



**FINAL EVALUATION REPORT**

**Judicial Monitoring Project (Second Phase)**

**Project Number 102608**

***Requested by:***

*The International Development Research Centre (IDRC) and  
el Instituto de Estudios Comparados de Ciencias Penales de Guatemala  
(ICCPG)*

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## EXECUTIVE SUMMARY

### Background

The Peace, Conflict and Development Program of the International Development Research Centre (IDRC) of Canada has been supporting the second phase of the project formally called the "Judicial Monitoring Project" (Second Phase)" since 2004. The evaluation report will use "Criminal Justice Monitoring Project" as it is the more accurate and actual term used by the partners involved.

The Criminal Justice Monitoring Project was conceived as a method for permanent monitoring of the criminal justice system reform process in Guatemala, at national, local, and thematic levels. In its second phase, the Monitoring Project was extended to Nicaragua and El Salvador through the Central American Justice and Security Network.

Implemented by the Guatemalan Institute of Comparative Studies in Criminal Sciences (ICCPG) with the collaboration of local Guatemalan actors and partners in El Salvador and Nicaragua, the Monitoring Project is a research and political advocacy program for the reform of criminal justice system. The three specific objectives of the project are:

- The key actors at the local and national level are aware of the main problems that hinder the advance of judicial reform in order to influence the transformation of the justice system.
- To carry out permanent and coordinated monitoring of the operation of the justice system in three Central American countries (Guatemala, El Salvador and Nicaragua) in order to execute advocacy actions for the strengthening of criminal justice in the region.
- The ICCPG strengthens its institutional capacity to monitor the functioning of the administration of justice.

In the design of the second phase of the Monitoring Project, which culminates in May 2008, an external evaluation was planned from the outset and considered as an opportunity for reflection and learning. The director of the Just Governance Group (JGG), Kimberly Inksater, carried out the external evaluation in April 2008 on the basis of four criteria of analysis: Relevance, Effectiveness (in reference to the methodology), Outcomes and Results, and Sustainability. In this executive summary of the complete evaluation report, the findings and the main conclusions are organized according to the four evaluation criteria.

### Description of the Monitoring Project

The complete methodology of the Monitoring Project is composed of six broad topics, each one with sub-themes or variables that define the guiding principles for the analysis. Likewise, measurement indicators were developed for each variable; in fact, the complete version of this methodology includes 132 indicators. Sources of information and instruments to collect data are cross-referenced with each indicator.

The Monitoring Project methodology was applied in at least 12 distinct situations:

- At the national level, the majority of the themes and of the variables of the methodology of the Monitoring Project were applied in the three countries: Guatemala, El Salvador and Nicaragua.
- Additionally, in Guatemala, the Monitoring Project was applied at the departmental and the municipal level, in Huehuetenango and in Ixcán, respectively.
- An abbreviated or adjusted methodology was applied in two other Guatemalan departments: San Marcos and Chiquimula. In this last one, the abbreviated study provides the base-line for a program of accompaniment and training for judges, public defenders and prosecutors (the criminal case management model).

- As for specific themes, the methodology was applied in Guatemala, with adjustments according to the context, in the following situations:
  - detention centres and prisons,
  - the youth justice system (in two studies, one related to the conditions in the detention centres and another relating to access to justice),
  - crime investigations,
  - police services for victims of crimes and
  - tax evasion crimes.

Additionally, the methodology was adjusted in a proposal for a monitoring system for sexual crimes and for violent deaths of women.

## **Findings and Observations of the Evaluation**

### ***Relevance***

*Importance:* The Monitoring Project provides evidence of the important problems faced in transforming the justice system in the three countries where it is applied. The six broad topics in the methodology (Access to Justice, Culture, Management and organization, Institutional Performance and Economic Analysis) generate information that enables the ICCPG to identify the weaknesses and the progress being made in the institutional and professional performance of the agencies that form part of the justice sector.

*Coherence with priorities:* The themes that the ICCPG considers cross-cutting (gender and multiculturalism) are not sufficiently developed and integrated in the methodology of the Monitoring Project at present. The ICCPG is advancing institutionally with the integration of a gender analysis but its practical integration in the methodology of the Monitoring Project is lacking in the variables and indicators.

