



USAID | **PARAGUAY**
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PARAGUAY DEMOCRACY AND GOVERNANCE ASSESSMENT

OCTOBER 2009

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ACRONYMS

APC	Patriotic Alliance for Change
ARP	Rural Association of Paraguay
BID	<i>Banco Interamericano de Desarrollo</i>
CADEP	<i>Centro de Análisis y Difusión de Economía Paraguaya</i>
CERI	<i>Centro de Estudios Rurales Interdisciplinarios</i>
CIRD	<i>Centro de Información y Recursos para el Desarrollo</i>
CAPEL	Center for Electoral Promotion and Assistance
CGO	Controller General Office
CM	<i>Consejo de la Magistratura</i>
CODEHUPY	<i>Coordinadora de Derechos Humanos del Paraguay</i>
COPLANEA	<i>Comunidad y Planeamiento</i>
CSO	Civil Society Organization
DENDE	<i>Desarrollo en Democracia</i>
DG	Democracy and Governance
DGEEC	<i>Dirección General de Estadística, Encuestas y Censos</i>
ECAU	Economic Crimes and Anticorruption Unit
EU	European Union
FEPRINCO	<i>Federación de la Producción, la Industria, y el Comercio</i>
FNC	<i>Federación Nacional Campesina</i>
GEAM	<i>Gestión Ambiental</i>
GOP	Government of Paraguay
GTZ	<i>Deutsche Gesellschaft für Technische Zusammenarbeit</i>
IDB	Inter-American Development Bank
IFI	International Finance Institutions
INDERT	<i>Instituto Nacional de Desarrollo Rural y de la Tierra</i>
IPS	<i>Instituto de Previsión Social</i>
JICA	Japan International Cooperation Agency
MCC	Millennium Challenge Corporation

MCNOC	<i>Mesa Coordinadora Nacional de Organizaciones Campesinas</i>
MIDAMOS	Performance Municipal Measurement System
MOF	Ministry of Finance
MP	Public Ministry
MPT	<i>Movimiento Popular Tekojojá</i>
NGO	Non-governmental Organization
OPACI	<i>Organización Paraguaya de la Cooperación Intermunicipal</i>
PDP	<i>Partido Democrático Progresista</i>
PEN	<i>Partido Encuentro Nacional</i>
PERF	Police Executive Research Forum
PLRA	<i>Partido Liberal Radical Auténtico</i>
P-MAS	<i>Partido Movimiento al Socialismo</i>
PPS	<i>Partido País Solidario</i>
ROL	Rule of Law
SFP	<i>Secretaria De la Función Pública</i>
SIMIC	Standardized Model of Internal Control
TSJE	Superior Tribunal of Electoral Justice (<i>Tribunal Superior de Justicia Electoral</i>)
UIP	<i>Unión Industrial de Paraguay</i>
UNACE	<i>Unión Nacional de Ciudadanos Éticos</i>
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USG	United States Government
WB	World Bank

EXECUTIVE SUMMARY

In April 2009, a four-person team¹ conducted a democracy and governance assessment in Paraguay as a preliminary step in the development of the United States Agency for International Development (USAID)/Paraguay's new Democracy Sector Strategic Plan. The purpose of the assessment was to identify basic issues and challenges in Paraguay's democratic development and to make strategic recommendations for USAID's consideration. The assessment followed the DG Assessment methodology developed by USAID's Center for Democracy and Governance.

The assessment took place in an interesting period for Paraguay's democracy. President Fernando Lugo's election in April 2008 represented the country's first peaceful handover of power between political parties after 60 years of Colorado Party rule. The team conducted the assessment during the eighth month of Lugo's presidency, which provided an excellent opportunity to analyze the preliminary impact of this important democratic event.

PARAGUAY'S PRINCIPAL DEMOCRACY CHALLENGE

Democracy in Paraguay has come far since Andrés Rodríguez launched his *coup d'état* in 1989. The Constitution of 1992 enshrines pluralism, democracy, human rights, and the rule of law, and has not been amended or challenged since then. Five presidential elections have been held, and have been free, if not totally fair. There have also been four municipal elections, which, while still dominated by the Colorado Party, have allowed opposition to make important inroads and, more importantly, have led to greater accountability in local government. Human rights are no longer abused as part of state policy, freedom of the press has flourished, new political parties have formed, and civil society has achieved some (though perhaps too often limited) latitude for operations.

However, while some areas of democracy have been consolidated, others remain part of the democratic deficit. Despite such advances in terms of democratic procedures and institutions, the quality of democracy remains inadequate in terms of good governance, legitimacy, and active citizenship. This is in great part due to the legacy of the dictatorship that has been preserved through the domination of the Colorado Party. The Colorado Party, which was a bastion of support for Stroessner, has developed mechanisms of political control in the democratic environment. Patronage and corruption have been wielded as political tools as skillfully during the current transition as they were under Stroessner, undermining democratic progress in the political sphere as well as in the Judiciary. Rule of law remains inadequate and fails to guarantee equality of access to justice, while the party quota system limits progress in regard to the independence, effectiveness, and accountability of the judicial system. Social exclusion—in the form of poverty, inequality, and discrimination on the grounds of gender, ethnicity, language, and class—remains a serious obstacle to the consolidation of democracy, undermining democratic citizenship, participation, and access to basic services.

In sum, **the principal democratic governance problem in Paraguay is that the major political parties seek to capture the state and use their power over public resources for their benefit and that of their allies.** This has implications for all areas of development, encouraging patronage and corruption, and

¹ Members of the team include Antonio Iskandar, ARD, Team Leader; Margaret Sarles, team member and Democracy and Governance Specialist; Peter Lambert, Country Specialist; and Jorge Rolon, Local Country Specialist. Lilian Cabrera assisted the team as Logistic Coordinator.

undermining the rule of law, social reform, state capacity, and good governance. It also severely compromises the political representation of the electorate.

BASIC DEMOCRACY AND GOVERNANCE FINDINGS

Consensus. One of the major achievements of the transition since 1989 has been the survival of the democratic system. Despite 35 years of dictatorship and a strong tradition of authoritarian rule, Paraguayans have adhered to democratic institutions and procedures in terms of resolution of conflicts and registering protest, and there appears to be a basic consensus between civilians and the political elites regarding the rules of the democratic game.² Nevertheless, support for democracy remains low among citizens as noted in several perception surveys (Latinobarómetro and the UNDP), and attempts to subvert the constitutional order have occurred recently posing threats to the sustainability of the consensus in Paraguay.

On the gains side of democracy, significant violations of the rules (consensus) at the national level have eventually proved counterproductive and have been dealt with effectively. Strong civilian defense of democracy, the increasing professionalization of the armed forces, and a strong national and international consensus against military intervention suggests that extra-constitutional plots to gain power would not be successful. The Colorado Party, as the party most linked to authoritarianism and with the most to lose in the new system, has undoubtedly found it harder to adapt to the new democratic system. Its acceptance of the “rules of the game” as the opposition party has yet to be put to the test, but its acceptance of the PLRA victory in the 2000 vice-presidential elections, and the peaceful handover of power in 2008, marked important steps in the transition for the party itself.

On the deficit side of democracy, there have been a number of significant tests of the robustness of the democratic system. These have included the increased influence of mafias connected with drugs and contraband, and the attempts to circumvent the democratic system with a military insurrection in 1999 and an attempted *coup d'état* in 2000. There have also been open violations of the Constitution including ex-President Cubas’s decree defying the Supreme Court and freeing Lino Oviedo from prison in 1998 and, more recently, Duarte’s manipulation of the Supreme Court to once again free Oviedo in 2008.

In summary, while the fragility of the consensus surrounding democracy and the transition process should not be underestimated, neither should the achievement of defending democratic gains over the past 20 years.

Rule of Law. The legacies and practices of the dictatorship and of the Colorado Party continue to affect the rule of law in Paraguay. Despite significant advances in terms of the constitutional and legal framework that guarantee fundamental rights, access to justice, and equality in the adjudication of law, structural weaknesses in the rule of law remain at the center of the democratic deficit in Paraguay. One of the greatest obstacles to reform in this sector is the widespread corruption and state-sponsored patronage that is exercised by political parties as a mechanism to stay in power and to advance partisan and personal agendas. The party quota system that originated with the “Governability Pact” under former President Wasmosy has translated into a system of political control that impacts the independence and quality of the judiciary. Most notably, the Council of Magistrates, the critical actor in terms of judicial system appointments, continues to operate through a partisan quota system which has distorted the selection of judges, prosecutors, and public defenders in favor of the Colorado Party. Equally damaging is the common use of political power to influence judicial decisions for personal or political interests.

Finally, state presence remains weak, especially in poorer and remote areas of departments such as San Pedro, Concepción, Caazapá, Amambay, and Canindeyú where drugs and arms trafficking, as well as contraband, continue to operate widely.

² The consensus is about the rule of the game represented in the agreed institutions and procedures through which democracy operates (definition of consensus is provided in the DG Assessment Methodology). These are enriched in the 1992 Constitution and the 1990 Electoral Code.

Competition. Electoral competition is the most successful aspect of Paraguay’s democratic transition. Regular elections are increasingly free and fair, and always with the vigilant oversight of civil society groups and international observers. The recognition of Lugo’s electoral victory in April 2008 and the peaceful handover of power in August of the same year are the democracy’s biggest accomplishments during the transition. On the negative side, although national elections manipulation seems remote at this time, party leaders are still able to manipulate internal primaries. Also, the Superior Tribunal of Electoral Justice (TSJE), which is not fully committed to neutral electoral outcomes, continues to be politicized.

With the Colorado Party as the opposition party, there is a new balance in the tripartite public powers in Paraguay, injecting a new dynamic of competition to the political arena. The competition is limited, however, and is not necessarily strengthening a system of healthy checks and balances. Instead, it is posing significant obstacles to the reforms needed to consolidate democracy in Paraguay. The Executive, with a fractioned and weak political coalition and opposition in Congress, is incapable of getting key legislation passed. At the same time, the judicial sector, which is controlled by the traditional parties through the “party quota” system, responds to the parties’ agendas and particular interests.

Against this backdrop, civil society organizations (CSOs) and the media are increasingly playing a role in the struggle to fight corruption and to provide transparency in the electoral system. These two increasingly important political actors pose a growing challenge to the party quota system. However, the role media plays is not always considered responsible or objective in its publications, raising questions about their professionalism.

Governance. The GOP’s capacity to deliver services remains low despite an increase in the number of state employees. Traditional clientelism persists, procurement processes are largely opaque and subject to corruption, and state assistance often favors political elites. Nonetheless, with the new administration, there is some reform that builds on previous efforts from the first years of former President Nicanor Duarte’s administration (2003–2005). However, the speed of the reform agenda is diminished by several factors: Lugo is governing with a weak and divided coalition that has proven to be a major obstacle for advancing the reform agenda; as a political novice, Lugo’s learning curve as president has been long, which has contributed to several initial setbacks in the first months of the administration; and the legacies of corruption, clientelism, and authoritarianism persist in the political system after more than 60 years of Colorado Party control of the government.

Inclusion. Political and social exclusion, rooted in traditional patron/client relationships based on land ownership and elite power, are fundamental issues that affect democratic reform in Paraguay. High levels of poverty, inequality, and lack of access to basic services such as water, health, education, and sanitation, especially among the rural poor, reduce the quality of democracy, limit access to benefits of the democratic system, lead to lower levels of democratic participation, and represent informal but very real barriers to democratic participation. These factors of exclusion also enhance opportunities for clientelism and patronage, the possibility of social conflict, and (potentially) support for authoritarian and/or populist figures who promise rapid reform. Above all, these problems undermine active, democratic citizenship—the ability of the individual to fully benefit from and participate in the daily functioning of the democratic system.

Socioeconomic reform was a central component of Lugo’s electoral program. Despite high levels of popular support and expectations, however, his policies (such as land reform) have encountered significant resistance from coordinated and powerful vested interests which have successfully blocked progress on much-needed and long overdue policies.

