

guage.<sup>188</sup>

In 1998 and 1999, USAID assisted in opening nine new mediation centers.<sup>189</sup> While USAID assisted in opening two in Sololá and two mediation centers in Zacapa, it also assisted in the implementation of five in the Quetzaltenango Department.<sup>190</sup> The mediation model consists of two fundamental components: first, a set of conflict resolution techniques that take into account cultural and institutional considerations, and, second, an emphasis on cooperation between justice-sector officials and local leaders in the utilization of these techniques.<sup>191</sup>

The physical location or cultural setting does not seem to be determinative—the model is adaptable.<sup>192</sup> USAID supported new Mediation Centers in 1998 and 1999 in many cases such as a municipality building, a university, a moderately assimilated rural indigenous area, a rural indigenous area using indigenous law practices, and a rural mestizo area.<sup>193</sup> USAID incorporated each of the nine Centers into a pre-existing governmental institution or a local organization to guarantee sustainability.<sup>194</sup> In the program, USAID trained 480 Guatemalan mediators, 153 of whom became active mediators in the nine

188. *See id.* (indicating that mediation centers increase the community's willingness to participate in the justice system by submitting disputes to local mediators).

189. *See* Strengthening Channels, *supra* note 184, at 2 (relating the number of mediators involved in the various mediation centers implemented by USAID).

190. *See* Ambassador Planty Cable, *supra* note 62 (noting the number and location of new centers established in 1998).

191. *See* Strengthening Channels, *supra* note 184, at 2 (detailing characteristics of conflict resolution programs and discussing the importance of cooperation between judicial officials and community leaders to ensure successful implementation of these techniques).

192. *See id.* (noting that, due to the adaptability and flexibility of these conflict resolution groups, it is possible to utilize these programs in other parts of the country).

193. *See id.* at 13 (providing several examples that illustrate the high adaptability of these mediation programs).

194. *See id.* at 2 (explaining how officials have attempted to make conflict resolution programs comport with the communal as well as governmental structure).

Mediation Centers.<sup>195</sup> During the first year, May 1998 to May 1999, 733 cases were mediated at the various Mediation Centers.<sup>196</sup> While the Mediation Centers resolved seventy-four percent of all cases, the parties dropped or abandoned another eight percent and left only fourteen percent unresolved.<sup>197</sup> These mediated cases included criminal, civil, family, and labor issues.<sup>198</sup> If participants choose, they may have the local court validate the mediation to provide it with legal backing.<sup>199</sup>

In each case, local leaders established and now maintain the centers.<sup>200</sup> In Quetzaltenango, the Mediation Centers served as an important mechanism for access to justice, in a manner that complements customary law and values. Every Center provides free access to justice for the underprivileged, including, women, children, and indigenous people.<sup>201</sup> Local partners have made excellent strides in teaching communities how to resolve conflicts peacefully through

195. *See id.* (discussing North American, Nicaraguan, and Guatemalan efforts to train and work with several hundred mediators so that some could be used in the new Mediation Centers).

196. *See* Strengthening Channels, *supra* note 184, at 2, 11.

197. *See id.* at 11 (putting forth numbers on the success of the Mediation Centers noting that some of the cases were dropped due to one of the parties not appearing to participate in the mediation process). There were no abandoned cases in Quetzaltenango—all came from Zacapa, indicating cultural differences in approach to dispute settlement and, of course, skewing the data. *See id.* The Zacapa Center actually had much more difficulty settling the cases, with only forty-eight percent resolved, which brought down the total average of the program. *See id.*

198. *See id.* at 11-12 (stating that, while some Mediation Centers dealt with mostly penal cases, other had cases involving civil, family, or labor issues).

199. *See* Strengthening Channels, *supra* note 184, at app. (using statistics to indicate that individuals are able to register their agreements with the local court). The Ladino communities are much more interested in having their settlements "validated" or registered ("homologación") by courts. *See id.* (presenting data on the tendency of non-indigenous communities to seek court-approved backing of their agreements). In cases of non-compliance, such registration is important to get court enforcement of the mediation settlement. For indigenous groups, this seems to be less important, as one's word or agreement is considered sacrosanct.

200. *See* Ambassador Planty Cable, *supra* note 62 (elaborating on the important role that leaders in the community played in organizing the mediation programs).

