

INTER-AMERICAN DEVELOPMENT BANK

STRATEGIC PLANNING AND OPERATIONAL
POLICY DEPARTMENT



FRAME OF REFERENCE FOR BANK ACTION
IN PROGRAMS FOR
MODERNIZATION OF THE STATE AND STRENGTHENING
OF CIVIL SOCIETY

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EXECUTIVE SUMMARY

Background

- 0.1. This paper outlines the preliminary elements of a proposal of goals and lines of action for programs to modernize the State and strengthen civil society that the Bank can support to help the countries of the region face the challenges arising from the process of sweeping changes that have taken place over the last few years. This process has grown out of an unprecedented consensus in the region as to the role of the marketplace as the most effective resource-allocation mechanism and the need to consolidate democratic systems.
- 0.2. The economic reforms and generalized trend towards the establishment of democratic regimes has implied substantial change in the role of the State and of the various social agents. The State has been resized and transformed in the nature of what it does and its relationships with the market and the different economic and social agents. A reciprocal and complementary process of strengthening civil society has been seen, with increasing autonomy and a heightened sense of responsibility and involvement of companies, a variety of social and political organizations, and citizens, acting on their own or in some form of association in the economic, social and political arenas.
- 0.3. The economic reform process, while making it possible to recover stability and resume economic growth after the acute crisis of the 1980s, has also substantially changed the traditional patterns of social integration and political cohesion. The challenge that now has to be taken up involves achieving new forms of organization and political and social management that work with the new development strategy. This is precisely what should be the objective of programs to further State reform and modernization and strengthen civil society.
- 0.4. Even in the much improved macroeconomic climate, there persist a number of problems which, if not dealt with, could impair the sustainability of the new development strategy and the consolidation of democratic regimes. The persistence of poverty and other factors of socioeconomic exclusion – one of the underlying causes of political instability – is a source of deep concern. It is also apparent that growth rates are still low and domestic savings and investment in production inadequate, and that vulnerability to external shocks remains high.
- 0.5. Moreover, the institutional and regulatory framework is beset by weaknesses that limit the effectiveness of government institutions, restrict citizen participation and detract from the credibility of democratic institutions. It is recognized that fiscal pressures in the wake of the crisis of the 1980s and the adjustment programs imposed greater emphasis on a resizing of the State, which in some cases impaired the ability of institutions to efficiently provide goods and services that are essentially the responsibility of the public sector.

- 0.6. As economic reform programs have unfolded, it has been observed that the operation of the economy can run up against the traditional structure of State institutions, makeshift government management, inadequate public policies, and obsolete legal systems. Thus, in the last few years a consensus has grown around the importance of governance to promote a solid policy of sustained and equitable development. It is recognized that a direct relationship exists between sustainability of the economic model and the quality of governance. This recognition of the importance of the institutional, legal, and political climate has broadened the field of action of international development cooperation over the last few years. Thus, the Eighth General Increase in Resources makes it an objective for the Bank to work under a more integrated perspective of development that consolidates economic reforms at the same time as it promotes domestic socioeconomic integration, modernization of the State, and strengthening of democratic institutions and civil society.

The Bank's experience

- 0.7. The Bank has provided loans and technical-cooperation funding under major operations for the strengthening of institutions and State reform, especially the executive branch. In the early 1980s, in response to the economic crisis, the Bank began to support efforts by nearly all the countries in the region to strengthen fiscal policy and fiscal management. The Bank has also approved several sector loans since 1990 to help governments make structural adjustments with a view to entrenching a market economy, deregulating trade, and rationalizing public administration and state intervention in the economy. Against this backdrop, reforms in the financial administration of the State have played a decisive role in strengthening government fiscal positions, helping government work more efficiently, and fostering competition.
- 0.8. In recent years the Bank has been receiving and has started to process and approve requests from the countries for support in modernizing and strengthening the judicial system, the legislative branch, public records systems, and other areas outside the traditional sphere of the executive branch, and in strengthening civil society organizations. The Bank also has been supporting activities (meetings, seminars, conferences, studies) that seek to build a consensus for economic, social, and political reform programs in the absence of such a consensus, the political viability of the activities would be limited.

Criteria for setting priorities

- 0.9. On the basis of the background set out above, and the experience gained by the Bank and other institutions, the specific ideas underlying this proposal and the criteria for the setting of priorities are as follows: (i) to function effectively, a market economy requires a solid State of law, and hence the modernization of the State must be comprehensive and encompass the entire institutional and regulatory framework in which economic, social and political activities take place (ii) though the approach must be comprehensive, it must be carefully selective, and measures must be properly sequenced and programs sized so as to ensure their con-

tinuity and sustainability (iii) the Bank's support must be responsive to the requests of the countries, and be highly sensitive to the specific features of national circumstances and the existence of a solid political consensus that will guarantee the sustainability of programs (iv) in each case, therefore, overall and sectoral evaluations of the State must be made to enable the country's authorities and the Bank to identify program priorities and sequencing (v) programs must be linked to and consistent with the strategy of the country and the Bank (vi) due consideration must be given to the experience that the Bank and other institutions have built up in loan operations and technical cooperation, particularly in the area of reform of the State associated with economic reforms (vii) modernization of the State and the strengthening of civil society are interrelated, complementary processes, which cannot be divorced from the economic and social reform process and (viii) comprehensiveness, transparency, competition, social and gender equity, efficiency, effectiveness, participation and subsidiarity are basic principles of State action that must be taken into account in designing programs.