STRATEGIC RECOMMENDATIONS

This analysis concludes that President Lugo’s election and the peaceful handover of power that followed it represent an opportunity for gains in democratization in Paraguay. At the same time, the assessment highlights the strength and persistence of old patterns of state and party control, and a long non-democratic

history. There are serious and capable democratic reformers, but an equally serious “democratic deficit” linked to economic inequality and poverty. Given the new opportunities and challenges, this assessment recommends expanding the current DG portfolio significantly to support the new government’s commitment to consolidate democracy by confronting social injustice and corruption.

Our recommendations are based on four strategic approaches:

- **Increasing direct support for public sector institutions where a direct linkage can be made between the program and the substitution of good governance practices to replace party control.** This recommendation builds on the anticorruption efforts of the first MCC Threshold Program and is compatible with the follow-up program (Threshold II) which focuses on efficiency and accountability in public sector institutions, particularly in health, justice, and police reform. This argues for incorporation into the USAID portfolio of an increased support to government and state institutions, focused on the “supply” side of government reform, in addition to the “demand” side only approach which has been the focus in the past (2004 DG Assessment).
- **Maintaining and expanding support for non-governmental organizations that lead efforts to promote democratization and good governance.** The core of the DG program should remain focused on supporting citizens and organizations committed to improving the quality of Paraguay’s democratic political system. This recommendation addresses the fundamental democracy problem in Paraguay—partisan politics exercises extreme control over the state without regard to the public good. Supporting CSOs that expose and fight corruption, promote better governance, and support the participation and empowerment of traditionally excluded groups is a way to provide a strong counterweight to party interests that control the state.

Regarding *political parties*, efforts to reform them can be addressed through working inside of parties, and some by increasing pressures and checks and balances from without. But party reform activities have proven difficult to implement in Paraguay and achievements are hard to measure. For progress to be made, it seems that some incentives need to be put in place that would lead to a greater willingness on the part of the parties to engage in reform. Sometimes, such incentives can be found in electoral currents and codes, sometimes through other checks and balances, and sometimes through pressure from civil society. In Paraguay, given the past difficulties in working with parties, the assessment team cautions against moving too quickly in seeking to immediately and directly “strengthen” political parties.

Hence, rather than “reforming” political parties directly, this assessment suggests a more indirect approach that focuses squarely on the problem statement. Reforms must help to create incentives so that party leaders see that it is in their electoral interests to widen the number of beneficiaries in the political system from the current small number involved in traditional patron/client networks, to a much larger number of constituents (for example, policy dialogue to examine electoral practices of closed party lists, or support to CSOs/NGOs to monitor nominations to key state positions, improve technical capacity of the TSE).

- **Continuing the cross-cutting emphasis on anticorruption and transparency efforts currently in the DG portfolio.** This assessment suggests that anticorruption and transparency efforts should be embedded in all components of USAID’s portfolio, promoting systems to identify corruption, “turning the lights on,” and strengthening mechanisms for enforcement at all levels (national and sub-national). This suggests anticorruption and transparency components on the program’s “supply side” that work with the public administration (national and local) to strengthen control and prevention mechanisms, and in the judicial sector to encourage more transparent enforcement processes. It also affects the “demand side” by expanding the oversight role of CSOs, including the media, to increase the “interest and ownership for anticorruption efforts.”
- **Adding a new strategic focus (with attention on cross-sectoral linkages) on rural areas of high poverty,** where state presence is limited and citizens are effectively excluded from state benefits and

meaningful political participation outside of elections. All aspects of the DG portfolio should be examined in terms of this strategic focus. For example, the successful practices established in USAID's local government programs should be expanded, focusing to the extent possible on sub-national governments in departments and municipalities characterized by greater poverty, isolation, and lack of government resources. In addition, programs to support national government institutions (e.g., Secretary of Public Function, the National Police, justice programs) should include this strategic component, as should civil society programs, and enhanced donor collaboration efforts.

The areas of recommended programmatic emphasis are detailed in the report that follows.

INTRODUCTION

This DG assessment in Paraguay was conducted during a three-week period in April 2009 by a four-person³ team as a preliminary step in the development of USAID/Paraguay's new Strategic Plan. The team conducted more than 60 interviews in Asuncion, in the municipalities of Villarrica and Coronel Oviedo, and in Washington, DC, with a broad cross-section of Paraguayan political actors and observers including CSO organizations, media, central and local government officials, donors, and USAID officials in Washington and Paraguay. The assessment team also reviewed a wide range of documentary resources. The visit of the DG assessment team followed a previous anticorruption assessment finalized in July 2008 which served as a valuable source of information for the recommendation section of this report. The report follows an analytic framework and methodology used by USAID in many countries.⁴

The assessment took place eight months after Fernando Lugo's accession to the presidency, which was the first peaceful handover of power between political parties after 60 years of the Colorado Party in Paraguay. The analyses of the changes in the political dynamics, institutional arenas, and actors that preceded and continue after Lugo's election are defining themes for the assessment. The assessment team studied new possible opportunities and entry points for reforms, and also reviewed USAID/Paraguay's previous strategic assumptions regarding promotion of a consolidated democracy in Paraguay.

³ Members of the team include Antonio Iskandar, ARD, Team Leader; Margaret Sarles, team member and Democracy and Governance Specialist; Peter Lambert, Country Specialist; and Jorge Rolon, Local Country Specialist. Lilian Cabrera assisted the team as Logistic Coordinator.

⁴ *Conducting a DG Assessment A Framework for Strategy Development*. Technical Publications Series, PN-ACP-338, Office of Democracy and Governance, Bureau for Democracy, Conflict, and Humanitarian Assistance, U.S. Agency for International Development. November 2000.

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I.0 BACKGROUND

This section covers three phases that help to explain the current political dynamics of Paraguay:

- The Stroessner dictatorship;
- The first 19 years of the democratic transition under Colorado Party rule; and
- The implications of President Lugo's election in 2008.

I.1 THE DICTATORSHIP

Any analysis of contemporary politics in Paraguay needs to be firmly based in an understanding of the nature of the dictatorship of General Alfredo Stroessner (1954-1989)—who molded, over 35 years, many of the tendencies and patterns of behavior that characterize Paraguayan politics today—and his pervasive legacy, which endures throughout the economic, political, judicial, and cultural spheres.

Stroessner's skill was to secure the hegemony of the Colorado Party by developing incipient links with the armed forces,⁵ and formalizing the relationship between the state, the Party, and the military, a relationship that became the backbone of his dictatorship. In this triangular structure of power, all three became heavily interlinked, with the state and military subjected to a process of '*coloradization*', with all members required to join the Colorado Party.

Stroessner developed the Colorado Party from a traditional party, deeply divided by competing *caudillos*, into "a highly efficient vertically organized political vehicle which dominated all aspects of Paraguayan life."⁶ Through purges and the centralization of power, he harnessed the party, bringing it under his own control while reorganizing it into a centralized, corporatist, and vertical organization, with himself approving unopposed, centrally nominated, single lists for all local and national party elections. He also established an organizational structure that covered the country in the form of a comprehensive network of 236 *seccionales* (party offices) and hundreds of *subseccionales*,⁷ responsible for mobilization and support for the regime, but also for local vigilance, social control, and repression. Since they rapidly became centers of local patronage and clientelism, membership in the party became a prerequisite for access to patronage, employment, and government services.⁸

Crucially, the Party came to function as both the party of government and of the state, deeply inserted within the bureaucratic structure, which dominated all aspects of political and civil society at every level. The "coloradization" of the state led to ministries and public entities passing from public hands to the private terrain of the Colorado Party.⁹ All public employees, including teachers, doctors, judges, and (from 1955) all

⁵ For an analysis of civil-military relations before and during the dictatorship, see M.A. Riquelme, *Stronismo, Golpe Militar y Apertura Tutelada*, CDE/RP Ediciones, Asunción, 1992.

⁶ P. Lambert, "The Regime of Alfredo Stroessner" in P. Lambert & R.A. Nickson (eds) *The Transition to Democracy in Paraguay*, MacMillan, London, p. 5.

⁷ The figure is from 1988. See R.A. Nickson, *Historical Dictionary of Paraguay*, Scarecrow Press, London, 1993 p. 488.

⁸ See E. Caballero "Dictaduras, Estado Prebendario y Crisis Política", *Documentos de Discusión*, Centro Paraguayo de Estudios Sociológicos (CPES), Asunción 1985.

⁹ See R.A. Nickson, and P. Lambert, P (2002) "State Reform and the Privatized State in Paraguay," *Public Administration and Development*, Vol.22, pp. 163-174.

officers in the armed forces were required to join the party, as well as contribute to party funds. The state sector henceforth became a source of patronage, clientelism, and electoral support, expanding massively to become the largest national employer by 1989.¹⁰

Loyalty to the regime was also strengthened through officially tolerated corruption—“the price of peace” as Stroessner reportedly described it. Indeed, institutionalized corruption became the cohesive factor linking the party, the army and the state, the elites, and the masses. Contraband became the most active informal activity in the country,¹¹ with Stroessner assigning portions of the illegal trade to key officials in the armed forces and the party in exchange for their continued support. By the 1980s, this included the illegal income from an arms trade that was available to party officials and military leaders.¹²

Finally, another key to his longevity was a nationalistic discourse. So pervasive did the Colorado Party become in terms of national identity, and dominance of the Paraguayan political life, that the Party could claim that to be Paraguayan was to be Colorado.

Thus by 1989, when Stroessner was finally overthrown, Paraguay was characterized by Party control of state bureaucracy, deeply rooted clientelistic practices, the prevalence of an informal economy based on contraband, widespread and deeply rooted corruption, and a fragmented and repressed civil society which had no leverage over the state, and was emerging from the longest dictatorship in 20th century Latin America.

1.2.2 The Transition to Democracy

Despite the growth of opposition to the dictatorship in the late 1980s, the fall of Stroessner was not due to pressures from civil society or the political opposition, or to international pressures, although all may have played a role in undermining the regime. Instead, he was the victim of internal party factionalism, overthrown in a palace *coup* carried out by his previously loyal military commander, General Andrés Rodríguez, who was closely allied to the *tradicionalista* faction of the party. Amongst Rodríguez’s stated aims was not only the initiation of a democratic transition but also “the full and total unification of coloradism in the government.”¹³

The nature of the subsequent transition may be described as conservative, elite led and controlled, and with a high level of continuity in terms of informal power and influence, and indeed personnel. At the heart of this continuity was the Colorado Party itself, which would hold onto power for a further 19 years. Eager to placate international pressures for a democratic transition, Rodríguez granted full civil rights and political freedoms, and signed a number of international treaties on human rights, democracy, and trade. Presidential elections were held in May 1989 just three months after the *coup*, which Rodríguez won with an overwhelming 73 percent of the vote, while the Colorado Party gained absolute majorities in Congress. To deepen the democratic legitimacy of the new transition and his administration, Rodríguez passed a new electoral code in 1990, which included direct vote for internal party elections, space for independent candidates, and proportional representation. The resulting municipal elections of 1991 allowed direct election of mayors for the first time. Although the Colorado Party maintained a majority of municipalities, the opposition captured a number of important cities, including Asuncion.

In 1992, the new Constitution was passed which codified the new political freedoms and civil rights, as well as limited the powers of the executive by conceding greater powers to the legislature. Decentralization was

¹⁰ Arditi, B. (1992) *Adios a Stroessner*, RP Ediciones, Asunción, p. 165.

¹¹ R. Roett, Paraguay After Stroessner, *Foreign Affairs*, Vol. 68, No. 2, 1989, p. 132.

¹² See Nickson “Corruption and the Transition.”