201. *See id.* (emphasizing the way that the Mediation Centers improved upon the previous legal institutions by enabling all citizens to have access to their criminal justice systems).

mediation.<sup>202</sup> Partners educated citizens in the basics of the law so that they know how to resolve some of the more pressing cases through the judicial system.<sup>203</sup> While local partners have already established two Mediation Centers in Zacapa, communities in Quetzaltenango are choosing first to pursue increased education through workshops and other programs.<sup>204</sup> The partners plan to allow the communities to decide if they want to establish a Mediation Center or simply train community leaders and local officials in mediation techniques.<sup>205</sup> This geographic focus results in the development of two potentially different methods of teaching dispute resolution techniques.<sup>206</sup> For example, while regions of Eastern Guatemala are primarily non-indigenous and have minimal experience in mediation, the population in Northwestern Guatemala is mostly indigenous and possesses some experience in conflict resolution due to its practice in local, customary law.<sup>207</sup>

Communities are using several tools essential to developing their ability to utilize the mediation techniques.<sup>208</sup> While these efforts resulted in the establishment of two Mediation Centers in Zacapa, officials developed several others in Quetzaltenango in July 1998.<sup>209</sup> Local leaders, judges, and prosecutors have attempted to increase cooperation through joint training, discussion sessions, information

202. See Conflict Resolution Cable, *supra* note 176 (discussing the positive impact that local partners had on instructing citizens to utilize the criminal justice system).

203. See *id.* (detailing efforts to teach locals how to better resolve some of their disputes).

204. See *id.* (highlighting different regional approaches to establishing local Mediation Centers).

205. See *id.* (elaborating on Quetzaltenango's approach of leaving it to the community to decide how best to implement mediation programs).

206. See *id.* (stating that differences in approaches to conflict resolution lead to overall geographic disparities based on the existing legal practices of these areas).

207. See Conflict Resolution Cable, *supra* note 176 (providing an example that illustrates how two regions of the country differ in their mediation experience and the composition of their populations).

208. See *id.* (asserting that local groups are attempting to apply their knowledge and training in establishing better methods of conflict resolution).

209. See *id.* (noting the progress of the Mediation Centers as communities attempt to implement these programs).

sharing, and other activities.<sup>210</sup> Interestingly, while men tend to utilize the service more often, women seem to benefit particularly.<sup>211</sup> Although women requested fifty-nine percent of mediations, men were called to mediation in fifty-five percent of the cases.<sup>212</sup> Further, while the largest portion of cases, forty-two percent, involves a conflict between men, another twenty-eight percent were conflicts brought by women against men.<sup>213</sup> Whether mediation works as a longer-term solution may depend upon whether the parties honor the settlements. In Zacapa, seventy-three percent of mediated settlements were fully honored within just one month of the agreement, while another twenty-two percent were at least partially honored.<sup>214</sup> In only five percent of the cases the parties did not completely fulfill their agreement.<sup>215</sup>

The World Bank, Inter-American Development Bank ("IDB"), MINUGUA, Organization of American States ("OAS"), and UNDP have collaborated with USAID to ensure that the new Guatemalan vision for justice-sector reform survives.<sup>216</sup> These institutions have developed numerous studies and related activities, particularly on ADR issues.<sup>217</sup> In addition, USAID is collaborating with the Guatemalan Supreme Court to implement its experience with community ADR in certain regions of Guatemala.<sup>218</sup> The Guatemalan Supreme Court initiated a parallel program in August 1998 to create court-

210. See *id.* (emphasizing the steps taken by officials to work together to ensure successful programs).

211. See Strengthening Channels, *supra* note 184, at 12 (reporting that women would usually request mediation, even though, as a whole, more men were involved in these disputes).

212. See *id.*

213. See *id.*

214. See *id.* (noting the success of these mediations in terms of whether the agreements were fulfilled).

215. See *id.* (discussing the success of mediation based on follow-up surveys inquiring as to the completion of mediation agreements).

216. See Conflict Resolution Cable, *supra* note 176 (relating how other international institutions have assisted the USAID in reforming Guatemala's criminal justice system).

217. See *id.*

218. See *id.* (discussing efforts by USAID and the Court to bring better conflict resolution to Quetzaltenango and Zacapa).

annexed mediation and conciliation centers in urban areas throughout Guatemala.<sup>219</sup>

Interestingly, Ladino<sup>220</sup> use of mediation appears to differ from similar use by indigenous populations. The Ladino communities prefer to have their resolutions registered ("*homologados*") so that the decisions will have judicial backing in case of non-compliance.<sup>221</sup> In indigenous communities, where one's word is sacrosanct, the practice of registering a settlement with a court is much less common.<sup>222</sup>