*Tools for advocacy:* The Monitoring Project is a tool that demonstrates the main procedural problems in the Guatemalan criminal justice system. Because of it, the ICCPG, in its programmatic areas could identify specific action plans for political advocacy and the training of public officials.

*Evidence of changing norms and practices:* The Monitoring Project also provides the ICCPG with technical information to support legislative bills. In this sense, the Institute was able to substantiate legal opinions on legislative proposals presented during two sessions of the Guatemalan Congress. As a diagnostic tool, the Monitoring Project revealed specific problems and then aided ICCPG in preparing proposals to resolve them. For example, it enabled a process of training and of accompaniment for judges, public defenders and prosecutors with the objective of promoting oral procedures in criminal case management.

### ***Effectiveness of the methodology***

*Advantages:* The methodology of the Criminal Justice Monitoring Project is extensive and innovative and has become a tool for ICCPG and partners to diagnose concrete problems in the administration of criminal justice in order then to design initiatives that offer practical solutions.

*Challenges:* Given that the methodology was recently developed it has not undergone a comprehensive review to date. In this context, the current evaluation could be considered a first step for a reflection on the methodology. The individuals interviewed during the evaluation identified the following factors as the most significant challenges in the application of the methodology:

- There are a high number of indicators.

- The emphasis of the design is quantitative and, therefore, the systematisation of the statistics requires the experience of someone formally trained.
- It is necessary to adjust and to validate the indicators to ensure their appropriate application in the local context or the issue being researched.
- Statistics are not always generated by the institutions in the justice sector or when data does exist it is not disaggregated in a manner consistent with the indicators of the Criminal Justice Monitoring Project.
- The application of the complete methodology (all 6 topics) requires considerable time and human resources, and could limit the frequency of the monitoring of the sector.
- A technical focus relating to officials in the justice sector prevails in the methodology and limits broader social participation in the Criminal Justice Monitoring Project.
- There are different ways to interpret the data gathered. Therefore, it is important to take advantage of mechanisms to debate the findings with justice officials and other partners.

The Criminal Justice Monitoring Project was implemented positively and repeatedly in its complete form (nationally and locally), in an abbreviated form (by issue or theme) and in modified form (by specific themes). Therefore, it can be appreciated that an accumulated experience exists that still has not been systematized. Both the internal actors as well as the external actors (who know the methodology well) await an opportunity to participate in a critical debate on the methodology.

*The Criminal Justice Monitoring Project as a relationship tool:* The majority of the external actors interviewed without the presence of Institute personnel emphasized that the ICCPG needs to improve its relationships with external actors in different moments of the research-action process. Of 20 interviewees, 14 thought that the ICCPG could improve its relations in one or another phase of the research-action process.

*Degree of incorporation of the focus on gender and on multiculturalism:* The Criminal Justice Monitoring Project made a preliminary effort to integrate the two cross-cutting themes (gender and multiculturalism) in the methodology. In fact, indicators in the general methodology of the Monitoring Project seek data on the gender and ethnic composition of personnel in the justice institutions (within the Access to Justice thematic area). Nevertheless, according to nine of the internal and external interviewees, and according to the opinion of the evaluator, the integration of the cross-cutting themes is, in general, very incipient and their treatment needs to be strengthened.

### **Results/outcomes achieved**

*Objective 1: The key actors at the local and national level (in Guatemala) understand the main problems that hinder progress in judicial reforms so that they can then influence the transformation of the justice system.*

The Criminal Justice Monitoring Project generated information on problems in criminal justice reform, which could subsequently be transmitted by the ICCPG to the key actors. The communication of the problems was evident in several evaluation interviews. The following are some examples of results of the research and dissemination with key actors:

- The interviews with magistrates and judges, in both Quetzaltenango and in Chiquimula, demonstrated that justice officials understand the obstacles to the reforms in their sphere of activity.
- One of the recognized strengths of the ICCPG is the monitoring of the prison system, which addresses not only the conditions in detention centres, but also the application of the death penalty and the use of torture and cruel, inhuman or degrading treatment. The monitoring of the prison system provided first hand information that contributed to the ICCPG's advocacy activities such as test case litigation and lobbying with the legislative branch.

- In 2006 the ICCPG's children and violence program began to apply the methodology of the Criminal Justice Monitoring Project to the youth justice system with certain adjustments. From the beginning the program decided to conduct their monitoring one issue or topic at a time, beginning with the situation in detention centres and then Access to Justice. The results of both research studies were published in 2007.