Spheres of action

- 0.10. Based on these ideas, the document presents a proposal of programs in four interrelated areas of action: the executive branch, the judiciary, legislative bodies, and civil society. The Bank has played a pioneering role in programs of this kind, and has built up extensive experience, which has shown that there is a close and inseparable connection between reform of the State, in the sense of the executive branch alone, and reform of the judiciary and the legislative branch. At the same time, we have learned that without people with the requisite technical skills in the legislative branch it is difficult to process and implement economic and social reform on the one hand and judicial reform on the other. Lastly, the effectiveness of State actions will hinge in large measure on the strength of civil society.

The executive branch

- 0.11. In the executive sphere, notwithstanding the efforts made to strengthen macroeconomic management capacity and administration of the State, it is recognized that the crisis of the 1980s and the costs of adjustment have weakened institutional capabilities in important areas of government. To tackle these problems, and other challenges ensuing from the State's new role, the following priority areas have been identified as proposed focuses for enhanced Bank support to the countries, with measures and programs to (i) continue strengthening the overall financial administration of the State, including the administration of taxes, customs, the public budget and social security, and the strengthening of agencies involved in supervision and control of financial management of the State, to achieve greater transparency and accountability of government (ii) improve the formulation and execution of public policies, especially in regard to macroeconomic management, fighting poverty, and public investment projects (iii) promote a professional civil service, including training of different levels of public administrators, to enhance the effectiveness of State management, make for greater insulation of government from cor-

porate interests, and do away with gender-based and other forms of discrimination (iv) strengthen institutional and regulatory capacity for oversight (v) improve decentralization processes, and (vi) promote education in good citizenship, to promote democratic values, instill a culture of tolerance and peaceful dispute settlement, and put an end to racial and sex stereotyping.

The legislative branch

- 0.12. Legislative bodies are essential institutions of a democratic system, which frequently suffer from political, institutional, technical and credibility weaknesses. As democratic regimes become entrenched across the region, such bodies are becoming even more important. The success of economic and social reforms, and of State reform, will hinge on the political consensus that can be elicited for such efforts. Here, the role of legislatures, in addition to their legislative and control functions, is fundamental. The Bank can help the countries improve the political and technical capacity of these bodies for the performance of their representative, legislative, oversight and control functions through programs for, *inter alia*, (i) training for parliamentary groups and leaders in the technical and political spheres (ii) the establishment of technical advisory services systems (iii) the establishment of a professional parliamentary organization and administration (iv) the setting up of modern information systems (v) the development of channels for communication and dialogue with the citizens as well as activities that promote political participation and consensus and (vi) the implementation of methods for control of the quality of legislative work and management.

The justice system

- 0.13. To consolidate a State of law it is also necessary to reform and modernize the judicial system. The Bank can develop programs to support the countries in the establishment of a judicial system that is reliable, independent, effective, predictable, flexible and accessible to all, and free from sex-based, racial, or any other form of discrimination, through actions for (i) the modernization of the legal framework and the promotion of basic citizen rights (ii) the administrative strengthening of the judicial branch (iii) the establishment of alternative conflict-resolution methods (iv) the execution of programs of legal aid and legal education for the population (v) human-resources development, with particular emphasis on the capacity to face the challenges arising from social and technological changes and on the specific problems faced by women, children, and other sectors that are discriminated against and abused (vi) modernization of physical infrastructure and (vii) the heightening of public safety.

Civil society

- 0.14. The modernization of the State along the lines described above entails a complementary and reciprocal process of strengthening civil society. There can be no efficient State with a weak civil society. There can be no effective democracy or sustainable and equitable development without a strong civil society. The greatest constraints for such an effort in the countries of the region are

the socioeconomic exclusion of vast sectors of the population, among them women and indigenous peoples, and the fragility of democratic institutions, including the party system, such that citizens are not fully exercising their economic, social and political rights. A robust civil society is founded on the existence of economic opportunities and democratic freedoms for all its citizens. Civil society is strengthened by economic and social policies that promote employment, the broadening of the entrepreneurial base, with an emphasis on small business and microenterprise, the formation of human capital, the eradication of poverty, the strengthening of democratic institutions, decentralization, citizen participation, protection of the more vulnerable sectors, the elimination of sex-based and all other forms of discrimination, and the establishment of an institutional and regulatory climate in which civil rights may be exercised to the full.

- 0.15. In this view, the strengthening of civil society is one of the central objectives of the policies of the Bank's Eighth Replenishment, which give priority to poverty reduction, modernization of the State and strengthening of the democratic system. Nevertheless, programs and specific actions are required to help strengthen civil society organizations, without diluting their autonomy. Some priorities could be as follows: (i) promotion of a legal framework that favors associations of and the involvement of all citizens of both sexes (ii) identification of new ways of delivering social services through local governments and intermediate and grass-roots organizations (iii) promotion of philanthropy and volunteerism and (iv) establishment of financial and technical support mechanisms for giving the more vulnerable sectors of the society, notably women, an economic role to play.