Plea-bargaining procedures are drastically under-used even when appropriate. Certainly, the justice system needs to resolve criminal cases short of trial when appropriate. Receptivity to USAID training in this area has been high when the counterparts have an opportunity to examine and understand what is being proposed.<sup>223</sup> The Judicial School, with USAID support, organized seminars to update judges on developments involving plea-bargaining issues.<sup>224</sup>

#### VIII. ISSUES OF MULTIPLE MODELS AND DONOR COORDINATION

From the outset of the Justice Centers, USAID sought to assure that the donors worked together, and not at counter-purposes. For ex-

219. See Ambassador Planty Cable, *supra* note 62 (recalling the President of the Guatemalan Supreme Court's desire to extend the mediation program throughout Guatemala after his visit to the Justice Center in Quezaltenango).

220. Ladino in this context refers to persons of non-indigenous origin.

221. See Strengthening Channels, *supra* note 184, at app. (providing data indicating that non-indigenous communities prefer to register their mediation agreements with the local court).

222. See *id.* (reporting that all of the Ladino population requests "*homologación*" or registration in the majority of the cases). In the Mam areas, individuals file for registration in less than half the cases. See Memorandum by Steven E. Hendrix on Mediation—Differences in Practices Between the Ladino and Indigenous (Dec. 2, 1999) (on file with the author). In the *K'iché* areas, there are no cases of request for registration. See *id.*

223. See QPR No. 3, *supra* note 117, at 7, 12-13 (noting that, to increase the use of plea-bargaining, USAID brought an American lawyer to Guatemala to assist in developing procedures and activities).

224. See *id.* (discussing that the seminars occurred at the Judicial School in 1998 and featured presentations by many distinguished representatives of the Guatemalan Supreme Court and Public Ministry, USAC, and USAID).

ample, in 1995, USAID sought MINUGUA and UNDP to coordinate activities jointly and maximize project impact.<sup>225</sup> On August 27, 1997, Ambassador Planty led a meeting with Guatemala's Interior Minister Rodolfo Mendoza, Guatemala's Attorney General Héctor Hugo Pérez Aguilera, and Guatemalan Supreme Court Magistrates Humberto Grazioso and Julio Ernesto Morales in Quetzaltenango.<sup>226</sup> During the meeting, the leaders of these three institutions—police, prosecution, and court—promised their support for the Justice Center model.<sup>227</sup> Adding to these events, in 1996 President Alvaro Arzú visited the Quetzaltenango Center.<sup>228</sup>

At the same time, the Interior Ministry pledged its support of the Justice Center Model with the request that the *Instancia Coordinadora* accomplish designation of all future centers, an offer United States Ambassador Planty accepted immediately. Planty thereby agreed that USAID would support Escuintla, Minister Mendoza's choice location. Since that time, the *Instancia* requested USAID to enlarge and copy the Justice Center model in Escuintla, Nebaj, San Benito (Petén), and the criminal courts in Guatemala City.<sup>229</sup>

USAID has received support for the Justice Center model from other areas of the government. In 1997, the Guatemalan Supreme Court and Public Ministry approved the USAID "Work Plan," which applied the Justice Center model. On June 1, 1998, Guatemala's Court President Figueroa and Attorney General González Rodas organized an official signing ceremony for approval of the 1998 Work Plan. On June 12, 1998, the *Instancia* approved all of the working

225. See Memorandum from William Stacy Rhodes, USAID Director, to Marilyn McAfee, United States Ambassador to Guatemala (Nov. 7, 1995) (on file with the author) (emphasizing the need to find new methods to combine forces and collaborate).

226. See 09/18/98 Borns & Hendrix Mem., *supra* note 21.

227. See Ambassador Planty Cable, *supra* note 62 (summarizing the progress in advancing justice-sector reform and solidifying cooperation within the community).

228. See DPK FINAL REPORT, *supra* note 16, at 9 (commenting that the work accomplished by the Justice Centers attracted the attention of justice-sector officials throughout the country); see also QPR No. 7, *supra* note 169, at 17 (revealing that other visits by policymakers demonstrate their interest in the progress of the activities in the Justice Centers).