*Objective 2: Permanent and coordinated monitoring of justice system performance in three Central American countries (Guatemala, El Salvador and Nicaragua) in order to carry out advocacy activities for the strengthening of criminal justice in the region.*

- The three countries implemented the Criminal Justice Monitoring Project and the experience was groundbreaking and enriching in each place. The partners, the University of Central America (UCA) in Nicaragua, and the Foundation of Applied Legal Studies (FESPAD) in El Salvador, applied the methodology with adjustments to their national reality, according to their own timetable and in function of their own human and economic resources and their institutional strengths.
- In December 2007, the ICCPG published the Guatemalan National Report. In turn, the UCA published its report on the functioning of the Nicaraguan criminal justice system in 2006 after a process of socialization and validation with officials in the criminal justice system. The FESPAD, on the other hand, still has to publish its research findings.
- The Criminal Justice Monitoring Project has been the guiding force for the Central American Justice and Security Network and its application has the potential to generate regional initiatives on criminal justice reforms.
- The Nicaraguan and Salvadoran partners consider this first experience as a learning phase. Therefore, they expect to improve the methodology in order to apply both an abbreviated version annually and the complete process every four or five years. The lessons learned (regarding the methodology) among the partners from the other countries were similar to those of the ICCPG research teams (noted above).
- The comparative report was not produced as planned. Nevertheless, the Monitoring Project plans to share and analyze the national reports in order to promote favourable conditions for justice system reforms.

*Objective 3: The ICCPG strengthens its institutional capacity to monitor the operation/functioning of the administration of justice.*

- The evaluator observed that the Criminal Justice Monitoring Project did not concentrate on this specific objective of institutional strengthening. This objective is worth promoting, especially with regard to the location and to the integration of the Monitoring Project within the ICCPG. Nevertheless, the application of the methodology in several program areas of the ICCPG had the unexpected effect of promoting the Monitoring Project as an institutional research tool.
- Two training workshops were carried out to deal with the following topics: the methodology of the Monitoring Project, social research techniques and advocacy planning. A coordinator of a research process indicated that the research teams were not sufficiently trained to apply the data collection instruments of the Monitoring Project. The two regional partners also recognized the challenge of having to learn to conduct interviews with judges, public prosecutors and public defenders as well as with "users" or "clients" of the justice system.

### ***Unexpected Results/Outcomes***

*Adoption of the methodology by the ICCPG:* The project proposal of the Criminal Justice Monitoring Project did not contemplate its integration as an institutional methodology within the ICCPG. Nevertheless, during her evaluation mission the evaluator observed that, even with differentiated application, the methodology was adopted by the ICCPG throughout its

program areas and departments. This integration didn't occur only in the Research Department, rather the findings from the studies also contributed to the advocacy plans and to the external training programs of the ICCPG. Therefore, all the personnel are familiar with the methodology and understand the utility of its application. The Monitoring Project proved to be a useful tool due to the empirical data that it collects.

*Application of the methodology:* The methodology of the Monitoring Project was not only applied in various research-action studies in Guatemala, in Nicaragua and in El Salvador, but also in situations not originally contemplated, for example in the Dominican Republic and with regard to additional issues in Guatemala, among them, the study on tax evasion crimes and the base-line study at the outset of the criminal case management model initiative in Chiquimula.

## **Sustainability**

*Transfer of Skills:* The interviews carried out during the evaluation revealed a variety of responses with respect to a question by the evaluator regarding the transfer of skills from the ICCPG to partners. Each research process involved different actors and, on some occasions, skills and experiences were not transferred to the partner institutions. On the other hand the internal capacities of the ICCPG were improved.

*Permanent Monitoring:* To develop a permanent monitoring process, both at the national level as well as at the local level, it will be necessary to strengthen the capacities for social and empirical research in state and civil society institutions.