Operational considerations

- 0.16. The document presents several operational considerations to guide the Bank's operations. In particular, it is emphasized that (i) the country studies done should cover issues relating to modernization of the State and strengthening of civil society so that specific strategic guidelines may be defined to govern the Bank's collaboration with each country (ii) these issues should be included in the Bank's dialogue with the countries, especially during the programming process, in which agreement would be reached on the programs accorded priority (iii) the Bank should operate through a wide range of activities such as loans and technical-cooperation funding, and consensus-building activities (studies, conferences and seminars), to elicit adequate support within the countries (iv) there should be closer cooperation with other multilateral institutions, bilateral cooperation agencies and specialized institutions, in order to complement resources and mandates (v) the leadership of the regional departments is essential for interdepartmental coordination of the technical support required for program design and to ensure in each country the comprehensive approach that is the centerpiece of this proposal and (vi) the Bank's Country Offices should have the resources to enable them to conduct a broad-based process of consultation and coordination with civil society organizations.
- 0.17. Finally, to improve the Bank's work in the field of modernization of the State, it is recommended that (i) intensive research and

studies be done, especially evaluations of the experiences of the Bank and other institutions, to draw on lessons learned (ii) indicators of management and results be established in the framework of institutional performance to measure the progress made in operations (iii) a strategic performance system be designed with the technical support of EVO for use in evaluating operations and (iv) human resources be allocated as needed for operations of this kind, which have complex design and implementation requirements and must be closely supervised.

MODERNIZATION OF THE STATE AND STRENGTHENING OF CIVIL SOCIETY

I. BACKGROUND

- 1.1 Development strategy has undergone a profound change in Latin America in recent years. The action taken by the countries in the region to address the deep crisis of the 1980s and the collapse of the existing development model, as also the need to address the challenges of a drastically changed international environment, have resulted in a major restructuring of the economies of the Bank's member countries. With variants determined by the particular circumstances of the different countries, the levels of development achieved hitherto, and the speed and consistency with which the measures were taken, a new development strategy has become prevalent which gives the market a more important role in resource allocation. One common denominator has been a substantial change in the size of the State, the nature of its intervention, and its relationship with the market and the different economic and social agents.
- 1.2 At the same time, the region shows an overall trend toward the establishment of democratic political regimes. Some of them are regimes reinstated after an interval of authoritarian rule, and others are democratic structures being erected in societies with histories of poor civic tradition and acute political-military conflict. In any case, after a long period in which the region was torn by mutually exclusive ideologies, there is today a broad consensus on the democratic political system and development based on a market economy. These mutually supportive trends hold out the possibility of banishing the chronic political instability that has been one of the main obstacles to the development of the countries in the region.
- 1.3 These two processes have brought about a substantial change in the relationship between the State and civil society. Privatization, the changing nature of State action, the increasingly dominant role of the market, and the establishment of democratic systems have widened the sphere of responsibility of civil society defined as the activities of citizens, either individually or in association, in the economic, social and political spheres. The change in the role of the State and increased responsibilities of civil society are mutually complementary processes engendered by the profound transformations at work in the countries of the region.
- 1.4 The indicators suggest a macroeconomic landscape different from the one of only a decade ago. In general, national economies have stabilized and growth has resumed. Despite these gains, severe problems linger which if not addressed will impair the sustainability of the new development strategy. Particularly important are the persistence and worsening of poverty, heightened inequality in income distribution, barriers to women's participation, on an equal footing, in the labor market, and other factors of socio-economic exclusion in urban and rural areas, which have been among the underlying causes of the region's chronic political instability. Also, while growth rates are still low, the economies remain highly vulnerable to external shocks, and there is rising concern

over the inadequacy of the levels of domestic savings and of medium and long-term productive investment.