229. See 09/18/98 Borns & Hendrix Mem., *supra* note 21.

formats from the Justice Centers for national use. On July 17, 1998, the Public Ministry requested that USAID provide training to all district attorneys ("*fiscales distritales*") on the Justice Center model. The Guatemalan Supreme Court granted final approval to reorganizing the criminal courts in Guatemala City on July 29, 1998.<sup>230</sup>

USAID organized a series of meetings to support the Justice Center model and other activities. The first set of meetings involved mixed groups of justice-sector actors and principal counterparts.<sup>231</sup> USAID met privately with the Guatemalan Public Ministry,<sup>232</sup> the Supreme Court,<sup>233</sup> and Planning Secretariat ("*SEGEPLAN*"), again to solidify plans for future activities and the application of the Justice Center model.<sup>234</sup> At the same time, USAID established a series of meetings with the primary donors in the area, including MINUGUA,<sup>235</sup> the IDB,<sup>236</sup> the World Bank,<sup>237</sup> the UNDP,<sup>238</sup> the Euro-

230. *See id.*

231. *See id.* (revealing that the meetings included one with *Instancia Coordinadora* representatives on Dec. 4, 1997, and the *Comité de Enlace* on Jan. 27, 1998). USAID also met with the Justice Strengthening Commission on Jan. 29, 1998. *See id.* In addition, USAID sought discussions with non-formal channels of access to justice, including María Eugenia Morales de Sierra (Judicial School Director), Nery Guzmán (*Planificación*, MP), Edgar Lemus (Area Penal, USAC), Cipriano Soto (*Bufete* Popular, USAC), Ernesto Burgos (Deputy Director, Public Ministry Training Unit—UNICAP), Alfonso Novales (President, *Colegio*), Xiomara Gómez (*Unidad Académica, Colegio*), Roberto Morales (*Planificación*, Court System), and others. *See id.*

232. *See* 09/18/98 Borns & Hendrix Mem., *supra* note 21 (remarking that USAID's outreach effort included meetings with Guatemala's Attorney General, Héctor Hugo Pérez Aguilera, on Oct. 2, 1997, Gustavol Mendizabal on Dec. 12, 1997, and Maritza Palencia on Jan. 12, 1998).

233. *See id.* (noting that USAID's meeting with the Guatemalan Supreme Court included talks with Astrid Lemus, Julio César Toledo, and Otto de León of the Judicial Modernization Commission, and with Magistrate Julio Ernesto Morales Pérez of the Guatemalan Supreme Court).

234. *See id.*

235. *See id.* (describing that meetings included discussions with Juan Farropa, Luis Pasara, Victor Ferrigno, John Wiater, Raquel Irigoyen, Leila Lima, Carmen Rosa Villa, Antonio Maldonado, John Wiater, Jesus Rodes, and Carmen Rosa Villa).

236. *See id.* (citing a meeting with Sabrina Cojulún from ASIES, employed to represent the IDB, to discuss the relationship between the IDB portfolio and USAID). USAID also met with Roger Plant and briefed the entire IDB justice-sector and dispute resolution teams, which were led by Fernando Carrillo. *See id.*

pean Union,<sup>239</sup> the Economic Commission on Latin America and the Caribbean ("CEPAL"),<sup>240</sup> the Japan International Cooperation Agency ("JICA"),<sup>241</sup> the Central American Bank for Economic Integration ("BCIE"),<sup>242</sup> *Deutsche Gesellschaft für Technische Zusammenarbeit* (the "German Technical Assistance Agency, " often referred to simply as "GTZ"),<sup>243</sup> the *Cooperación Española*,<sup>244</sup> and others.<sup>245</sup> In addition, USAID had talks with NAS, the International Criminal Investigative Training and Assistance Program ("ICITAP") of the United States Department of Justice,<sup>246</sup> and the United States Embassy representative for human rights activities.<sup>247</sup>

After the conclusion of this series of meetings, USAID organized roundtable discussions to solidify proposed future activities and the

237. *See* 09/18/98 Borns & Hendrix Mem., *supra* note 21 (noting a meeting on Jan. 9, 1998 with William Mayville).

238. *See id.* (remarking that USAID met with UNDP and MINUGUA to identify the roles of donors, and that UNDP, Canadians, and others participated with USAID to help define programs in the area of intra-familial violence).

239. *See id.* (noting that USAID met with Maria Fernandez on Sept. 30, 1997).

240. *See id.* (stating that USAID met with Margarita Flores on Sept. 8, 1997).

241. *See id.* (noting that USAID met with Amy Gray on Feb. 23, 1998).

242. *See* 09/18/98 Borns & Hendrix Mem., *supra* note 21 (reporting that this meeting was with Marsha Field, Amina Tirana and William (Terry) Fisher of Harvard University, and Luis Salas of Florida International University).

243. *See id.* (relaying that Norbert Lösing, Legal Advisor, and Lic. José Antonio Monzón from ASIES participated in this meeting with USAID).