## **Conclusions**

### **Relevance**

- The Criminal Justice Monitoring Project, in all its manifestations, is a research process that permits the identification of the main challenges to more profound criminal justice reforms. Likewise it is a tool that gives impetus to concrete political advocacy initiatives based on empirical evidence to change not only laws but also the regular practice in the area of criminal justice.
- The advocacy activities that are deemed successful are those that result in legislative proposals and the promotion of the criminal case management model at the local and departmental level, despite the fact that this latter activity was politically sensitive (as well as costly) in relation to institutions such as: the Public Defenders' Institute (IDPP), the Criminal Division of the Supreme Court and the Rule of Law Program of the U.S. Agency for International Development (USAID).

### **Effectiveness of the methodology**

- The methodology of the Monitoring Project is a novel and ambitious proposal that arises from institutional experience and from fruitful long-term exchanges in international fora.
- The methodology was applied successfully in thematic and geographical terms.
- Although the ICCPG and the Monitoring Project are concerned about marginalized groups in specific research studies, a greater cross cutting integration of gender and multiculturalism in the Monitoring Project's indicators is needed.
- It is possible to separate the methodology by topic area to carry out studies in greater depth on themes or specific groups of the population.
- Opportunities to strengthen relations with state and civil society institutions could be maximized during the research-action process of the Monitoring Project. It is important to sustain relations with civil society organizations in order to promote the social audit aspect and citizen participation in the monitoring of the justice system.

## **Objectives attained**

### *National, local and thematic Monitoring Projects*

- The thematic and local research projects result in precise diagnostic studies that in turn contribute to recommendations and concrete proposals on reforms for the appropriate public authorities.
- The Monitoring Project contributes to political advocacy with technical arguments.
- The monitoring could be permanent and continuous to the extent that the ICCPG develops an abbreviated methodology that can be applied easily both by the Institute as well as by local, national and Central American partners. The complete version could be carried out every four or five years in order to measure the progress of the reforms in the justice sector.
- In some of the research processes the dissemination and public debate of the findings were weak. This is an important part of the research-action process that should be strengthened.

### *Regional monitors*

- The Central America Justice and Security Network is still in its initial stages. Therefore, it needs to determine its reason for being (shared interests) and its operational modality, as well as strategies for its sustainability.
- The partners in Nicaragua and El Salvador have followed up on their research projects with specific proposals to improve the administration of the justice in their countries. Nevertheless, these partners will find it difficult to periodically apply the complete methodology if they don't obtain greater human and economic resources.

### *Institutional*

- The ICCPG could further strengthen its social and empirical research capacities; nevertheless their publications are always recognized as valuable contributions to reforms to the criminal process.
- Building long term alliances by capitalizing on the institutional strengths of their partners would facilitate both the transfer of technical skills as well as the continuation of the monitoring or the social audit of the justice sector. In the same way, the specialized knowledge of each partner would be maximized.

## **Sustainability**

- The Monitoring Project as a process of permanent monitoring based in civil society can be sustained to the degree that strategic alliances are strengthened and maintained through active participation in each phase of the process (design, application, analysis, dissemination and advocacy).
- The Monitoring Project could be enriched through new international alliances on specific themes. For example, the Monitoring Project on Prisons could contribute to and learn from the prison monitoring practices applied by Ombudsman offices in Central America or Latin America through the corresponding regional networks (among them, the Central American Council of Human Rights Ombudsman (CCPDH) and the Iberoamerican Federation of Ombudsman (FIO)).
- The Access to Justice research area could be strengthened through alliances with national and international organizations that are concerned with this subject or represent marginalized groups.

## Recommendations

### *To the ICCPG*

#### *General and institutional*

1. Situate the Monitoring Project as a unit in the ICCPG's organizational structure in a manner that demonstrates its integration as a tool for research, advocacy, inter-institutional relations and external professional training programs.
2. Form an inter-disciplinary team to lead the Monitoring Project.
3. Further develop institutional strategies regarding criminal justice and gender and criminal justice and multiculturalism. Identify methods to assure the cross-cutting nature of these themes in all areas of ICCPG practice.
4. Debate its institutional approach to multiculturalism in the justice system and train staff regarding this thematic area of focus.
5. Develop and implement a strategy for inter-institutional relations with strategic partners to guide research teams in each phase of the process (research, advocacy and training of justice officials).