¹³ The other reasons were “in defence of the dignity and honour of the Armed Forces...the beginning of the democratization of Paraguay, respect for human rights and the defence of the Apostolic Roman Catholic religion,” quoted in T.G. Saunders, “The Fall of Stroessner: Continuity and Change in Paraguay, UFSI Field Staff Reports, Latin America, 1989-90/No. 2, p. 7.

promoted through the creation of a new tier of regional governors and departmental councils, with members chosen through direct election. Finally, the Constitution established new independent safeguards such as the Public Ombudsman, *Contraloría General de la República*, and the Council of Magistrates to ensure greater transparency, accountability, and independence of the powers of state.

Juan Carlos Wasmosy (1993–1998) was the first civilian president of the transition, though his victory in the internal Colorado Party elections in 1992 was perceived as fraudulent and due in great part to the support of General Lino Oviedo. In that election, the opposition, divided between the *Partido Liberal Radical Auténtico* (PLRA)¹⁴ and the newly formed *Partido Encuentro Nacional* (PEN),¹⁵ held a majority in Congress. This led to the 1994 “Governability Pact” by which Wasmosy hoped to govern with a majority opposition. In particular, this pact permitted a reform of the Supreme Court and highest organs of the judiciary (hitherto dominated by Stroessner appointees) along the lines of a political quota system (party political appointments)—a mechanism which was useful in that period to democratize the judiciary, but that later undermined the political independence of the whole judicial service.

By 1996, tensions between the two erstwhile allies, Wasmosy and Oviedo, led the president to attempt to send his general into retirement. Oviedo refused and called on the president to step down or face a *coup d'état*. Only strong international pressure forced Oviedo to back down. The attempted *coup* prompted further democratic gains through the strengthening of the Governability Pact and the subsequent institutionalization of the armed forces, and their subordination to civilian control, effectively taking the military out of political life. An unpunished Lino Oviedo, however, then won the internal Colorado Party elections and, in the run-in to the 1998 elections, was the clear favorite to win the presidency by a significant margin. Only a highly politicized decision to imprison him for his role in the 1996 *coup* attempt, a month before the elections, prevented him from winning the presidency.

The victory in 1998 of Raul Cubas Grau (an *oviedista* candidate) over a united opposition generated a new crisis in the transition. His almost immediate release of Oviedo from prison led not only to a deep split in the Colorado Party between *oviedistas* and *argañistas* (supporters of the vice-president and arch enemy of Oviedo, Luis María Argaña) but also to a collision course with the Supreme Court over the legality of the action and, subsequently, an impeachment process against the new president. In March 1999, with impeachment of Cubas imminent, Vice-President Argaña was assassinated, and when fingers were pointed at Oviedo, the ex-general launched another attempted *coup d'état*. The resulting conflict and civilian defense of Congress against Oviedo's forces became known as the *marzo paraguayo* and marked a key point in the transition, as civilians defeated the attempted military intervention.

With Cubas imprisoned, Argaña dead, and Oviedo exiled, the presidency fell to President of the Senate Luis González Macchi. Elections in 2000 for the vice-presidency produced a first defeat for the Colorado Party at the hands of Julio César Franco of the PLRA. However, the expected extension of the Governability Pact failed to materialize, and the rest of the period until 2003 was characterized by ineffectual, indecisive, and divided government and almost permanent political crisis.

The victory of Colorado Party candidate Nicanor Duarte Frutos in 2003 led to an initial period of dramatic progress in terms of economic stabilization and fiscal balance, as well as anti-corruption measures, promoted by his Finance Minister Dionisio Borda. Following the resignation of Borda in 2005, the administration became increasingly embroiled in unsuccessful attempts by the president to alter the Constitution to allow a further mandate, and when that failed, to ensure the victory of his own candidate in internal party elections. Increasing frustration with the performance and alleged corruption of the government led to a fall in Duarte's popularity ratings from over 80 percent in 2004 to just 5 percent by 2008. His actions also led to a decisive

¹⁴ The PLRA (*Partido Liberal Radical Auténtico*) has been the second largest political party throughout the transition. Its formation was the result of continued splits within the Liberal party, the traditional opposition to the ANR.

¹⁵ The PEN (*Partido Encuentro Nacional*) was formed for the 1993 elections. A center-right party, within a high level of urban support, it represented a third political force throughout the 1990s, before undergoing decline following the 2003 elections.

split in the Colorado Party, primarily with the supporters of Vice-President Luis Castiglioni, a modernizer. After Duarte allegedly rigged the internal elections of 2007, Castiglioni refused to vote for Blanca Ovelar, the official Colorado candidate for the 2008 elections, thus splitting the party vote and seriously jeopardizing the Colorado Party's hold on power.

1.2.3 The Elections of 2008 and the Current Panorama

The elections of April 2008 and the victory of Fernando Lugo—an ex-bishop, proponent of Liberation Theology, and political novice and outsider with no coherent or strong base of support—marked a watershed in the transition, bringing to an end over 60 years of direct Colorado Party rule, as well as the first ever peaceful handover of power between parties.

Having served as Bishop of San Pedro, the poorest region in Paraguay, and gained a reputation for his outspoken views on social justice, Lugo emerged as a prominent figure during the protests against Duarte's proposed reform of the Constitution in 2006, and was quickly propelled towards the leadership of a proposed *Concertación* against the Colorado Party. While key parties such as *Patria Querida* and *Unión Nacional de Ciudadanos Éticos* (UNACE) left following disputes over the vice-presidency, the Patriotic Alliance for Change (APC), retained the support of the PLRA (in exchange for the vice-presidency), as well as a number of small left wing parties. In the elections, Lugo gained 41 percent of the vote, far higher than surveys had predicted. His closest opponent, Blanca Ovelar of the Colorado Party, won 31 percent, while the populist former *golpista*, ex-general Lino Oviedo significantly came in third with 22 percent.

The electoral victory of the opposition was perhaps the most important political development in terms of democratization since 1989, and should not be underestimated. However, the challenges facing Lugo are significant. First, he must confront the legacies of more than 60 years of Colorado Party control of government, state agencies, and, to a great extent, society, along with the accompanying legacies of clientelism, corruption, and authoritarian enclaves. Lugo's victory did not imply the collapse of the Colorado Party; indeed it remains the largest political party in terms of membership, seats in Congress, departmental governorships, and local government (controlling over 70 percent of municipalities). Moreover, such is the strength of its mechanisms of clientelism, patronage, and corruption that its structures of informal power remain strong (if somehow weakened) through its presence, influence, and leverage in the public sector bureaucracy and the judiciary, as well as its vast mobilization power. How resilient it proves to be now that it has lost the economic leverage associated with control of the Executive remains to be seen, but it would be unwise to underestimate the strength of the Party.

Second, Lugo's electoral alliance has not translated into a government coalition, which is creating serious obstacles for the president's implementation of his electoral reform agenda in Congress and within the Executive. Lugo's challenge, therefore, is not only to maintain an alliance, but also to lead it in a direction in line with his electoral promises, navigating reforms through a powerful and conservative Congress. The APC was a marriage of convenience between Lugo and the Liberal Party (PLRA), to enable both parties access to power. As a result, despite its title, APC is a diffuse, ideologically fragmented alliance that lacks internal coherence or unity, or indeed an absolute majority in Congress. Support for Lugo's policies is found in his own party Tekojojá, and other small parties such as *Partido País Solidario* (PPS) and *Partido Movimiento al Socialismo* (P-MAS), which have minimal political representation (see Section 3 for more details). However, the political backbone is the center-right PLRA, the traditional opponents of the Colorados. Although they accepted Lugo as their presidential candidate, factions of the party are formally opposing Lugo's agenda since: (i) powerful conservative elements within the party are likely to oppose Lugo's key programs, such as land and tax reform; and (ii) the existence of splits within the PLRA, fueled by hostility between the president and Vice-President Federico Franco, and Lugo's alliance with dissident (anti-Franco) factions of the PLRA.

Third, Lugo came to power on a program of far-reaching socioeconomic reform, promising to address longstanding issues of poverty, landlessness, inequality, and lack of access to basic state welfare (water, electricity, sanitation) without a working political coalition in Congress and in times of financial crisis and

limited revenue flows. Not only does he lack any working majority to get the necessary programs through Congress, but he assumed power in a global economic crisis in which credit to fund key reforms will be difficult to find. This financial liability is exacerbated by his dependence on successful renegotiations with Brazil of the “scandalously unfair” 1973 Itaipú Dam Treaty, which obliges Paraguay to sell any unused electricity to Brazil at cost, rather than to third parties. However, renegotiation of this Treaty, under which Paraguay subsidizes cheap electricity to Brazil, has been ruled out by Lula and Itamaraty, thus threatening the financial sourcing of many of Lugo’s projects.¹⁶

Fourth, Lugo’s social reform agenda generated high expectation among social groups but he lacks the political capital that is required to undertake those reforms. Paraguay has one of Latin America’s most distorted distributions of land, and peasant organizations have been mobilizing with increasing effectiveness since 2000. While Lugo is keen to negotiate land reform in part to avoid any escalation of social discontent, he will meet fierce opposition from the powerful Rural Association of Paraguay (ARP), led by elites from across the political spectrum and including Paraguay’s increasingly powerful soya producers, who will oppose any state expropriation of land. High popular expectations may give some impetus to Lugo’s reform efforts, but they can easily lead to disillusionment and frustration should no visible progress be made; as one member of the House argued, “we are sitting on a social time bomb; if this government does not act decisively, we are heading towards the abyss....”¹⁷

In short, there may be serious practical obstacles to governance, but for the first time in the transition, there is a clear intention on the part of the executive to make substantive improvements to the quality of democracy, in terms of ROL, governance, competition, and inclusion. This has led to extremely—perhaps unrealistically—high expectations of rapid and far-reaching political and socioeconomic reform to address the poor quality, narrow focus, and low credibility of democracy in Paraguay.

¹⁶ R.A.Nickson (2008) “Paraguay: Fernando Lugo vs the Colorado machine” in *Open Democracy*, http://www.opendemocracy.net/article/democracy_power/politics_protest/paraguay_fernando_lugo.

¹⁷ Interview with Sebastian Acha, PPQ, April 2009.

2.0 THE DEMOCRACY AND GOVERNANCE PROBLEM

2.1 CONSENSUS

One of the major achievements of the transition since 1989 has been the survival of the democratic system. Despite 35 years of dictatorship and a strong tradition of authoritarian rule, Paraguayans have adhered to democratic institutions and procedures in terms of resolution of conflicts and registering protest, and there appears to be a basic consensus between civilians and the political elites regarding the rules of the democratic game.¹⁸ Nevertheless, support for democracy remains low among citizens as noted in several perception surveys, and attempts to subvert the constitutional order have occurred recently posing threats to the sustainability of the consensus in Paraguay.

On the gains side of democracy, significant violations of the rules (consensus) at the national level have eventually proved counterproductive and have been dealt with effectively. Strong civilian defense of democracy, the increasing professionalization of the armed forces, and a strong national and international consensus against military intervention suggests that extra-constitutional plots to gain power would not be successful.¹⁹ The Colorado Party, as the party most linked to authoritarianism and with the most to lose in the new system, has undoubtedly found it harder to adapt to the new democratic system. Its acceptance of the “rules of the game” as the opposition party has yet to be put to the test, but its acceptance of the PLRA victory in the 2000 vice-presidential elections, and the peaceful handover of power in 2008, marked important steps in the transition for the party itself.

On the deficit side of democracy, there have been a number of significant tests of the robustness of the democratic system. These have included the increased influence of mafias connected with drugs and contraband, and the attempts to circumvent the democratic system with a military insurrection in 1999 and an attempted *coup d'état* in 2000. There have also been open violations of the Constitution including ex-President Cuba's decree defying the Supreme Court and freeing Lino Oviedo from prison in 1998 and, more recently, Duarte's manipulation of the Supreme Court to once again free Oviedo in 2008. Duarte also attempted to change the Constitution in 2006 to allow himself a second term. Furthermore, while national elections have been deemed free and fair, with all sides accepting results, this has not been true of internal Colorado Party elections. In 1992, 1997, 2002, and 2007, the results of internal elections have been challenged and termed fraudulent by the losing factions of the party and by sections of the media.