244. *See id.* (stating that USAID met with Dolores Sanco Silvestre and Marta Higuera of the *Consejo General del Poder Judicial* [General Counsel Office of the Judiciary], Government of Spain, on Mar. 13, 1998).

245. *See id.* (referring to the donor coordination meeting on Oct. 17, 1997, hosted by UNDP; that of Oct. 3, 1997, hosted by the World Bank; and the participation of all relevant donors in the Antigua meetings of Nov. 3-4, 1997).

246. *See id.* (observing that USAID met with the Embassy Law Enforcement Committee, with participation by the DCM, Consular Section; Drug Enforcement Agency; Economics Section; ICITAP; MILGRP; NAS; Political Section; Regional Security Officer; USIS; and the Justice Department Immigration and Naturalization Service). USAID also prepared a briefing for General Charles E. Wilhelm, Commander in Chief, Southern Command, which included human rights activities of MINUGUA and the Commission for Historical Clarification. *See id.*

247. *See* 09/18/98 Borns & Hendrix Mem., *supra* note 21 (noting that USAID met with Shirley Stanton on Mar. 20, 1998).

Justice Center model.<sup>248</sup> On April 15, 1998, USAID traveled to UPAVIM,<sup>249</sup> an all-female cooperative, to present the USAID strategy of reform. The following day, USAID met with representatives of the Guatemalan Public Ministry, Supreme Court, Judicial School, SEGEPLAN, Bar Association, Law School at USAC, and Interior Ministry.<sup>250</sup> Within that month, USAID also met with indigenous groups and leaders in Quetzaltenango. Finally, USAID organized a meeting with all the major justice-sector donors to discuss Justice Centers and future USAID activities.<sup>251</sup> Among those attending were the UNDP, Spain, MINUGUA, Holland, the World Bank, Sweden, and the GTZ. The European Union and IDB were invited and confirmed, but did not attend. To obtain popular input on the Justice Center model, USAID held additional meetings in 1998 in Zacapa and Guatemala City.<sup>252</sup>

USAID's Peace Strategic Objective Agreement with the Guatemalan Government in 1997 committed USAID to support the Nebaj Justice Center together with MINUGUA. Despite this, MINUGUA proceeded with a new model without USAID. It opened a Justice Administration Center ("*Centro de Administración de Justicia*" or "CAJ") in Nebaj in April 1997, with the purpose of extending justice to a place that previously lacked a formal legal system.<sup>253</sup> The MINUGUA CAJ model is distinct from the Justice Center model in that it extends the present justice system in its current faulty state to a new location, while the Justice Center model seeks to improve the justice system.<sup>254</sup> The CAJ model attempts to enhance access to jus-

248. *See id.*

249. *See id.* (providing that UPAVIM stands for "*Unidas para Vivir Mejor*" [United for Better Living], a non-profit organization located in Mezquital, just outside of Guatemala City).

250. *See id.*

251. *See id.* (commenting that donor-coordination meetings were held throughout 1996-98 on the various activities of each donor). The United Nations normally chaired the meetings, with USAID providing a representative to ensure that all the donors were abreast of the USAID programs at all times. *See id.*

252. *See* 09/18/98 Borns & Hendrix Mem., *supra* note 21 (revealing that these meetings were held on Apr. 27 and May 28, 1998).

253. *See id.*

254. *See* Pellecer, *supra* note 37, at 5 (discussing in further detail that the Justice Center model plans to service areas such Esquintla, Quetzaltenango, and Zacapa).

tice by focusing on indigenous people and their unique access problems, including linguistic barriers. The goal is to decentralize and integrate justice sector services in an efficient, low-cost way. Alternative dispute resolution is also key to the success of the CAJ model.<sup>255</sup>

Unfortunately, from the start, MINUGUA limited USAID's role in implementing the Justice Center model in Nebaj.<sup>256</sup> First, it did not invite USAID to participate.<sup>257</sup> MINUGUA then attempted to limit USAID to purely administrative issues,<sup>258</sup> without input on determinative technical or legal issues.<sup>259</sup> Even after MINUGUA management agreed to allow USAID involvement, it failed to inform its field staff of this agreement and, consequently, the field staff refused to collaborate with USAID.<sup>260</sup> As such, MINUGUA effectively ignored

255. *See id.* at 14-17 (delineating the goals of CAJ as increased access to judicial services, implementation of an alternative dispute resolution, and increased access to legal information through the establishment of archives).