- 1.5 Moreover, the heartening prevalence of democracy in the region cannot mask the weak effectiveness and credibility of democratic institutions. The political, institutional and regulatory fabric is rent with shortcomings and obsolete aspects that limit citizen participation and hinder savings, investment and growth.
- 1.6 Thus, with the progress of economic reform the Bank's member countries have found that the operation of the market and the consolidation of democracy can be hindered by the traditional structures of government institutions, makeshift government management, inappropriate public policies, obsolescent legal systems, and weak channels and institutions for civic participation, negotiation, and consensus.
- 1.7 In short, the process of economic reforms and political transformations experienced by countries in the region can be seen to have reshaped the traditional patterns of social integration and political cohesion. Despite renewed stability and economic growth, the worsening poverty and inequality and the increase in environmental problems suggest that the countries of the region are facing significant problems in terms of social integration and political cohesion, which are the result of superimposing the short-term costs of the new economic model on the deficiencies prevalent in the preceding model. These concerns make it necessary to work with an integrated view of development which, while fostering market-oriented economic reforms, will promote domestic socioeconomic integration and the reform and modernization of government and political institutions.
- 1.8 Now, in the framework of the agreement on the Eighth General Increase in Resources, the Bank has been given a mandate to continue supporting processes for the transformation and modernization of national economies and furthering investment and social reform processes that reduce poverty and promote social and gender equity. Priority has also been given to efforts for the modernization of government, the strengthening of civil society, and improvement of the entire political, institutional and regulatory framework for economic and social life. The idea is to incorporate economic reform, social reform, and reform of the State in a single integrated agenda for development.
- 1.9 The Bank has already engaged in important operations consisting of loans and technical-cooperation funding for institutional strengthening and reform of the State, especially in the executive branch. In the early 1980s, in response to the economic crisis and the need for governments to be able to count on solid and reliable revenue sources and efficient budget control and execution mechanisms, the Bank began to support efforts by nearly all the countries in the region to strengthen fiscal policy and fiscal management. The Bank has also approved several sector loans in support of state reform since 1990. This support has been key to helping governments make structural adjustments with a view to entrenching a market economy, deregulating trade, and rationalizing public administration and state intervention in the economy. Against this backdrop, fiscal reforms played an important role in strengthening

governments' fiscal positions, helping government work more efficiently, and fostering competition more neutral and more efficient tax codes were adopted, collections were increased, distortions were reduced, procedures were simplified, modern computer systems and audits were introduced to reduce evasion, and skills and human resources management were improved.

- 1.10 In recent years the Bank has also received and started to process applications from the countries for support in the reform, modernization, and strengthening of their judiciaries, legislative branches, and other nontraditional institutions of State reform programs, such as public records systems, agencies to oversee and audit the workings of government, and mechanisms for protecting citizens' rights. In addition, the Bank has been approached for assistance specifically to help strengthen civil society organizations and support political consensus-building initiatives as to economic, social, and political reform programs. This broadening in the Bank's sphere of activity may help the countries to set up the necessary institutional arrangements to include important political and social agents whose participation is essential to achieving the climate of security and political stability needed for the new development strategy to be sustained.
- 1.11 To steer its efforts in this broadened sphere that encompasses modernization of the State and strengthening of civil society, the Bank will need a conceptual and operational frame of reference. That is the objective of this document. The following sections set out some proposed general principles for the Bank's action, criteria for priority-setting, priority focuses for Bank support, and operating recommendations.

II. GENERAL PRINCIPLES AND CRITERIA FOR BANK ACTION

- 2.1 There is a direct relationship between economic development and the quality of government. Economic reform and poverty reduction strategies will not be successful without strong institutions. Due regard must be given to the lessons of experience, which show that the effectiveness of correct economic strategies and policies has been limited by the inadequate operation of public institutions or an adverse political climate.
- 2.2 Hence the growing strength in recent years of a consensus on the importance of governance in fostering sound development policy. First, governability implies political stability, which is tied to domestic socioeconomic integration conditions, the strength of democratic institutions, and citizen input into the decision-making process. Second, governability requires confidence in and predictability of the judicial, economic, and political spheres, including a sound legal framework for development, gender-neutral protection of property rights, a climate conducive to the growth of private enterprise, efficient allocation of public resources, government accountability and honest and transparent administration of the State. The relationship between development and governance in these terms is particularly important in the setting of a market economy and democratic political systems, for without a climate of confidence, stability and judicial and political predictability, it

is impossible to sustain efforts at savings, investment and innovation, which are grounded in the expectations and confidence of private economic agents.

2.3 From the foregoing there follows a set of general principles that the Bank must consider in its programs for the modernization of government and strengthening of civil society:

- a. **Comprehensiveness**, which recognizes the need to include areas of public action not only in the executive branch but in the judicial and legislative branches as well, encompassing the entire institutional and regulatory setting in which economic, social and political activity takes place
- b. **Transparency**, which requires public action more open to dialogue, discussion and the oversight of public policies
- c. **Competition**, which must be supported as an essential requirement for the efficient operation of the market and provide for public action to ensure free-market conditions
- d. **Social equity**, which involves the objectives of social reform, strategies for poverty reduction and income distribution, and fosters a more favorable environment for economic efficiency and political and social stability
- e. **Efficiency**, which implies that institutions in the public sector must implement their policies and programs at the lowest cost
- f. **Effectiveness**, to ensure consistency between the purposes and results of the policies and programs of government institutions
- g. **Participation**, which implies an effort to widen the presence of citizens in the framing, implementation and evaluation of public policies
- h. **Subsidiarity**, which establishes that government must not involve itself in activities in which other economic and social agents enjoy a comparative advantage, or which may be carried on more efficiently at lower levels (local government, etc.).
- i. **Gender equity**, to recognize that due account must be taken of the specific needs of each sex vis-à-vis the citizenry at large, and to ensure that men and women participate on an equal footing in every area of life in a society.

2.4 Careful consideration must be given to the distinctive features of the situation in each country. Hence an approach is proposed that stresses criteria and principles of action and leaves room for manoeuvre to launch operations tailored to the real situation in each country.