Despite the success of the recent elections, a comparatively low level of support for democracy represents a structural challenge to Paraguay's democracy. Latinobarómetro results from 2008 show that Paraguay has the highest level of confidence in the government and its leadership in Latin America (84 percent and 87

¹⁸ The consensus is about the “rules of the game” represented in the agreed institutions and procedures through which democracy operates (the definition of consensus is provided in the DG Assessment Methodology). These are enriched in the 1992 Constitution and the 1990 Electoral Code.

¹⁹ Lino Oviedo participated as candidate in the 2008 elections.

percent).²⁰ A 2008 United Nations Development Programme (UNDP) survey in Paraguay shows that 49 percent of respondents support democracy over other forms of government. These results, however, reflect a heightened moment of optimism and hope following the election of Fernando Lugo. Until Lugo's election, Paraguay scored lowest of all countries in the region on almost all ratings of attitudes towards democracy, including support for the system (33 percent), satisfaction (9 percent), trust, government performance, and improvement to welfare.²¹

At the same time, a combination of poor economic performance between 1996 and 2003, an increase in corruption, a lack of socioeconomic reforms, and a rise in crime seem to have created somewhat distorted memories of the years of the dictatorship. Thus, in 2005, the Latinobarómetro survey found that 65 percent of respondents were not only disillusioned with democracy, but also would support authoritarianism under certain circumstances (over double the average figure for Latin America). Even in 2008, 69 percent believed the kind of government (authoritarian or democratic) was less important than that government's performance.²²

In conclusion, although popular support for democracy has been comparatively low, reflecting the lack of change and poor performance during the transition, Paraguayans have defended the democratic system at key moments of crisis. Although vulnerable, there appears to be a belief in the legitimacy of the democratic system. The fragility of the consensus surrounding democracy and the transition process, however, should not be underestimated, and efforts to address the underlying causes need to be on the agenda.

2.2 COMPETITION

A) Electoral Competition

A significant achievement of the transition is that elections have been held regularly since 1989, without major conflicts or issues. These have included five presidential elections (1989, 1993, 1998, 2003, and 2008), one vice-presidential election (2000), and four municipal elections in 1991, 1996, 2001, and 2006. These have all been judged to have been free, although irregularities, both structural and contingent, have been noted. Yet real competition remains compromised by the structural obstacles such as the domination of the Colorado Party and the prevalence of the quota system for certain judicial appointments, and a form of party politics that prioritizes personal power, party benefits, and the interests of elite groups above the public wellbeing.

At the root of a number of such irregularities is the politicization of the three-person TSJE, the institution responsible for all electoral processes at a national and local level, including internal party elections. Although it was subject to the party quota system agreed to under the Governability Pact in 1994, it enjoyed a relatively good reputation during the 1990s as a balanced organism of checks and balances (see details in Section 3).

A second point concerns party financing. Although each party receives state funding according to the number of seats in Congress it holds, and there is greater transparency in terms of spending, there are no checks and balances in terms of private donations to party funds. Since 1989, the Colorado Party has been accused of using state resources (specifically from the public sector), including money, personnel, vehicles, and administration, to support its electoral campaigns. It is also common practice among the major parties to use funds in order to strengthen clientelistic links during election campaigns.

Third, although electoral competition may exist, there is little or no ideological debate or difference between the main parties when it comes to policy articulation. Both the ANR and the PLRA are center-right parties that contain center-left elements within them. UNACE, often referred to as the "spare wheel of coloradism," is seen as a more right-wing faction of the Colorado Party with which it could reunite at any time. This is

²⁰ Latinobarómetro Report 2008, p. 93.

²¹ See Latinobarómetro Report 2007, p. 81.

²² Latinobarómetro Report 2008, p. 85.

related to the strong perception that the political culture among party activists is merely to obtain a seat, often referred to as “*un cargo político*” (political position) rather than a seat, since the aim is to secure a position within the party apparatus and ideally access to state resources rather than to represent constituents. Power is seen as something to benefit the individual, the party, and fellow party members rather than the notion of the “common good,” a belief reflected in extremely low levels of public confidence in political parties.

B) Free Exchange of Ideas

Freedom of the press and media is guaranteed by the Constitution, and independent media have been allowed to operate, broadcast, and publish without significant government interference. The media has also become an unofficial source of investigation into corruption, impunity, and crime, despite the risks to individual journalists. As a result, surveys demonstrate high levels of trust in all forms of media.²³

At the same time, however, the media’s record as a non-partisan entity is mixed. For example, ABC Color is considered by some to be overtly pro-UNACE.²⁴ Also, while freedom of press and expression are respected in Paraguay, the press is not always considered to be responsible or objective in its publications, thus calling into question the industry’s professionalism.²⁵ The media’s effectiveness is affected by three issues. First, the concentration of the media (especially written) means that most sources are intertwined with business and political groups whose interests exert a strong influence over individual journalists as well as over news coverage and editorial content. Second, the fact that public officials may criminally prosecute or sue private individuals and the press for damages under Paraguay’s defamation laws serves to discourage what could be more ambitious coverage. Third, according to Amnesty International, journalists in Paraguay continue to suffer from repression and harassment, especially those involved in investigative journalism into contraband and drugs trafficking.²⁶ All of these factors in combination serve to hinder the overall effectiveness of the media.

Despite entering the transition weak, fragmented, and with a limited organizational base, civil society has seen significant growth during the transition, with key input to the 1992 Constitution, election participation and observation, and greater rights for women. Nongovernmental organizations (NGOs) are free to operate without undue government interference and have played an active role broadening the debate and promoting policy reform on a broad range of issues including human rights, government transparency and accountability, anticorruption, citizens’ (including women’s and indigenous peoples’) rights, military service, and protection of the environment.²⁷ The growth of organized civil society is also reflected in increased levels of participation in small-scale *comisiones vecinales* that have proliferated in most municipalities, the increasing power of organization and mobilization of peasant federations (especially *Federación Nacional Campesina* [FNC] and *Mesa Coordinadora Nacional de Organizaciones Campesinas* [MCNOC]), and the emergence of broad, multi-sector citizens’ coalitions, such as Country for Everyone (*País para la Mayoría*) and the Popular Social Front (*Frente Social y Popular*), which have led several efforts to defend and deepen democratic practice.

Finally, intergovernmental competition and regulation is severely limited due to two factors. First, the government and its bureaucracy and all its branches continue to be dominated by the Colorado Party. Although the Party’s domination has been reduced during the transition, its influence over the Executive has ensured that Colorado’s power has continued, especially in the Judiciary and in the bureaucracy. Only since 2008, with an opposition Executive confronting a Colorado-controlled Congress and Judiciary has real

²³ See Latinobarómetro Report 2008, p. 84.

²⁴ While Lino Oviedo was in jail, ABC Color was overtly pro-UNACE.

²⁵ The team found consensus on the general lack of professionalism and responsibility of the media. There is a heavy influence of the agendas of the media owners frequently distorting the facts with a rather subjective content on the news presented to the public. In addition, the lack of professionalism is also explained in the low levels of preparation of the professional journalist who makes the news.

²⁶ Amnesty International Report 2008, <http://www.amnesty.org/en/region/paraguay/report-2008>.

²⁷ For an in-depth analysis of civic action, see C. Soto, L. Bareiro, Q. Riquelme, and R. Villalba, “Sociedad Civil y Construcción Democrática en Paraguay” in M. Albuquerque, *La Construcción Democrática desde abajo en el Cono Sur* (Sao Paulo: Instituto Polis, 2004), 135–193.

competition become apparent. Second, although the quota system adopted under the Governability Pact was intended to inject an element of pluralism into the Judiciary and break the Colorado Party's monopoly, in practice, it has undermined judicial independence by allowing the major parties to negotiate appointments for most judicial posts (see Section 2.4). As a result, there is no real independent judiciary, judicial appointments reflect the comparative power of political parties, and the Judiciary as a whole is dominated by the Colorado Party.

2.3 INCLUSION

In light of the 1992 Constitution and other laws since passed, there are no formal barriers to participation that would exclude any social group. Participation is, however, limited by informal barriers. Access to basic services, benefits, and opportunities are not fairly distributed among different groups, with evidence of discrimination related to gender, ethnicity, language, and (rural) location.

While not directly affecting democratic procedures and institutions, there is a growing academic consensus that social inequality undermines political equality, the cornerstone of democratic practice. High levels of socioeconomic exclusion and inequality, poverty, and lack of access to basic services (water, healthcare, education), reduce the quality of democracy, limit access to benefits of the democratic system, lead to lower levels of democratic participation, and, above all, undermine active, democratic citizenship—the ability of the individual to fully benefit from and participate in the daily functioning of the democratic system as a full citizen.

Heightened inequality is also related to lower levels of support for democracy and political parties, as well as greater tolerance of authoritarianism in some situations (all of which are consistent in the Paraguayan case, as evidenced, as we have seen by *Latinobarómetro* surveys). Higher levels of inequality and poverty also strengthen the opportunities for clientelism and patronage, which have been identified as central obstacles to democratic consolidation in Paraguay, with subsequent effects on democratic accountability, transparency, and representation. Finally, inequality combined with lack of reform and access to democratic channels of representation can increase the possibility of social conflict. In a country such as Paraguay, social inclusion is thus at the core of the debate over the quality of democracy.

Paraguay is one of the most unequal countries in Latin America with a GINI coefficient of 58.4. According to *Latinobarómetro*, fewer people (6 percent) in Paraguay consider distribution of land and wealth to be equitable than in any other country in the region. And, only 8 percent believe that inequality has decreased during the transition.²⁸ Paraguay is also one of the poorest countries in the region; according to government figures for 2007, 35.6 percent of the population lives in poverty, of which 19.4 percent live in extreme poverty—figures that have changed little since the mid-1990s.²⁹ Indeed, extreme poverty appears to be rising. The effects of poverty are clearly exacerbated in rural areas where access to basic state-provided social services, transport, and infrastructure are more limited.

Education, healthcare, and social security are all indicators of social exclusion, which affect social cohesion and access to basic needs. Despite an investment of over 2 percent of GDP and a recent educational reform, the quality of education in Paraguay remains poor. The official level of illiteracy is low (5 percent), but this conceals far higher levels of functional illiteracy. Coverage and levels of education are especially low in rural areas and especially at secondary level, with shortages of materials and infrastructure. This is exacerbated by the issue of Guaraní and Spanish. Despite claims of being a bilingual population, results of the 2002 census show that this is not entirely the case. Sixty percent of the population speak Guaraní exclusively, or more comfortably, a figure that in rural areas rises to nearly 85 percent, while just 6 percent speak only Spanish—the language in which official politics is conducted. There is a close correlation between households in which

²⁸ See *Latinobarómetro Report 2006*, p. 37 and *2007*, p. 98.

²⁹ *Dirección General de Estadística, Encuestas y Censos (DGEEC)*. Results from Home Surveys 1997-2007, in UNDP 2008, p. 262.