256. *See* Memorandum from Tim Cornish, USAID Director, to Beth Hogan and Sharon Van Pelt, USAID Democracy Officers (Jan. 3, 1997) (on file with the author) [hereinafter 01/03/97 Cornish Mem.] (referring to USAID's proposal for involvement as unacceptable by USAID members); *see also* Fax from Alejandro Alvarez, MINUGUA Consultant, to Timothy Cornish, USAID Director 3 (Dec. 20, 1996) (on file with the author) [hereinafter 12/20/96 Alvarez Fax] (emphasizing that USAID should have a limited role, though recognizing that it has implemented a series of quality administrative modifications).

257. *See* 05/15/98 Rupprecht Mem., *supra* note 17 (discussing the frustrated efforts of USAID in an attempt to implement an administrative system at the Justice Centers).

258. *See* 12/20/96 Alvarez Fax, *supra* note 256, at 3 (referring to CREA's administrative support); *see also* 01/03/97 Cornish Mem., *supra* note 256. *See generally* 08/19/99 Williams Mem., *supra* note 30, at 7-8 (indicating that MINUGUA relegated USAID to support merely "procedural" areas in the Guatemalan court system and Public Ministry, i.e., case-tracking, and administrative organization and training). As a consequence, there has never been an executive committee to coordinate activities. *See id.*

259. *See* 12/20/96 Alvarez Fax, *supra* note 256 (providing copy of draft agreement between MINUGUA and USAID); *see also* Letter from Timothy Cornish, USAID Director, to Alejandro Alvarez, MINUGUA Consultant (Jan. 3, 1997) (on file with the author) (discussing the objectives and developmental steps to the Justice Center in which USAID was not involved); 01/03/97 Cornish Mem., *supra* note 256 (discussing USAID's thwarted efforts dealing with technical and legal issues).

260. *See* Letter from Walter Hernández, USAID Consultant, to Steven E. Hen-

the innovative administrative advances that USAID was able to design.<sup>261</sup> MINUGUA provided no inter-institutional coordination,<sup>262</sup> other than the construction of two buildings. In addition, MINUGUA excluded civil society from the development of the Nebaj Center. Consequently, MINUGUA's planning efforts continued throughout 1999 excluding USAID involvement.<sup>263</sup>

In an effort to eliminate the multiple Justice Centers models and to rescue the Nebaj Center, in February 1998, the *Instancia Coordinadora* requested USAID's assistance to introduce the USAID Justice Center advances.<sup>264</sup> USAID Mission Director, William Stacy Rhodes and Jesús Rodes, the head of the Institutional Strengthening Office for MINUGUA, signed a letter signaling USAID's intention to support the Nebaj CAJ. Since April 1998, USAID has carried out a number of programs in Nebaj and began to introduce the many innovations from the other "Justice Centers."<sup>265</sup> In July 1998, USAID reiterated its desire to join all efforts and assure that any new Centers take full advantage of the experiences gained in the USAID Justice Centers.<sup>266</sup> Consequently, the distinctions that might have existed at one time between MINUGUA's work in Nebaj and USAID's efforts

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drix, USAID Justice Coordinator (Sept. 2, 1998) (on file with the author) (contending that lack of communication existed between MINUGUA personnel and that of USAID).

261. See 05/15/98 Rupprecht Mem., *supra* note 17 (discussing the problems in the development of the Justice Centers).

262. See 08/19/99 Williams Mem., *supra* note 30, at 2, 8 (discussing the hampered USAID administrative efforts, e.g., the implementation of a modernized case-tracking system).

263. See *id.* at 8-10 (noting that CREA has not sponsored any training events since Aug. 1998, apart from the training on the case-processing system, which is currently not operational).

264. See 09/18/98 Borns & Hendrix Mem., *supra* note 21 (contending that USAID/CREA supported the Justice Centers with administrative and technical assistance); see also Pellecer, *supra* note 37, at 5-6 (remarking that MINUGUA and CREA are working in conjunction to modernize the Justice Centers).

265. See 09/18/98 Borns & Hendrix Mem., *supra* note 21 (noting that in 1998, at the request of the Guatemalan Public Ministry, USAID held training sessions on the Justice Center model). See generally Pellecer, *supra* note 37, at 5-6 (discussing the administrative advances in Zacapa and Quezaltenango).

