,660,000	3.2
Mexico	1,374	104,900,000	1.3
Nicaragua		5,483,0000	
Panama	256	3,200,00	8
Paraguay*	541	6,216,000	8.7
Peru	2,060	27,219,000	7.6
Puerto Rico	375	3,928,000	9.5
Trinidad and Tobago	88	1,057,000	6.7
Uruguay	473	3,314,000	14.3
Venezuela	1,822	27, 758,000	6.6
Belgium	2,500	10,446,000	23.9
France	6,278	62,177,00	10.1
Germany	0,395	82,500,000	24.7
Italy	6,105	58,462,375	10.4
The Netherlands	2,004	16,292,000	12.3
Russian Federation	29,685	143,474,143	20.7
UK, England and Wales	305	53,046,300	2.5[123]

Source: CEJA 2007 for Latin America. CEPEJ, 2006, for Europe.

[121] This table is part of a study being done within the World Bank (LCSPS). Additional information on sources and calculations is available from the Bank offices.

[122] Includes, 1,401 justices of the peace, a new office about which little is yet known.

[123] The number of judges does not include magistrates (justices of the peace) who handle largely simple cases, often are not lawyers, and usually work part time.

Table A3.2. Public prosecutors per 100,000 inhabitants, Latin American and other selected European countries

Country	N° of public prosecutors	Population	Por 100,00 inhabitants
Argentina (federal)	N.A.	38,226,000	N.A.
Bolivia	393	9,627,000	4.08
Brazil (federal)	N.A.	187,600,000	N.A
Chile	751	16,598,000	4.52
Colombia	3,552	42,090,000	8.44
Costa Rica	367	4, 402,000	8.3
Dominican Rep.	705	9,250,000	7.6
Ecuador	323	13,215,000	2.44
El Salvador	647	6,990,000	7.0
Guatemala	847	12,700,000	6.7
Haiti	71[124]	9,151,000	0.8
Honduras	483[125]	7,200,000	6.7
Jamaica	83	2,660,000	3.12
Mexico (federal)	2060	104,900,000	1.96
Nicaragua	260	5,483,0000	4.7
Panama	74	3,200,000	2.3
Paraguay	284	6,216,000	4.6
Peru	1,290	27,219,000	4.7
Puerto Rico	349	3,928,000	8.9
Trinidad and Tobago	N.A.	1,057,000	N.A
Uruguay	85	3,314,000	2.6
Venezuela		27, 758,000	
Belgium	823	10,446,000	8.5
France	1,848	62,177,00	3.0
Germany	5,106	82,500,000	6.2
Italy	2,146	58,462,375	3.7
Holland	598	16,292,000	3.7
Russian Federation	55,021	143,474,143	38.3
UK, England and Wales	2,819	53,046,300	5.3

Source: CEJA 2007 and others as indicated, for Latin America. CEPEJ 2006, for Europe.

[124] Data for 2003 from Saint-Louis (2004). In rural areas, the justices of the peace operate as instructional judges, under the traditional French system.

[125] Ministerio Público, Honduras, 2008.