Guaraní is prevalent and higher levels of poverty, extreme poverty, and illiteracy, as well as lack of access to healthcare and justice.³⁰ This suggests that language is an important (often overlooked) source of exclusion and discrimination.³¹

In terms of healthcare there is a plan for reform based on principles of equity, quality, efficiency, and social participation. Implementation of health care reform has been driven by a coordinated long-term approach since 1996, based on the process of decentralization to address a chronic social deficit in terms of equipment, medicines, and hospitals. Low access to resources, low levels of coverage, the lack of health education programs, preventative healthcare, and distribution of medicines have been addressed by successful initiatives at the local government level, such as the creation of social pharmacies, local Health Councils (with some control over strategic planning and budgets), and preventative health education. The present government has also added a number of new initiatives including free access to medical attention, maternity care, emergencies and certain medicines. Most of the population does not have medical insurance; according to government figures, 81.6 percent of workers have no such insurance, while the national *Instituto de Previsión Social* (IPS) covers only 10.6 percent of the population (a figure that reflects high levels of informality in the workplace). In the countryside, figures are even lower.³²

Indigenous people (approximately 1.7 percent of the population) have the lowest indicators in terms of social development of any group in Paraguayan society and suffer from extreme poverty, marginalization, and exclusion.³³ Favorable legal and constitutional protection is routinely circumvented or ignored and masks continued neglect by the state and a lack of judicial and police protection.³⁴ They are largely excluded from political and economic participation due to a lack of adequate access to land, financial resources, or basic social services, reflected in significantly higher figures for illiteracy, malnutrition, and a lack of access to water. Additionally, they have no high-level political representation. Discrimination and inequality are deeply embedded and reflected in economic, social, and cultural marginalization.³⁵

The 1992 Constitution guarantees gender equality in civil, political, social, economic, and cultural rights, and assigns responsibility to the state to facilitate and effectuate genuine equality and full participation of women in all spheres of national life. Many significant gains have since been made, such as the creation of the Women's Secretariat (1993) to protect and ensure the fulfillment of women's constitutional rights. However, given the historical legacy of *machismo*, women still suffer disproportionately from economic deprivation, legal and political inequality, social inequity, and discrimination. In rural areas especially, women are informally excluded due to lower education rates and higher illiteracy, as well as a cultural tendency that affords little power or participation to women, reflected in less access to land, and higher levels of extreme poverty. Despite several high-level appointments (including a female governor (2003), a female mayor of Asuncion (2006), a female member of the Supreme Court (2004), and a (Colorado Party) presidential candidate in 2008), a quota system for party candidatures, and greater representation at the local level, women's presence in party politics is still low.

A further issue regarding socioeconomic rights is Paraguay's unequal access to land. Even though over 40 percent of the population lives in rural areas, just 10 percent of that population owns 66 percent of the land.

³⁰ See Nickson 2008.

³¹ See UNDP (2008), pp. 74-84.

³² Encuesta Permanente de Hogares, DGEEC, Paraguay 2006.

³³ 43 percent of the population lives in rural areas in accordance to the 2002 National Census (some estimate that this number could have dropped to 40 percent today)

³⁴ O. Ayala and O. and M.J. Cabello, "Entre la realidad y los avances de la justicia internacional," in *Coordinadora de Derechos Humanos del Paraguay* (CODEHUPY) Report (2006), p. 364.
http://www.codehupy.org/www/index.php?option=com_content&task=category§ionid=3&id=8&Itemid=21.

³⁵ Figures from *Draft Country Programme Document: Paraguay* (New York: UNICEF, 2006), 3, [http://www.unicef.org/about/execboard/files/06-pl50_Paraguay_Rev1\(1\).pdf](http://www.unicef.org/about/execboard/files/06-pl50_Paraguay_Rev1(1).pdf).

Some 30 percent of the peasants (approximately 300,000 people) are landless.³⁶ Past land reforms under Stroessner were subject to highly irregular and corrupt procedures and led to a greater concentration of land in the hands of regime supporters and Brazilian colonists. Given the steady increase in the concentration of land throughout the transition, integrated agrarian reform was a major component of the government's electoral campaign program. Land reform, however, confronts a series of obstacles, including the need for a thorough survey of land ownership (including illegally held lands), the need for an updated assessment of land values to be conducted by the *Instituto Nacional de Desarrollo Rural y de la Tierra* (INDERT), and the finances required to pay for reform. Perhaps the major problem, however, remains the lack of political will to undertake a policy reform that will meet with coordinated and powerful opposition from groups such as the ARP which are well resourced, well connected, have representation in both major parties, and have proven in the past that they are able to block such legislation.

Social inclusion is an often overlooked element in the development of a consolidated democracy. The current administration is expected to prioritize long-overdue social programs that address the issue of inclusion. The administration's success will depend, to an extent, on the progress it makes with these programs.

2.4 RULE OF LAW

According to a 2008 UNDP poll, only 11 percent of Paraguayans have confidence in the application of equality before the law, and less than a third have confidence in the judicial authorities.³⁷ Furthermore, despite international efforts, Paraguay remains a major regional center and conduit for narcotics and arms smuggling, contraband, and money laundering. Thus, despite significant advances in terms of checks and balances under the 1992 Constitution, the rule of law remains an area in which the legacies and practices of the dictatorship and the Colorado Party remain strongest. This is most evident in terms of the weak and highly politicized structure of the Judiciary, the presence of pervasive and institutionalized corruption, unequal access to justice, and the weakness of state presence.

Despite widespread criticism and demands for reform, the standard for selection, designation, and promotion of judges, district attorneys, and prosecutors remains highly politicized as opposed to being merit-based. There is, in fact, a standardized public system, including a guidance manual, for selection. The standards are, however, politicized and not used to their fullest. Judges and prosecutors, under Paraguayan law, are assigned for five-year terms, and if they want to continue in their post, they have to compete for it again. And, if a prosecutor wants to become a judge, they have to compete for that position. But, in reality, the system is weak and ineffectual because the Judiciary continues to be subject to high levels of party political interference, which undermines the integrity of the system of checks and balances and judicial independence. Since the Governability Pact of 1994, appointments to the main judicial bodies³⁸ have been negotiated between the major parties in accordance with a quota system, although, in practice, the main beneficiary has undoubtedly been the Colorado Party.

Most notably, the Council of the Magistrates (*Consejo de la Magistratura*) itself, which is crucial in terms of appointments throughout the Judiciary, is subject to such a quota system and, consequently, highly politicized. As a result, the whole judicial system from the Supreme Court of Justice to the TSJE, to judges, is subject to politicized appointments and promotions on the basis of agreements between political parties, and heavily distorted in favor of Colorado Party appointees. Hence, appointments are made on the basis of political service, allegiance, and loyalty rather than merit and expertise, experience, or qualifications.

³⁶ Latin American Weekly Review, 26 July 2005, 7.

³⁷ UNDP 2008. According to the 2008 Latinobarómetro poll, Paraguay has the second lowest level of confidence in the application of equality before the law in the region (Latinobarómetro Report 2008, p. 99).

³⁸ These include the Supreme Court, the Electoral Tribunal, the Contraloría General, the Fiscalía, the Public Ombudsman, and the *Jurado de Enjuiciamiento de Magistrados*.

This raises serious doubts about the impartiality and independence of the judicial system from political pressures,³⁹ as well as about the professional capacity of the judicial system, which suffers from low levels of training, efficiency, and professionalism. The judiciary is also structurally weak. Despite internationally funded reform projects, the judiciary is widely seen as inefficient, corrupt, insufficiently funded, and unable either to combat corruption and impunity, or to protect citizens' (especially poor citizens') rights. Judges and prosecutors are subject to undue pressures from local economic and political elites, as well as party interests. The overloaded and underfunded system is simply unable to deal with the enormous backlog of cases.

Access to justice is guaranteed by the Constitution, although, in practice, it is highly conditioned by factors related to gender, socioeconomic resources, geographic location, language, political connections, and personal contacts, with greater obstacles prevalent in rural areas. Furthermore, although the law grants access to independent counsel, in practice, the Ministry of Public Defense is comparatively under-resourced in terms of staff and finance, and unable to provide support in terms of defense lawyers, to the vast majority of defendants, especially in rural areas. As a result, Paraguayans are often forced to rely on private finance, thus limiting adequate legal defense representation in court to those who have the necessary assets to pay privately.

Rule of law is also related to the presence of the state, which is not constant throughout the country, and is especially low in poorer and more remote areas, and in departments such as San Pedro, Concepción, Caazapá, Amambay, and Canindeyú. This is complicated by the growth of organized crime, especially in terms of production and trafficking of drugs (Paraguay is now the largest producer of marijuana in South America), as well as of arms. There is a widely held perception, and some evidence, that this growth of illegal trade involves the complicity of police, the armed forces, local and national politicians, and judges in a powerful network of influences; and that elites with ties to money laundering, piracy, contraband, and drug trafficking have come to wield a growing influence in such areas. However, despite U.S. fears of the Tri-Border Area being used as a base for international terrorism, investigations by representatives from Paraguay, Brazil, Argentina, and the U.S. led to a joint declaration in December 2006 that “no terrorism activities” had been detected.⁴⁰

State presence does not, however, always guarantee the rule of law. The police have historically been a force designed to enforce political power rather than uphold the law or protect the personal security of citizens and, as such, have long been seen as a repressive instrument of the state. Although human rights violations are no longer part of state-sponsored practices, there is evidence of the use of abuse of human rights by the police, which go largely uninvestigated.⁴¹ The police are widely perceived as not only inefficient and ineffective, but institutionally corrupt, and there is evidence of high levels of infiltration by criminal mafias related to the trafficking of arms, drugs, and vehicles. Involvement in petty and organized crime has grown, to the extent that the term “*polibandi?*” (*policía/bandido*) is widely used and understood. This is exacerbated by inadequate resources (including personnel, equipment, infrastructure, and salaries) and poor training, including public order, human rights, community relations, and investigative procedure, areas which recent government reforms have sought to address.

Corruption is often held up as the greatest obstacle to the rule of law. Widely believed to have increased during the transition, it reached a peak in 2002, when Paraguay was rated 129th out of 133 countries in the Transparency International Corruption Perceptions Index.⁴² Corruption pervades all levels of society, from the executive downward, while low-level corruption and bribery of state officials (police, judges, ministries, and civil service) is routine throughout society. This is linked to high levels of informality in the economy,

³⁹ L.E. Escobar Faella, “Estalla la crisis del sistema del Justicia” in CODEHUPY (2004), 61–70.

⁴⁰ Latin America Weekly Report (LAWR), 12 December 2006, p. 16.

⁴¹ Following a visit in November 2006, Special Rapporteur and UN human rights expert Manfred Nowak reported the existence of human rights abuses in the police in Paraguay. Specific references of police abuse in Paraguay is also found in CODEHUPY Reports from 2006 and 2007. Representatives of the Ministry of the Interior interviewed for this assessment confirmed that the government is addressing this problem as they work with the police.

⁴² *Corruption Perceptions Index* (Berlin: Transparency International http://www.transparency.org/policy_research/surveys_indices/global/cpi).

reflected in a range of indicators such as a low level of formal registration of companies and employees, low levels of access to state social security and the minimum wage, and the prevalence of low- and high-level contraband. Anticorruption measures undertaken under President Duarte in 2003–2005 were significant in improving practices, especially in some ministries, and similar strategies are being adopted by the new government. Improvements in transparency and accountability were reflected in opinion polls in which 42 percent of those interviewed felt that there was less corruption under the present government,⁴³ although clearly problems remain deeply rooted.

Likewise, the office of the Public Ombudsman, headed by a Colorado appointee with no track record in human rights, is widely seen as under-resourced, lacking real powers, ineffective, and vulnerable to corruption.

Rule of law is a key component of any democratic government. Despite international efforts to improve procedure, performance, accountability, and transparency, the highly complex and inter-related issues undermining rule of law remain at the center of the democratic deficit in Paraguay. Efforts by the present government to initiate reform at the level of the Supreme Court were defeated in early 2009, but reform efforts continued in regard to issues of anticorruption, police reform, and the introduction of merit-based appointment and promotion throughout the civil service. However, until the issue of the quota system of political appointments is addressed, the Judiciary is likely to remain highly partisan, inefficient, and corrupt and will lack the necessary professionalization it needs to guarantee effective rule of law.

2.5 GOOD GOVERNANCE

In terms of the new administration, there has as yet been minimal transformation of a successful electoral coalition into a governing coalition. Despite a number of progressive reforms included in the electoral program of the president, internal factionalism combined with political opposition in Congress has led to a stalemate, in which the president simply cannot get key legislation through Congress. This was exemplified by the decisions in 2008 and 2009 by Congress to postpone for a further year the introduction of a personal income tax (*Impuesto a la Renta Personal*), a progressive tax first put forward in 2004, which is deemed an essential first step towards an integrated tax system.