266. See 05/15/98 Rupprecht Mem., *supra* note 17, at 2 (reporting that the successful results of USAID seminars conducted on the criminal procedure code and judicial training).

elsewhere have dissipated.<sup>267</sup>

The *Instancia Coordinadora* expected USAID to be present in future "Centers" at the close of 1998.<sup>268</sup> In late March 1999, MINUGUA informed USAID that it planned to open a new CAJ the next month in Santa Eulalia, Huehuetenango. In April 1999, then Executive Secretary of the *Instancia Coordinadora*, Magistrate Astrid Lemus, asked USAID to participate in the Santa Eulalia CAJ, providing technical assistance and operational planning in the new Center.<sup>269</sup> Later that month, MINUGUA provided USAID with its plan.<sup>270</sup> This assessment recognized that the Nebaj experience had "difficulties."<sup>271</sup> USAID attempted to come to an agreement with MINUGUA so that there would be only one model for a Justice Center and to avoid the mistakes of Nebaj.<sup>272</sup> Nevertheless, the MINUGUA Santa Eulalia plan ignored the technical and administrative advancements of USAID's Justice Centers and made

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267. See 09/18/98 Borns & Hendrix Mem., *supra* note 21, at 3 (noting that this result is because USAID introduced innovations at the Nebaj Center that differed from many other Justice Centers).

268. See Pellecer, *supra* note 37, at 6 (remarking that the project will continue for approximately three years so as to develop centers in all areas of the country).

269. See Memorandum from Letitia Kelly Butler, USAID Acting Director, to Donald J. Planty, United States Ambassador to Guatemala (Apr. 16, 1999) (on file with the author) (remarking that USAID will work in conjunction with other European donors); see also Letter from Jeff Borns, USAID Democracy Chief, to John Wiater, MINUGUA Technical Cooperation Advisor (Apr. 27, 1999) (on file with the author) [hereinafter 04/27/99 Borns Letter] (discussing the request of USAID's support in the participation of ADR systems).

270. See 04/27/99 Borns Letter, *supra* note 269 (explaining that MINUGUA's Santa Eulalia plan arrived at USAID on Apr. 16, 1999). The plan discussed the Nebaj experience, but failed to mention any USAID involvement. See *id.* (providing written comments to MINUGUA and repeating USAID's desire to collaborate and participate).

271. See Email from Steven E. Hendrix, USAID Democracy Officer, to Jeff Borns, Chief of Democratic Initiatives (Apr. 21, 1999) (on file with the author) (identifying the Nebaj Center's major problems as an inoperative legal system in a new location and the resistance to USAID support).

272. See Memorandum from George Carner, USAID Mission Director, to Donald J. Planty, United States Ambassador to Guatemala (May 7, 1999) (on file with the author) (remarking that USAID plans to offer technical assistance with caution, however, from the lessons learned from the development of the other Justice Centers).

MINUGUA the key decision-maker.<sup>273</sup>

In October 1999, USAID provided the IDB with extensive input for its design of a project for the justice sector, including information about the USAID Justice Centers.<sup>274</sup> USAID later hosted IDB officials on June 8, 1998 at the Zacapa Justice Center to provide the IDB design consultants with an up-close examination of USAID's efforts in the sector.<sup>275</sup> When the IDB loan documentation was released, it advanced a modified version of the CAJ.<sup>276</sup> Similarly, the World Bank program fails to mention Justice Centers, although other figures like "*Centros Regionales*" (regional centers) and "*Complejos Judiciales Departamentales*" (complex judicial departments) are proposed.<sup>277</sup>

Many other organizations appear to be behind the USAID Justice Center model. Nevertheless, there is still no uniform set of working vocabulary to reference the Justice Centers. Guatemalan Supreme Court President Angel Alfredo Figueroa, for example, used the term "*Centros de Enfoque*" (Focus Centers), when referring to the USAID efforts; "*Centros de Administración de Justicia*" (Justice Administration Centers), when referring to some sort of new buildings and possibly increased deployment of personnel; and "*Palacios de Justicia*" (Justice Headquarters), when referring to a new physical infra-

273. See *id.*

274. See Letter from William Stacy Rhodes, USAID Director, to Waleska Pastor, IDB Representative (Oct. 8, 1997) (on file with the author) (noting a few of the primary foci to be the resolution of civil, family, and commercial conflicts, as well as the coordination between police and community).

275. See Memorandum from Letitia Kelly Butler, USAID Acting Director, to Donald J. Planty, United States Ambassador to Guatemala (June 16, 1998) (discussing the various USAID efforts, i.e., uniformity of crime-reporting forms, search warrants, and crime inspection and autopsy reporting).

276. See Inter-American Development Bank, Guatemala: *Programa de Apoyo a la Reforma del Sector Justicia* 8-18 (Apr. 1999) (unpublished manuscript on file with the author) (discussing the IDB-approach to the justice sector, with a modified CAJ, plus institutional development programs, and noting the MINUGUA CAJ model and the USAID Justice Center approach).