2.5 While it is essential that modernization of the State be conceived as an integral whole, this does not mean that programs must be very large, ambitious or complex, and include every one of the components here suggested. Experience in institutional development

- shows that very large and complex programs run a high risk of failure. On the contrary, a strong sense of priorities and a selective and gradual approach are recommended. Programs must be suited in scope and size to the historical, cultural, economic and political context of each country, and automatic duplication from one country to another should be avoided.
- 2.6 To that end, there is a need for emphasis on the importance of making diagnostic assessments of the State and of public policies so that the country's authorities and the Bank may identify the main problems and set priorities. A rigorous analysis must be done of the connection and consistency of government modernization programs with the country's overall development policy.
- 2.7 Consensus and political will are essential to the design and execution of these programs, especially when different branches of government and agents of civil society are involved. Special attention should be given to consensus-building (studies, conferences, workshops, with pluralist participation) which, though not part of the preparation of operations themselves, is essential to set them in motion. Similarly, when the situation so requires, local operations may be promoted on a pilot basis to help demonstrate the feasibility of activities of this kind.
- 2.8 The experience built up by the Bank and other bilateral and multilateral cooperation agencies must be properly considered and assimilated. Ongoing dialogue among the different departments and authorities of the Bank is essential to extract the lessons of experience and apply them in new areas of action.
- 2.9 The institutions of a government cannot be modernized without strengthening civil society. This is a process that complements the changing role of government. Specific measures must also be considered to enable citizens, as individuals and in association, to become more involved in commercial and nonprofit activities in the economic, social and civic spheres.

III. FIELDS OF ACTION

- 3.1 It is clear from the foregoing that, with a combination of comprehensiveness, selectivity and a proper sequencing and sizing of priorities and measures, the Bank should work in four fields: the executive, the legislative, the judiciary, and civil society. Outlined below are details of proposed Bank actions in these areas.
- A. The executive branch
- 3.2 As was noted earlier, the Bank has been carrying out significant actions for institution-building and the reform of the public sector. It is recommended that these efforts be continued, and that due attention be given to different diagnostic studies of the executive branch that have brought out limitations, such as (i) the lack of an inclusive strategic vision and of proper intersectoral coordination in the framing and execution of policies (ii) a lack of modern information and data analysis systems, disaggregated by sex, to help make public decisions (iii) inappropriate administra-

tion and civil service systems, which compromise the effectiveness of government functions (iv) a lack of proper systems for the monitoring and evaluation of programs and policies (v) weak performance by institutional and normative components of government of the regulatory functions required for the privatization of enterprises and services (vi) inability of the fiscal area to fulfill properly the responsibilities of government (vii) poor programming and monitoring of public investment (viii) the weakness of instruments set in place by the State, such as women's affairs bureaus and comparable offices, to protect the most vulnerable groups and help them move forward and (ix) insufficient consultation with and commitment to the social groups affected by government programs and policies.

3.3 The following areas of concentration are proposed for the Bank's operations:

- (i) **Strengthening of the State's capacity for overall financial management.** To support fiscal capacity-building, which is essential if the State is to discharge its responsibilities, the Bank will continue to assist with programs to improve the overall financial management of the State. This will take the form of support for modernization and integration of tax, budget, customs, financial oversight and social security systems, and the design of more efficient spending policies, including cuts in nonproductive spending. This also will help enhance transparency and accountability in the management of public resources. The budget is a particularly crucial element for the execution of public-sector reform programs.
- (ii) **Improvement of the capacity to frame and execute public policies.** Capacity-building for public policy design and implementation is one of the greatest needs of the countries, especially in light of institutional deficiencies following in the wake of the crisis of the 1980s. The Bank will continue to afford support to its member countries to bolster their macroeconomic management capacity and strengthen the central banks and other key institutions. Of particular importance will be the Bank's support to the countries in developing their capacity for strategic planning, programming, and monitoring of public investment and for devising policies and programs to combat urban and rural poverty, with due regard to gender and equal-opportunity considerations and the specific needs of indigenous populations in development programs. Lastly, the Bank will lend assistance to the countries to develop information and statistics systems and public records systems for real estate, vital statistics, and transactions, which are essential for public-policy formulation.
- (iii) **Promotion of a professional civil service and administrative reform to enhance the effectiveness of State management.** The effectiveness of public management, and its insulation from corporate interests, depends in large measure on the existence of a professional civil service based on merit. The Bank will support programs for the

design, establishment and implementation of civil-service systems based on standards of professionalism, management and performance. To this end, the Bank should also assist countries with programs for different levels of training in public administration and public policy.