Whatever progress Lugo may be able to make, Paraguay still suffers serious shortcomings in terms of good governance. Systemic corruption permeates government institutions and corrupts the execution of their functions. Despite recent efforts, especially by the Ministry of Finance, there is a lack of transparency in government affairs, resulting in low levels of horizontal accountability. Likewise, accountability is low despite isolated examples of good practices at the national and local level, such as a yearly statement of activities (*rendición de cuentas*).

Although the rule of law, as noted earlier, is protected by thorough formal mechanisms, the public administration system is highly deficient in terms of application and enforcement. President Lugo has voiced a strong commitment to fighting corruption, but the lack of capacity in the institutional framework presents a major barrier to fulfilling that promise. An absence of an operational budget, especially in rural areas, combined with low wages encourages corruption throughout the system. Institutional checks and balances to address problems of corruption within the state sector, such as the office of the General Audit Office of the Executive and the Comptroller General Office, are faced with inadequate resources, a lack of technical capacity, and a lack of credibility, resulting in a failure to make any significant impact on corruption. Finally, the above-mentioned lack of political independence of the judiciary has a significant impact on the delivery of justice and public welfare at a national and local level.

⁴³ UNDP Report 2008.

The capacity of the state to deliver public services is low, especially in rural areas. Indeed, many isolated areas in poorer regions, especially those previously mentioned, lack not only adequate basic social provision (healthcare, education, water, and electricity), but also state presence and authority. This has been exacerbated by the withdrawal of the army from certain areas since the end of the dictatorship, and the lack of resources available for the police to replace them or to provide a countervailing influence to protect the interests of citizens. Regions that lack effective state sovereignty are prime areas for the growth of arms and narcotics smuggling, marijuana production, and increased presence of mafias connected with the above, especially in border regions. The absence of the state is such that one senior government official argued that rather than focus on the details of decentralization of the state, the primary concern should be the *construction* of the state, in terms of presence and service delivery throughout the country.⁴⁴

Despite a dramatic increase in the number of state employees there is little evidence of any corresponding improvement in service delivery. Indeed, the public sector remains inefficient, overstaffed, and highly corrupt. Much of the increased investment in public services has gone into salaries rather than service delivery or improved infrastructure. Despite efforts to professionalize the public sector, it remains dominated by patrimonial mechanisms in terms of recruitment and promotion, and the prevalence of nepotism, favoritism, and patronage. Indeed, under the Colorado Party, the state served primarily as a mechanism to guarantee electoral support, to promote Party rather than national interests, and to extract funds for the benefit of a few powerful economic groups.

Initiatives since 2008 by the Secretariat of Civil Service to make merit-based selection and promotion obligatory have made some headway, but are undermined by a lack of resources and a lack of political leverage over other Ministries. Although the ANR has been the beneficiary of this system for the past 60 years, there is evidence from the local level, as well as since Lugo's electoral victory, that the PLRA has continued the old (corrupt) practices of the Colorado Party, thus deepening the limitations of the state. The combination of corruption, clientelism, and lack of transparency has not only led to reduced legitimacy, but also inefficiency and reduced capacity.

Finally, in terms of the culture of politics, the overriding objective of the major political parties remains the capture of the state, public posts, and state revenues and resources. The need to win and maintain power for the good of the individual and party is therefore far more important than any commitment to channeling the needs and the demands of the electorate, or to work in favor of the public good. As a result, elected officials are more accountable to centralized party machinery than to those that elect them, a phenomenon that is aided by the use of party lists in national elections. Again, congressional voting patterns on certain issues reflect less of a commitment to ideology or political integrity than to immediate personal and party interests.

There is little doubt that President Lugo correctly views good governance as an area of democratic deficit in the transition and thus a major priority for his administration. However, although we are less than a year into his mandate, progress on his agenda has been disappointingly slow, reflecting both the depth and complexity of the issues, as well as the weakness of the ruling coalition to push through necessary policy programs. The clear danger is that unless some progress is made in the key areas outlined above, the (unrealistically) high expectations that followed Lugo's victory will swiftly turn into disillusionment, frustration, and the search for other solutions.

2.6 DISTILLING THE DG CHALLENGE

Democracy in Paraguay has come far since Andrés Rodríguez launched his *coup d'état* in 1989. The Constitution of 1992 enshrines pluralism, democracy, human rights, and the rule of law, and it has not been amended or challenged since then. Five presidential elections have been held, all of which have been free, if not totally fair. There have also been four municipal elections, which, while still dominated by the Colorado

⁴⁴ Interview with Raul Monte Domecq.

Party, have allowed the opposition to make important inroads and, more importantly, have led to greater accountability in local government. Human rights are no longer abused as part of state policy, freedom of the press has flourished, new political parties have formed, and civil society has grown in the new spaces that have emerged. Yet, as we have seen, despite such advances in terms of democratic procedures and institutions, the quality of democracy remains low in terms of good governance, legitimacy, and active citizenship.

The fundamental problem facing the consolidation of democracy in Paraguay is that political parties and their representatives do not seek to gain power in order to act as legitimate representatives of the people and their constituencies, and to channel the needs and demands of those constituencies, or to defend the interests of the majority. Instead, there is a deeply engrained political culture of seeking to capture the state in terms of access to institutions, positions, and resources in order to increase political power for the benefit of themselves (party and individuals) and their allies, which include powerful elites with vested interests that work against much-needed political and socioeconomic reform.⁴⁵

The principal problem in terms of democratic governance is that the major political parties seek to capture the state and use their power over public resources to benefit themselves and their allies. This has implications for all areas of development, rule of law, electoral democracy, and social justice. It encourages patronage and corruption, undermines rule of law, social reform, state capacity, and good governance, and severely compromises the basic concept of political representation of the electorate—and hence democracy itself.

This is in great part due to the legacy of the dictatorship that has been preserved through the domination of the same Colorado Party that was a bastion of support for Stroessner and that has developed its mechanisms of political control in the democratic environment. Thus, while some areas of democracy have been consolidated, others remain part of the democratic deficit. Patronage and corruption have been wielded as political tools as skillfully in the transition as they were under Stroessner, undermining democratic progress in the political sphere and in relation to the independence and integrity of the Judiciary. Rule of law remains inadequate to guarantee equality of access to justice for all, while the party quota system limits the progress in the independence, effectiveness, and accountability of the judicial system. Social exclusion, in the form of poverty, inequality, and discrimination on the grounds of gender, ethnicity, language, and class, remains a serious obstacle to the consolidation of democracy, undermining democratic citizenship, participation, and access to basic services.

This assessment was developed during an important political conjuncture in Paraguay. On the one hand, the democratic deficit has led to growing frustration and low-intensity conflict. On the other hand, this frustration and desperation has recently been channeled through the election of Fernando Lugo, which dramatically put an end to 61 years of Colorado Party control of the Executive and created high expectations among Paraguayans. President Lugo may be a political novice at the head of a divided and fractious alliance, but his discourse recognizes the depth of the problems, and promises solutions. This has brought hope to the transition and has gained time for the implementation of long overdue reforms in the political, social, and judicial arenas. In order to ensure that the benefits of the democratic transition continue to expand, it will be critical to limit and control the “democratic deficits” that were explained in this section.

⁴⁵ For more details, see Section 2.3.

Table 2.1: Summary of Democratic Gains and Deficits of Paraguay Democracy

Gains	Deficits
Military no longer in power	Legacy of prolonged authoritarian rule
Decreasing power of Colorado Party (ANR no longer holds Executive; Decreased influence of ANR in public sector)	Political parties capture of state institutions (Supreme Court and Judiciary, TSE)
Survival of electoral democracy	Prevalence of clientelism (party machinery –social, economic and political; electoral and judicial institutions)
Elite consensus on rules of the game (although threats to subvert the constitution persist)	Comparative low levels of support for democracy and political parties
Sequence of free elections (but not always fair)	Prevalence of systemic corruption, impunity, and inequality before the law or unequal access
Increased citizen participation in deepening democracy	High levels of social exclusion and inequality and uneven state presence and weak institutional capacity (limited citizenship)

3.0 KEY POLITICAL ACTORS AND THEIR INTERESTS

The political dynamics explained previously describe a rich dynamic and a critical moment in Paraguay's history. Understanding the ongoing dialectic and the actual possibilities for transforming the deep-rooted problems requires a close look at the key actors. President Lugo's agenda for change serves as the center of the analysis around which we will examine the interest, resources, strategies, and alliances of those key actors who support or inhibit reform.

3.1 POLITICAL PARTIES

Section 2 identifies political parties as the most powerful and influential actors in Paraguay's democracy. Political parties have been the vehicle to power since the late nineteenth century and continue to control the political dynamic of Paraguay. The first ever peaceful transfer of power that took place in April 2008 in Paraguay does not necessarily mean that a deep transformation in the political map has occurred. What changed in 2008 was the distribution of votes between the ANR and UNACE,⁴⁶ and the uniting of the opposition behind Lugo. This is further explained by the 2008 results in both chambers of Congress which show that the Colorado Party and UNACE together represent close to 50 percent of the electorate.⁴⁷

An influential Colorado Party. The Colorado Party remains as the most important political actor in Paraguay, still entrenched, controlling public powers (the justice sector and, to a lesser degree, the Congress), a large portion of the government's bureaucracy, and the majority of sub-national governments (70 percent of mayors and nearly 60 percent of governors). Any major reform proposal is subject to negotiation in Congress where the Colorado Party remains the largest single political force with 16 seats in the Senate.

The electoral defeat of the Colorado Party is explained, in part, by a history of internal struggles and factionalism over control of the party itself. After the last electoral defeat, the leadership of the Colorado Party is somehow less clear. Castiglioni, a leader of what was called the Vanguardia Colorada faction of the ANR, has not successfully capitalized on the defeat of the Colorado Party (which was attributed to Duarte); nor is it clear how strong Duarte's power base remains.

The other traditional party, the PLRA, is the strongest party within the government coalition (the APC). The PLRA was an important ally of President Lugo during the elections, with a strong national party organization that includes almost 30 percent of mayors. In terms of political representation in Congress, the PLRA is the most important member of the government's coalition with more than 70 percent of the Senatorial seats, and 90 percent of the seats in the House of Deputies. That representation does not, however, translate directly

⁴⁶ In 2003, Colorado and UNACE together obtained 50.6 percent of the votes while other opposition parties, including the PLRA and Patria Querida, accounted for 45.3 percent. In 2008, these figures were 52.5 percent and 43.3 percent, respectively. What changed in 2008 was the distribution of votes between the Colorados and UNACE, with the Colorados losing 7 percentage points and UNACE picking up 8. Diego Abente ob cit.

⁴⁷ In the Senate, the Colorados and UNACE together have obtained 23 seats of 45, Lugo's Coalition 18 seats (with the PLRA holding 15 seats, and the pro-Lugo center left and leftist parties, 3 seats), and the center right Patria Querida, 4. In the 80-member Chamber of Deputies, Colorados and UNACE obtained 35 seats and the rest of the parties 35, with the PLRA holding a majority of 29 seats, Patria Querida, 4, and two parties supporting President Lugo, 1 each (Movimiento Popular Tekujujá and Partido Pais Solidario).

into support for the government's agenda because the party is divided, with factions supporting President Lugo and the opposition.

UNACE, the party of General Lino Oviedo, split off of the Colorado Party, and many analysts predict it will eventually drift back to its origins.⁴⁸ Despite his history of “*golpista*,” Oviedo's party ran third behind the ANR and the APC (growing from 13.5 percent of the total votes in the 2003 elections to 22 percent in 2008). It has reasonably strong representation in Congress that elevates its negotiation power within congress. UNACE is characterized by one person, strongman leadership with most of its support found in rural and remote regions in Paraguay where the “strong caudillo” model is still popular.⁴⁹ That style works to UNACE's advantage, compared to the factionalism of ANR and PLRA, because the nine senators and 15 deputies vote with party discipline according to their leader's instructions. Using that advantage, Oviedo has negotiated with Lugo to obtain key administrative positions in Congress, including the presidency of the Senate (a position of less practical importance but of elevated value in the political culture in Paraguay).