277. See World Bank, Project Appraisal Document on a Proposed Loan in the Amount of US \$33 million to the Republic of Guatemala for a Judicial Reform Project 6 (Sept. 28, 1998) (noting that additional ideas for models were discussed, such as the "*Cajito*," a smallish version of the CAJ, and the "*Cajote*," which is an expanded version for larger cities).

structure for co-locating justice sector actors.<sup>278</sup>

In extending the Justice Center model, USAID has followed the leadership of the *Instancia Coordinadora*, which has the final say in the selection of future sites. In the past, the *Instancia Coordinadora* has used as criteria locations for new deployments of the new National Civilian Police, sites where communities themselves have requested the service, areas of particular inefficiency in the justice sector, and other factors. USAID may attempt to optimize impact and resources by creating new Justice Centers in areas where other USAID efforts are on going. In this sense, USAID participates in the selection process. In all likelihood, USAID would take into account all the various factors—including budgetary, management, and absorptive capacity—when proposing the number, location, and timing of new Justice Centers. Similarly, USAID would note other donor activities, such as the IDB's offer to finance infrastructure for eight "Justice Administration Centers."<sup>279</sup>

In the year 2000, each Justice Center will receive fundamental courses in key areas, such as Criminal Theory, Criminal Investigation, Criminal Procedure—including constitutional guarantees, dispute resolution, and evidence—ADR, Legal Pluralism, Trial Advocacy, and Legal Writing. These courses will draw interest and participation from individuals from Guatemala's courts, Public Ministry, Public Defense, private practitioners, and the Human Rights Ombudsman's office. The official governmental training units attached to the courts, Public Ministry, and Public Defender Service will offer each of these courses.<sup>280</sup>

278. See 09/18/98 Borns & Hendrix Mem., *supra* note 21 (arguing that a uniform set of vocabulary between the Justice Center models will dissipate any confusion among officials).

279. See Request for Proposal No. 520-98-P-020, USAID Justice Program (USAID/CREA, Guatemala, C.A.), Sept. 30, 1998, secs. C-D(III) (noting that USAID remained the only donor in the justice field until 1994; since then, the UNDP, IDB, EU, and other organizations have joined in the endeavor).

280. See Mark Williams, *Cursos de Capacitación* [Competency Courses] (USAID/CREA, Guatemala, C.A.), Nov. 1999 (referring to prospective course schedule).

## CONCLUSION

After the terrible history of genocide and human rights abuse in Guatemala, it is clear the situation will not change overnight, as Guatemala is still far from a tolerant society that respects human rights. Regrettably, a sort of justice and rule of law existed for years in Guatemala under which suspects were rounded up and shot. The system was efficient and gave the illusion of security. There was no need to invest in the institutional development of courts, prosecutors, public defenders, or even civil society—the military could do it all. In a modern world, one of global markets and values, this is obviously an unwanted characteristic. Guatemala is now faced with building new justice institutions from the ground up. Even worse, given that Guatemalans never had a tradition of rule of law, they have no experience to draw from in creating positive institutions. Justice reform in Guatemala will take several generations and will involve a gradual learning process requiring a strategy of incremental progress. Justice Centers are an essential part of this process.

The inescapable conclusion of the Justice Center experience is that the Guatemalans themselves thought of an ingenious plan and implemented a reform system that responds to *their* needs and solves *their* problems. Notwithstanding, however, combined foreign technical assistance and Guatemalan leadership were instrumental to the process of bringing about fundamental changes in both the justice system and essential Justice Center locations.

The Justice Center model is catching on and demand grows. The *Instancia Coordinadora* now seeks to expand the model to each of the country's departmental capitals to provide national coverage.<sup>281</sup> As a result of this Guatemalan-led initiative in Justice Center locations, women, the poor, children, and indigenous people have greater access to an improved, more transparent, and more efficient justice system. There is a reduction in corruption opportunities and impunity. Service to the community has increased and faith in the system is growing. For these reasons, procedural due process has improved, with corresponding improvements for human rights issues. As the

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281. See Letter from Astrid Lemus, Executive Secretary, to Brian Treacy, USAID Justice Chief of Party (Nov. 25, 1999) (on file with the author) (discussing the continued development of the Justice Centers well into the next year).

Justice Centers continue the trend toward decentralization, we can expect these positive changes to continue. The challenge will be to maintain this course of reform, with continuous adaptations and adjustments, to assure the rule of law becomes the norm for all Guatemalans.