- (iv) **Strengthening of institutional and normative capacity for regulatory functions.** As the relationship between the State and the market is redesigned, it becomes necessary to contribute to the strengthening of the State's regulatory capability. This will afford the State instruments with which to promote competition, social and gender equity, protection of the environment, and greater overall effectiveness of the system.
- (v) **Building capacity for oversight and control of the public service with a view to greater transparency and accountability in areas in addition to financial management.** The new role of government, the restored legitimacy of the public service, political stability, and legal confidence and security, as also the appropriate management of economic incentives, bring out the importance of having institutions, standards and procedures that ensure honesty, transparency and accountability in public administration. In addition to the strengthening of the instrumentalities and processes of the financial management of the State, this implies effective exercise by the legislative branch of its powers of budget control and oversight, public contracting systems that are responsive to the principles of openness, expeditiousness, open competition and cost-effectiveness, reduction of overregulation, accountability, disciplinary and judicial systems, mechanisms for citizen control of government, and reliable systems of records for persons, goods and transactions.
- (vi) **Strengthening of State decentralization processes.** With the decentralization processes launched in the last decade the idea has gained momentum that the management of public functions must not be the sole responsibility of central agencies or national public enterprises. This process must be reinforced on the principle of subsidiarity and with an inclusive approach at the national level to facilitate this change and use the public capabilities efficiently, fostering a coherent connection between agencies at the central, regional and local level. The Bank's programs should include components for the institutional strengthening of the units to which new responsibilities are to be transferred, mechanisms for the appropriate provision of resources for discharging them, training of public administrators at the regional and local level, elements for the improvement of horizontal and vertical interinstitutional coordination, the devising of corrective measures to prevent the widening of regional disparities, and mechanisms for participation by civil society.
- (vii) **Promotion of civic education.** The development of democratic civic education programs is an area of endeavor

requiring joint action by government and civil society. Evaluative and normative civic education should inform every part of government action and action to strengthen the organizations of civil society as a matter of priority. A gender-blind culture of tolerance, liberty, participation, responsibility and social solidarity must be firmly established, especially in children and young people. In its dialogue with the countries, the Bank could identify possible curriculum reforms that could be supported by loans in the education sectors for the strengthening of democratic civic education, and for the elimination of gender stereotyping in the process.

B. The legislative branch

- 3.4 The legislative body is one of the fundamental institutions of a democratic system and its proper functioning is essential to channel citizens' participation and reach the social consensus necessary to achieve political stability. A properly performing legislative branch is also necessary for the framing of appropriate public policies and for legal security. A State truly based on the rule of law, and efficient functioning of a market economy, therefore require an effective legislative function. In turn, the reform of the State and economic and social reform policies require a properly performing legislative function to provide both legal underpinnings and the political consensus without which sustainability would be uncertain. In short, the strengthening of legislative bodies is essential to the development of new forms of social and political management arising from the process of change being experienced by the countries in the region.
- 3.5 In general, however, the legislative bodies in the region present problems of organization, administration and resources which impede the fulfillment of their functions of legislation, oversight and representation, detracting from their credibility and the stability of political systems.
- 3.6 Indeed, the capacity for consensus-building is frequently hobbled by the weakness of the technical, informational and analytical support of parliamentary debate and negotiation. For the same reasons weaknesses are seen in the quality and coherence of laws as responses to the needs they are intended to meet. In addition, there is a lack of systems for the monitoring and evaluation of laws so that their impact on how public policies are arrived at and implemented may be measured. At the same time, mechanisms for coordinating legislation and the citizenry are fragile. The same applies to needed dialogue and coordination with the other branches of government, and with the executive in particular.
- 3.7 It is understood, however, that the problem of legislatures does not solely derive from technical and financial limitations. They are, to a large extent, a reflection of the nature of the political party system and the mechanisms and processes for political participation by citizens. From this perspective, legislative bodies are one of the most important links between the State and civil society. In this regard, any programs to modernize legislative bodies that the Bank can support without becoming involved in

issues of party politics could contribute significantly to strengthening democratic political institutions.

3.8 The Bank can contribute to the modernization of the legislative branch in requesting countries by supporting programs designed, *inter alia*, to:

- (i) establish technical advisory services that will improve the quality of laws and ensure that oversight and control functions are performed correctly and objectively
- (ii) provide specialized technical assistance as required for the framing of legislation that the country considers important for the furtherance of economic, social and political modernization and restructuring of the legal system
- (iii) establish a professional parliamentary organization and administration
- (iv) put in place modern public information, documentation, library and legislative reference systems
- (v) set into operation channels for dialogue and communication to make citizens more positive participants in the initiation and discussion of laws such programs could include the review and improvement of the relation between legislative bodies and the political party system
- (vi) implement methods and systems for control of the quality of legislative work and management
- (vii) establish technical and political training programs for parliamentary leaders and groups to improve the performance by the legislative branch of its functions of law-making, oversight and representation and
- (viii) promote the involvement and political leadership of women.

C. The justice system

3.9 A diagnosis of justice systems in the region reveals many problems in relation to the independence of the judiciary loss of confidence by public opinion obsolescent laws and procedures, congested courts, shortages of resources, a lack of modern systems of organization, information and administration, barriers to access to service and limitations on coverage limited and deteriorated physical facilities, insufficient protection of fundamental rights, and the rise of various forms of violence and decline of public safety.