Patria Querida is a center-right party representing the urban middle class in Paraguay. After important electoral gains in the 2003 elections when the party won 21.3 percent of the total votes and became the third political force in Paraguay, the party experienced a sudden drop to 2.4 percent of the vote in 2008, winning only four Senate seats, and three seats in the Chamber of Deputies. Their support for Lugo ended before the elections when they walked away from the coalition over negotiations for the vice-presidential post. The party remains in opposition in Congress today.

Other parties with representation in Congress are members of the APC: *Movimiento Popular Tekojojá* (MPT – the party of President Lugo) with one Senator and one Deputy; *Partido País Solidario* (PPS) with one Senator; and *Partido Democrático Progresista* (PDP) with one Senator and one Deputy. The MPT has the largest representation in Lugo's Cabinet with approximately five ministers.

3.2 THE EXECUTIVE BRANCH

The president's political capital is based mostly on his personal legitimacy. During his first year in power, the fierce resistance he has faced from the political and economic establishment has been exacerbated by his own mistakes as a political novice. The success of his presidency will depend on his ability to meet the expectations he has created, which will require good political negotiation, strong leadership, and a competent public administration.

Many believe that Lugo intends to substantively reform and improve Paraguay's systems of governance, and consolidate its democracy. Eight months after his inauguration, however, he is still struggling to move forward and deliver on his promises.

Vice-President Federico Franco represents the opposition to Lugo within the government.⁵⁰ Many believe that Franco's agenda is to inherit the presidency, even before Lugo's term expires. That conflict has represented a net loss for the vice-president and a double-edge sword for Lugo; Franco (and his faction of the

⁴⁸ Enrique Gonzalez Quintana of UNACE and president of the Senate, described UNACE as an “Oviedista faction” of the Colorado Party and expressed and confirmed that UNACE followers have a strong emotional connection with the ANC. Interview April 2009.

⁴⁹ As the president of the Senate expressed: “Paraguay needs a Caudillo willing to dialogue” demonstrating how ingrained the caudillo model is in the culture of UNACE. Interview with Enrique Gonzalez Quintana April 2009.

⁵⁰ This is partially due to ideological differences between the two (Franco center-right and Lugo center-left) and partly due to political scheming and maneuvering from Franco to take power.

PLRA) does not have any position in the cabinet⁵¹ while Lugo has lost important support in Congress to pass his legislative agenda.

There was a strong consensus among the people interviewed for this assessment—both opposition and supporters of Lugo alike—that Lugo’s leadership style contributed to the difficulties he has had early in his term moving his agenda forward. Many claim that Lugo’s leadership style is heavily influenced by his background in the priesthood. As one analyst framed it, “Lugo’s timeframe for decision making and communication of those decisions is eternal—long-term as it is in the Catholic Church,” clearly reflecting a common complaint about Lugo’s apparent inability to make timely decisions on critical issues. These difficulties reportedly also apply to his communications with key cabinet ministers. His leadership and communications difficulties have only been exacerbated by the scandals associated with his admittedly having fathered a child while serving as the Bishop of San Pedro. These stories have struck at his reputation as a trustworthy political outsider.

There are several reformists within Lugo’s cabinet who are recognized for their early achievements and are identified as “champions” within the administration: the Minister of Finance, Dionisio Borda; the Minister of Interior, Rafael Filizzola; the Minister of Health, Esperanza Martinez; and Lilian Soto, the Secretary of the Public Function. They are all helping to circumvent the client list system and to deliver services for the collective interest instead of just for the party’s benefit. Many agree, however, that they are working more as individuals than as members of a cohesive agenda-driven government.

3.3 PRINCIPAL JUDICIAL SECTOR ACTORS

Access to justice and the effectiveness of the rule of law are fundamental problems that impact the consolidation of Paraguay’s democracy.

The Supreme Court. The Supreme Court is the highest ranked institution in the judicial system with a constitutional mandate to serve as the top appellate authority; control the constitutionality of decisions from other public powers; manage the administrative functions of the judicial sector; and decide on the selection and disciplinary processes of lower court judges, public prosecutors (*fiscales*), public defenders, and licensed attorneys. The Supreme Court manages lower courts nationwide. The Supreme Court is comprised of nine justices (they are called “Ministers”). With the 1992 Constitution, the Senate confirmed the appointment of justices every five years, and allowed successive confirmations, a practice challenged recently by several justices of the Supreme Court who argue that their tenure is limited by the age of 75 or a successful political impeachment process. Most justices of the Supreme Court are widely known by their affiliation with the Colorado Party, and the Liberal Party, as a result of the party quota system that was enforced by President Duarte’s change of six of the nine justices in 2003 (some through political impeachment and others by pressuring their resignations). The selection of lower court judges, prosecutors, and public defenders follows a biased process that favors partisanship instead of meritocracy, a responsibility that the Supreme Court shares with the Council of Magistrates (see selection process under Council of Magistrates below). Also, important decisions from the Supreme Court are known to favor partisan political and economic agendas.

In 2006, the Supreme Court established a Judicial Ethics Court and Consultative Council in order to enhance disciplinary and complaint mechanisms to control judicial sector actors. The Ethics Tribunal is tasked with enforcing ethics standards for judges based on the complaints of citizens. The Magistrate Tribunal or Jury for the Prosecution of Magistrates (*Jurado de Enjuiciamiento de Magistrados*) is a key constitutional institution with

⁵¹ President Lugo has negotiated directly with other factions of the PLRA intentionally to bypass Franco and debilitate his position within the government. Other factions of the PLRA hold about 10 positions between the cabinet and other important public administration institutions, such as the strategic Itaipú dam public enterprise.

independent administrative functions charged with the investigation of justices, judges, public prosecutors, and public defenders, and with the authority to decide on the removal of such officials.⁵²

In practical terms, the Supreme Court's too often partisan agenda has affected its reputation and performance. Most people perceive the judicial sector as corrupt and an obstacle to fighting corruption. In addition, many agree that the consolidation of democracy in Paraguay requires a change in the partisan-controlled dynamic still present in the judicial sector.

Council of Magistrates (*Consejo de la Magistratura [CM]*). The Council of Magistrates has the constitutional mandate to select groups of three candidates for open judicial positions, whether for Supreme Court justices, prosecutors, judges, or public defenders. The Council is comprised of eight members with representatives from the Executive, Senate, Deputy Chamber, lawyer's association, and universities (one public and one national). Currently, the CM's composition is dominated by the Colorado Party with five of the eight votes (although one, the President of the Council, is UNACE and hence close to the Colorado Party) and most decisions are not based on merit but rather on political support, and personal relationships. While the final decision on the selection process rests with the Supreme Court (with the exception of Supreme Court justices who are selected by the Congress and confirmed by the Executive), the three candidates forwarded by the CM are usually biased in favor of specific agendas. The CM is likely to continue blocking the Administration's efforts to improve the judicial selection process and move it away from selections based on party preference towards selections based on judicial merit.

Public Ministry (MP). The MP is constitutionally charged with responsibility for representing society in criminal prosecutions, and protecting fundamental constitutional rights (political, economic, civic, and human rights). The MP is also tasked with representing the public's interests in corruption cases and human rights violations. The MP is led by the Attorney General (*Fiscal General*), who has autonomy for most of the organization's functions except for the selection and removal of its prosecutors (*fiscales*). The MP has a presence, through the prosecutors' offices, in most of Paraguay. It is also organized by thematic areas: criminal processes, specialized units that cover crimes related to corruption (Economic Crimes and Anticorruption Unit [ECAU]), copyrights, human rights, drugs, and the environment. With the reform of the Criminal Code (1998) and Criminal Procedures Code (2000) that resulted in a shift from an inquisitorial to an adversarial system, the role of the MP became more important, giving more power to prosecutors during the investigation of criminal cases. That provided a substantial increase in prosecutorial posts, and the power to control criminal investigations (including giving directions to police in criminal investigations).

As mentioned in Section 2, the MP is far from fulfilling its constitutional mandate and its leadership perceived close to the Colorado Party. The MP is perceived as both politicized and institutionally corrupt, and despite almost constant press revelations of judicial (and other forms of) corruption, the overall figures for successful prosecutions are minimal. The combination of support from international donors and committed professionals in the ECAU has created some hope within the institution.⁵³

Electoral Justice. The electoral justice system includes the Superior Tribunal of Electoral Justice (*Tribunal Superior de Justicia Electoral [TSJE]*), electoral courts in all legal jurisdictions in the country, and electoral prosecutors. The electoral justice has a dual role: 1) the organization and management of all electoral processes (national, local, and even political parties' internal elections); and 2) a court function for electoral disputes. Decisions of the three Justice TSJE can only be challenged at the Constitutional Chamber of the

⁵² USAID activities undertaken to date include a new disciplinary system covering judges, lawyers, notaries, and other justice system personnel, with a procedure for filing and processing complaints, a disciplinary office, and a judicial audit office which conducted 50 internal audits (looking for extensive delays, failure to follow procedures, case dismissals caused by statute of limitations issues, etc.) This was set up under the MCC Threshold I and will continue under Threshold II, along with an expansion of internal controls to cover financial as well as performance areas.

⁵³ The MCC Threshold I and 2 programs provide technical assistance and financial resources to upgrade institution facilities and to improve internal audit systems to detect and sanction corruption cases within the institution, and improve forensic capabilities for better criminal investigations. With the U.S. Department of Justice's support, the MP is upgrading its training center following ISO 9000 certification process.

Supreme Court based on constitutional violations. The TSJE is comprised of three justices (called Ministers) and lower courts are represented by a judge. Soon after its creation in 1995, the TSJE enjoyed a fairly good reputation but later, it became progressively more partisan in support of the Colorado Party through the selection of electoral courts and judges. Because of the TSJE's declining credibility over the past few years, CSOs organized a comprehensive and ultimately successful electoral observation for the 2008 electoral season. The future of the TSJE is now dependent on the revision of the CM, pending a decision over the selection of the third justice, a recent vacancy that is spurring an important struggle between NGOs and political parties over merit or party quotas as the criteria for decisions.

Comptroller General Office (CGO) (*Contraloría General*). Created by the 1992 Constitution, the Comptroller General is the auditor of all the state's economic and financial activities at its three levels—national, regional, and municipal. The CGO has administrative and financial autonomy, and unlike the Public Ministry, has authority to select and remove its own staff. The Comptroller General is appointed by Congress for a five-year term, with the possibility for a second appointment. The selection of the Comptroller General was part of the Governability Pact under President Wasmosi's administration, giving the position to the PLRA. Corruption charges were levelled against the first Comptroller, General Daniel Fretes Ventre. The institution therefore got off to a bad start and gained a poor reputation which was later overcome under the leadership of the new Comptroller, Gustavo Augusto Airaldi. As of the present day, the CGO has been successful in selecting qualified professionals and has made progress in the development of audit processes and systems.⁵⁴ With the support of USAID and other donors, the CGO developed Audit Manuals and Standardized Models of Internal Control (SIMIC), improved the forensic capacity of the institution to document corruption files for prosecution, and is developing venues for citizen participation to receive and process corruption allegations directly from the victims.⁵⁵

The actual influence of the CGO on Lugo's anticorruption agenda will depend on the sustained commitment by the institution to identify, prevent, and contribute to the prosecution of important corruption cases.⁵⁶

National Police. The National Police is regulated by law, reports to the Ministry of the Interior, and collaborates with the MP in criminal investigations. The head of the National Police is the General Commander, directly appointed by the Executive branch with autonomy to manage the police force in terms of decision making, human resources, financial management, and overall leadership. While security is becoming an important problem for Paraguayans (crime rate increased more than 100 percent between 1990 and 2000 and the trend continues growing⁵⁷) the police force is considered more part of the problem than the solution, as is explained in Section 2 of this report.