#### *Methodology of the Monitoring Project*

6. Review and systematize the methodological experience of the Monitoring Project in academic and social terms by conducting a step by step critical and detailed reflection.
7. Develop a mixed interdisciplinary team (staff of the ICCPG, national academics, national and Central American partners, and justice system officials) to review the systematisation and to debate and adjust the methodology for the following objectives:
  - To strengthen and clarify the theoretical analysis of each topic area and each variable.
  - To clarify and specify the integration of gender analysis in each area of the methodology.
  - To work with the specific team contemplated in the Strategic Institutional Plan, in which "the vision and institutional proposal with regard to the justice system and the rights of indigenous peoples"<sup>1</sup> are defined, to ensure consistency with that vision or strategy with each aspect of the Monitoring Project's methodology.
  - Reformulate or disaggregate indicators to integrate gender and multiculturalism in throughout the methodology.
8. Identify the errors or omissions in the data generated by the justice sector institutions (based on the systematisation of the experience) and share the information with the Coordinating Committee of the Justice Sector and the National Commission for Monitoring and Support for the Strengthening of the Justice System both of which are considering how to improve the statistical systems in the justice sector.
9. Develop a shortened/abbreviated methodology for criminal justice monitoring that captures the main indicators and that can be applied locally or thematically with greater facility by universities and by civil society organizations.
10. Form a mixed inter-sectoral committee, with judges, public prosecutors, public defenders and representatives of civil society (including women's organizations and organizations representing indigenous communities) to fine-tune the methodological design as a first step in its validation before its application.

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<sup>1</sup> See page 33 of the ICCPG's Strategic Plan which includes a proposal for a strategy and actions relating to criminal justice and the rights of indigenous peoples.

### *Processes related to the Monitoring Project*

11. Strengthen relations with civil society organizations at each step of the research-action process in order to promote the sustainability of the Monitoring Project and to capitalize on the specialized knowledge of these organizations. In this way, the ICCPG could consider joint and continual application of the Access to Justice topic with partners from women's and indigenous organizations, among other marginalized groups.
12. Study the concepts and methodologies of social auditing in order to integrate important aspects of this in the research-action process of the Monitoring Project especially in relation to the continuous participation of other civil society actors.
13. Design a structure (a format for the table of contents) for publications that contain a description of the methodology and of the research process, an executive summary, conclusions by topic or thematic area and pertinent recommendations.
14. Plan and implement activities to ensure the dissemination and debate of research findings in order to increase understanding on the issues and enrich the conclusions and recommendations of the Monitoring Project studies.
15. Take advantage of the Monitoring Project's web page to profile the documentation centre and to facilitate communication on specific themes (through forums) with national and international actors.

### ***To the Central American Justice and Security Network***

1. Define the Network on the basis of a shared purpose among the members.
2. Confirm the governing structure and decision making mechanisms.
3. Consider effective modalities for sharing knowledge, facilitating communication and generating innovative proposals.
4. Take advantage of the Criminal Justice Monitoring Project's web page to increase the profile of the Network and to share information.

### ***To the International Development Research Centre (IDRC)***

1. Promote links between the Criminal Justice Monitoring Project and projects from other countries (whether supported by the IDRC or not) that contemplate the monitoring of the justice sector through empirical research to enrich academic and technical analysis on the monitoring of justice reforms.
2. Contribute economically and technically to the systematisation, conceptual strengthening and review of the methodology of the Monitoring Project as the next step.
3. Explore other experiences in Latin America that can learn from and share with the thematic monitoring projects on youth justice, prisons, violence against women, criminal investigation and tax evasion.
4. Expand its inter-institutional relations with the ICCPG beyond the Monitoring Project by relating to the ICCPG's departmental directors and the coordinators of the program areas in order to relate to the Institute in an integral way and not concentrate its communication and its support on a single project.
5. Train the Monitoring Project team in the "outcome mapping" methodology in order to identify the expected changes in the key actors through the research-action process. The outcome mapping methodology has greater coherence with the Monitoring Project than the system applied at present (objectives and results based planning and reporting).

6. Share information with ICCO in the Netherlands (a cooperation partner that provides core-funding to the ICCPG) in order to understand its experience of inter-institutional relations with ICCPG.
7. If IDRC concludes that necessary conditions exist, consider institutional support for the ICCPG. The necessary conditions are: the development of strategies and internal capacities in relation to the practical integration of gender and multiculturalism (or interculturalism), the development of an inter-institutional relations strategy with strategic actors and, of course, the development of effective and transparent institutional management (outside of the competence of this evaluation).