3.10 The consolidation of a State of law and of conditions conducive to harmonious social relations and a successfully functioning market requires that the judiciary be reformed and modernized in three ways: by strengthening its independence, updating the legal system, and enhancing efficiency in the administration of justice. Reforms in the delivery of this public service must be designed to conform both to standards for improving its quality and the capacity of the system to provide it, and to measures and steps that will streamline judicial services and meet the demand for them. In the latter

direction the approach to these problems must start with the structure of compensation for legal practice, which involves action by lawyers, judges, litigants and parties in the process.

3.11 The Bank can develop programs that support the countries in the establishment of an independent, effective, reliable, flexible and accessible legal system that is free from gender-based or any other form of discrimination. The strategy of institutional reform in the justice sector could cover, among others, the following areas of action:

- (i) **Improvement of the legal system and the promotion of fundamental rights.** One priority task is to address the obsolescence of a good part of the codes, laws and standards. Along with their economic reforms the countries in the region have been modernizing their economic and administrative law. This modernization effort needs to be extended to all spheres of social, economic and political life, including mechanisms for safeguarding the basic rights of every man and woman in the nation, with special emphasis on human rights and property rights. Likewise, particular emphasis will need to be placed, when devising a modern legal apparatus, on reform measures that can rid the system of elements that discriminate against women or indigenous peoples.
- (ii) **Administrative strengthening of the judiciary.** Universal features of the strategy in this field will be modernization of the administration of justice from the standpoint of regulation of the branch, how law offices operate, and procedural practice the design of effective mechanisms of self-government as instruments of judicial independence and systems for decentralized operation and training in legal administration and practices on an interdisciplinary basis. Similarly, the development of modern instruments for planning, organization, execution and control based on appropriate and reliable systems of statistical information for the introduction of a type of management that contrasts with the dual burden of administrative and judicial responsibilities borne today by judges, which leads to delays.
- (iii) **Alternative methods of conflict resolution.** New ways of bringing the law closer to the community and civil society to make possible direct settlement, mediation, arbitration, conciliation and other ways of clearing court dockets and settling disputes out of court. This reduces the level of litigation that has swamped legal systems in the region and encourages the climate of legal assurances that economic agents demand for their investments. The organizations of civil society have a very important part to play in this area.
- (iv) **Legal aid and education programs for the population.** Operations in support of legal aid and education programs to attack directly the factors of social exclusion, which by making justice inaccessible always take their greatest toll on the deprived sectors of society, like women.

Gender bias does influence judicial decisions, particularly in cases involving labor and family law and laws on sexual offenses. In addition, legitimacy must be given to grass-roots and citizens' initiatives brought forward by civil society agents and organizations to ensure the enjoyment of collective rights such as the right to a wholesome environment.

- (v) **Instruction and training for human resources involved in the modernization of legal systems.** The department and attitudes of human resources are important complements to efforts for the updating of rules, institutional strengthening and reduction of litigation that must be the main objects of these programs. This instruction and training must reach the community, students, universities, law professionals, bar associations, judges and law schools. This is because, from the standpoint of both the supply of and demand for services, the structure of compensation for legal practice has led to usages, customs and habits that encourage inefficiency in systems of justice.
- (vi) **Modernization of physical infrastructures.** The shortage of these structures severely compromises the delivery of the service, the dignity of the judicial function, and its effectiveness and timeliness. This modernization can also extend to improving the operating systems of legal offices, the processing of legal, management and performance information, and even to the premises of courts.
- (vii) **Heightening public safety.** The security of the citizenry, and threats to their safety, are among the most pressing concerns of most countries in the region, which need to be addressed from different perspectives. Programs involving judicial systems can include, within the system itself and in coordination with other state agencies, such initiatives as criminal justice and prison reform, education campaigns, crime statistics, training of investigative forces, and so on, to tackle threats to public security at the source.

D. Civil society

- 3.12 The modernization of the State along the above lines implies a complementary and reciprocal process to strengthen civil society. There can be no effective democracy or sustainable and equitable development without a strong civil society. The greatest constraints on the strengthening of civil society in the countries of the region are the socioeconomic exclusion of vast sectors of the population and fragile democratic institutions, affecting citizens' ability to exercise their economic, social and political rights to the full.
- 3.13 The foundation of a robust civil society is the existence of economic opportunity and democratic freedoms for all citizens. Hence the strengthening of civil society is tied to economic and social policies for the promotion of productive employment for men and women the broadening of the entrepreneurial base, notably through

the formalization of small businesses and microenterprises and technical and financial support for same the formation of human capital the eradication of poverty decentralization the strengthening of democratic institutions, including political parties participation of all citizens protection of the more vulnerable sectors, and the establishment of an institutional and regulatory setting that allows the full exercise of civil rights. Under this view, the strengthening of civil society is one of the central policy objectives of the Eighth Replenishment in promoting a comprehensive development strategy, modernization of the State, and consolidation of the democratic system.

- 3.14 The change in the role of the State involves a transfer to citizens of responsibilities for production and services and for the control of and participation in public administration. The responsibilities of which government divests itself may be taken up either by the private entrepreneurial sector or by civil society organizations (CSOs) as organized expressions of citizen involvement in different areas of society.
- 3.15 However, this relationship between the State and civil society must involve actions and programs that can strengthen CSOs but not diminish their autonomy. The design of such programs will depend in part on the nature of the CSOs and of the work they perform in pursuance of their specific aims. CSOs may be classed in five broad categories:
- (i) **Civic participation and public advocacy CSOs:** participate and monitor performance in the conduct of public affairs, and mobilize social sectors and public opinion to that end. Typical focuses of concern of such groups are gender issues, the environment, cultural issues, political issues, human rights, consumers, ethnic minorities, and the handicapped.
 - (ii) **Social service CSOs:** participate in the delivery of complementary services in education, health care, culture, nutrition, infrastructure, promotion, and public health, and assist children at risk, women, and other particularly vulnerable sectors.
 - (iii) **Socioeconomic promotion CSOs:** promote and assist production units established to advance social integration and solidarity and not just to make a profit. They may be complemented by government and entrepreneurial sectors to perform financial and technical services in sectors excluded from formal circuits of market and government services.
 - (iv) **CSOs that promote philanthropy for development:** promote the acquisition of resources and participation by the private sector in the contribution of financial and technical resources for purposes of socioeconomic and cultural promotion.
- 3.16 Needed therefore are programs and specific measures to strengthen CSOs, such as (i) the promotion of regulatory frameworks that favor

associations of and participation by citizens (ii) the identification of new forms of delivery of social services through local governments and CSOs (iii) the building of managerial capacity in CSOs (iv) promotion of philanthropy and volunteerism, and (v) the establishment of mechanisms for financial and technical support for intermediary organizations that are promoting the economic integration of women and other vulnerable sectors of society. _/

IV. OPERATIONAL CONSIDERATIONS

4.1 The Bank's knowledge of the culture of the region, the special dialogue it maintains with the countries, and its accumulated experience give it a comparative advantage for the development of programs to modernize the State and strengthen civil society pursuant to the principles and lines of action indicated. On this basis, it is recommended that in its work the Bank take the following operational aspects into consideration:

- a. Inclusion of issues relating to modernization of the State and strengthening of civil society in its country studies and programming process. It should be understood that, in addition to transferring resources and technical assistance for these programs, the Bank can play an important catalytic role in promoting them.
- b. To ensure the long-run sustainability of the formulated programs the Bank's operating program must involve all social agents concerned. Holding consultations with CSOs is a good way to achieve a solid national political consensus, which is necessary to the viability of programs that take a long time to bear fruit and that frequently are attempting to reconcile opposing interests. The Bank should therefore consider consensus-building activities (workshops, conferences, seminars, studies, with pluralist participation) as part of the preparation of programs for the modernization of the State and strengthening of civil society.
- c. While the operations of the Bank must be guided by specific national characteristics and the requests of the countries, care must be taken to avoid casting the net too widely and including operations for which experience, skills or appropriate personnel are lacking.
- d. The use of a broad range of operations - investment loans, technical-cooperation operations and sector loans - and the timely provision of technical-cooperation funding for conceptualization, preparation and design, especially in the initial stages of a program.

_/ Examples of IDB operations in support of institutional mechanisms for promoting public participation specifically involving women are technical-cooperation projects for the institutional strengthening of women's affairs bureaus in Barbados, Trinidad and Tobago, and Ecuador.

- e. The Bank will need qualified human resources for this type of operations, which have very complex design and supervision requirements. They also call for closer oversight than the Bank's regular operations, to adjust them as circumstances change and to afford feedback, as lessons are learned, for the design of new initiatives.
- f. In the formulation of programs the Bank can enter into a dialogue with nontraditional partners such as CSOs, which are able to participate as subcontractors in the execution of projects in which they enjoy a comparative advantage in terms of efficiency, cost and coverage. On the basis of some pilot initiatives, the Bank should develop more specific criteria for deciding on CSO involvement in the implementation of the projects it finances.
- g. For this it is necessary, among other things, to carry out intensive research and evaluations of experiences to determine the lessons to be drawn from them to establish indicators of management and results in the setting of institutional performance with which to measure the progress of operations and to design, with the technical support of the Evaluation Office, a strategic performance system for use in the evaluation of operations.
- h. Advisory services from academic and research centers in and outside the region to benefit from the experience of different institutions in these areas and so launch the building of a network of information, knowledge and outside contacts in these matters.
- i. Consolidation of mechanisms for cooperation with other multilateral organizations and bilateral cooperation agencies. Programs for the modernization of government and the strengthening of civil society often entail cooperation with specialized organizations with a specific mandate and resources to engage in some of the activities under those programs that might fall outside the Bank's sphere of action.
- j. The Multilateral Investment Fund (MIF) could provide resources through its three windows to strengthen the transfer of economic responsibilities from the State to CSOs and the private sector.
- k. Special attention must be given to the fact that the technical support for these programs comes from different units in the Bank. The leadership of the regional departments is essential to ensure the intrainstitutional coordination, coherence and technical consistency of these programs. The Bank's Country Offices should have the resources and flexibility to play a more active role in supervising these operations and to conduct a broad-based process of consultation and coordination with CSOs.