With strong support from international donors such as USAID/MCC, the United Nations Development Program (UNDP), and the European Union (EU), the Lugo Administration is promoting important police reforms through the Minister of the Interior, Rafael Filizzola. Changes have started at the top of the force with the appointment of new leadership. The emphasis is on increasing the morale of the organization with better infrastructure (the physical plant, equipment, and communications), training and professionalization of the force, internal control mechanisms, and engagement with citizens. The Ministry of Interior has plans to create a Citizens' Information Office to channel citizens' input regarding the police, and is planning on

⁵⁴ Evaluación de la Gobernabilidad Democrática, December 2008, page 193.

⁵⁵ Country Plan of the Government of the Republic of Paraguay for the Threshold Program Phase II. September 2008.

⁵⁶ The MCC Threshold Program Phase II or Umbral II, introduced new components to continue supporting the CGO in three areas: dissemination, training, and technical support to extend the implementation of SMIC, Evaluation of Internal Control Systems, Citizen Control and Access to Information. Country Plan Threshold Program Phase II ob cit.

⁵⁷ Report from Public Ministry 2003.

opening an office of human rights protection to address the acute problem of human rights violations within the police force.⁵⁸

3.4 CIVIL SOCIETY

Civil society organizations can represent important actors with influence on the government's agenda. In a context where most state institutions are captured by parties that oppose reforms, civil society actors become important players for President's Lugo reform agenda. This is even more important in Lugo's presidency than in others as his main source of support is not found in political parties but in social actors. Civil society organizations represent a wide array of actors with diverse capacity, agendas, power, and capacity to leverage political influence.

Non-Governmental Organizations (NGOs). The NGO sector in Paraguay is not as developed as in other countries in the region and is mostly promoted by international donors. This is due to several factors: a history dominated by authoritarian governments and the absence of democracy until 1989—under Stroessner, NGOs were not tolerated and had limited space for its establishment and development; the dominance of the Colorado Party until 2008, which continued the legacies of authoritarianism; and the lack of international visibility of Paraguay until recently and the commensurate lack of investment by large international NGOs.⁵⁹

NGOs are organized as think tank, advocacy, training, and watch-dog organizations without a representation role, and with emphasis on democratization and good governance issues such as anti-corruption, local governance, electoral issues, and human rights, among others. They have traditionally had little influence in Paraguayan politics or in setting political agendas but, most recently, the work of some NGOs started to increase in profile, which indicates the impact of the investment after several years. An example is the influence DECIDAMOS and a network of local electoral observers (in partnership with international observers) played in the peaceful recognition of the April 2008 elections. In addition, several NGOs have worked during the transition period to develop models and mechanisms for good governance that could support Lugo's agenda in areas such as anticorruption and social inclusion (health, access to justice, etc.). The bulk of NGOs are centered in Asuncion and respond to urban issues. Their mobilization capacity is limited.

Social Movements and Community-Based Groups. Social movements in Paraguay are represented by farmer (*campesinos*) movements and unions. Although once a relevant actor, unions are less important today in Paraguay due to the lack of industrial development and the degradation of the unions' leadership due to their involvement in corruption cases. *Campesino* movements are mainly organized around the MCNOC and the FNC, among other organizations. These movements are based in the states of San Pedro, Caaguazú, Concepción, Alto Paraná, and Canindeyú, and are motivated by an historical struggle over unfair distribution of land and violence focused on small *campesinos*. In addition, those regions are plagued with extreme poverty and a lack of state presence, making living conditions even more challenging. Although the *campesino* movements' influence in Paraguayan politics is limited, the increasing trend of land occupation mainly targeting “*brasiguayos*” (Brazilian immigrants, mainly soy producers—“*sojeros*”—some of whom were given lands since 1989) and the importance of agrarian reform on President Lugo's agenda may increase their profile.

Campesino movements do not have political representation in Congress, nor do they have any significant presence in municipal governments as politics has been dominated historically by the two major political parties (ANR and PLRA) which operate in a hierarchical and clientelistic nature; and social movements have historically tended to steer clear of party affiliation based on distrust of electoral politics and politicians. As Oscar López of the DECIDAMOS mentioned, “They have a considerable capacity to mobilize their

⁵⁸ Interview with Elvio Segovia Vice-Minister of Political Affairs of the Ministry of the Interior.

⁵⁹ The assessment team did not gather general concerns regarding legal obstacles for NGOs to register with the GOP to operate in Paraguay during the interviews but understand that issue is the subject of research by the International Center for Non-for-Profit Law.

constituency but when they try to participate politically they do not seem to get many votes.” These organizations are not organized to access formal political power, or as Ramon Fogel of *Centro de Estudios Rurales Interdisciplinarios* (CERI) explains, “When social leaders enter in the political apparatus they are easily corrupted.”

Organization *sin-techo* (homeless) is a peasant movement with a more urban presence in Asuncion. Originally a legitimate movement of people lacking housing, it was politically co-opted by Nicanor Duarte and is closely associated with his faction within the Colorado Party. Their mobilization capacity is strong; they have blocked the entrance to Asuncion and have organized demonstrations regarding legislation. But beyond their mobilization capacity, their actual influence is limited.

Community-based groups are springing up at the local level and are more an “experiment” in good governance than an influence on national politics or the president’s agenda. Neighborhood Commissions (*Comisiones Vecinales*) and Local Health Councils (*Consejos Locales de Salud*) are created in most municipalities in the country. They are a genuine form of community organization to identify community needs but also to deliver public services (such as health). These Local Health Committees were developed with the assistance of USAID for several years and, due to their success, the Ministry of Health under Lugo’s administration is replicating them throughout the country.

Media. The media in Paraguay includes the written press, TV and radio, and is an important actor with significant influence on the political dynamic of Paraguay ever since the fall of Stroessner. In general terms, the ownership of the press is well diversified and includes several political agendas. There are three relevant newspapers with national coverage, *ABC Color*, *Ultima Hora*, and *La Nación*, and also regional newspapers with local coverage. There are also widely distributed tabloids, sensationalist and inexpensive newspapers easily accessible to the large population that provide coverage in both Spanish and *Jopará*, a mix of Spanish and Guaraní. In addition, the lack of media regulation allows the integration of the written press with TV and radio outlets, providing extensive coverage in both urban and rural areas of the country. That is the case of *Ultima Hora*, the TV channels *Telefuturo* and the new *La Tele*, and a radio station all owned by the businessman Antonio J. Vierci.⁶⁰ Radio is still the most common news source in both rural and urban areas. Most radio stations outside Asuncion are owned by politicians associated with the Colorado Party. There are about 700 community radio outlets, of which only 300 are legal. As of 2004, there were three community radio associations.

Non-traditional media are becoming increasingly important to democratic reform worldwide, particularly websites and even blogs. This is a new and underdeveloped area in Paraguay with its presence mostly in Asuncion and urban areas. For example, *Semillas para Democracia* collates information on courses (ethics, violence against women), runs pro-democracy programs through the website, and has several blogs: the *Blog de Etica Judicial* and the blog on the *Consejo de la Magistratura*. Recent regulations liberalizing the Internet business in Paraguay will allow for an accelerated growth of Internet infrastructure, representing a new window of opportunity to broaden access to information for all Paraguayans in urban as well as in more isolated rural environments.

The media continues to operate basically independently of any state influence.⁶¹ That freedom is exercised with some degree of success in the fight against corruption where the media has virtually replaced the justice system. However, as mentioned in Section 1, media is not always considered to be responsible and objective in its publications, and ethical standards are low. Media owners exercise significant editorial influence in the development of news, frequently presenting a biased view to the public.

⁶⁰ Similar is the case of the daily *la Nación*, *Diario Crónica* (tabloid), Radio 970, and the FM Radio Montecarlo 100.9, all of which belong to Osvaldo Dominguez. ExPresident Juan Carlos Wasmosy owns *Diario El Popular* (tabloid) and Radio Uno.

⁶¹ However, Paraguay scores low in the Freedom House’s Freedom of Press index. The index represents the fierce confrontation of former President Duarte with the media in general.

During his first year as president, the Lugo administration has been depicted in the media as unable to deliver on the high expectations created during the election. This perception requires some attention as the administration continues to navigate through a bumpy first year with the implementation of its most controversial policies still pending.⁶² His performance, as viewed through the media, is especially important for President Lugo because his main source of support is his electoral constituency and the media is often his direct link with that constituency.

Private sector. The private sector in Paraguay is represented by three sectors: fraudulent, contractors, and business. The fraudulent sector is involved in a range of illegal economic activities, including contraband, tobacco counterfeiting (*tabacaleros*), and drug and arms trafficking, among other illicit activities. What many refer as the “fraudulent bourgeoisie” have accumulated wealth and power buying lands and maintaining strong links to relevant interest groups and political networks. They also operate in the formal sector. Contractors are the second most important group and are associated with the clientelist system instituted by the political establishment under Colorado rule. The business group represents the productive formal sector in Paraguay with a base of small and medium businesses, small and mostly urban industry, and a rural presence through cattle production and agriculture (mainly soybean or *soja*, the third largest exporter in the world, and other products such as cotton and sesame). All three sectors exercise different levels of power and are exerting influence over President Lugo’s reforms. Business associations such as the *Unión Industrial de Paraguay* (UIP), *Federación de la Producción, la Industria, y el Comercio* (FEPRINCO) (closely associated with the Colorado Party) and *Centro de Importadores* may favor Lugo’s anticorruption efforts in customs. They are, however, likely to join soybean producers, rural land owners, and their associations (CAPECO and the ARP, among others) to resist any of the administration’s efforts to enforce the income tax law, land taxes, or to increase export taxes. In the rural sector, rural land owners represented by the powerful ARP are already challenging the administration’s agenda for comprehensive agrarian reform. The *sojeros* sector with a strong representation of *brasiguayos*, a major land owner in the northern sections of Paraguay, will continue challenging the government over land tenure struggles involving the Brazilian government, a powerful actor bringing external tension to Lugo’s land reform efforts. Most recently, a struggle over government subsidies to sesame producers (*sesameros*) prompted the resignation of the Minister of Agriculture, an important member of Lugo’s cabinet.

3.5 EXTERNAL ACTORS

International actors continue to be important in Paraguay’s political and economic context, exerting influence by both supporting and inhibiting Lugo’s reform agenda. The most prominent external actors are international donors and International Financial Institutions (IFIs), and countries in the region such as Brazil, Argentina (to a lesser degree), Venezuela, and the United States.

International donors and IFIs are an important source of support for reforms in public administration, democracy, governance, international trade, and financial stability. They provide important resources through technical and financial assistance to promote incentives to fight corruption, increase access to justice, increase citizen participation, increase the capacity of the NGO sector, and support local governance. Most of the important innovations in areas such as customs, financial control systems, procurement processes, civil service, and national police among others are part of programs supported by the World Bank (WB), the Inter-American Development Bank (IDB), USAID/MCC, *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ), the EU, and Japan International Cooperation Agency (JICA).

As a neighbor, and partner in MERCOSUR, Brazil is a prominent actor with influence on Paraguay’s internal affairs. The Itaipú Dam Treaty between Paraguay and Brazil is crucial for Lugo’s agenda. The renegotiation of the treaty became a prominent issue during his electoral campaign because of the potential increase in

⁶² Nicanor Duarte recognized that a “bad relationship” with the media contributed to the failure of his political agenda at the end of his tenure.

revenues that could result from a more equitable agreement with Brazil.⁶³ Negotiations so far are not favorable to Paraguay; neither President Lula nor Itamaraty (Foreign Relations Ministry) have expressed any interest in compromise during early stages of negotiations. With presidential elections approaching in Brazil, it is unlikely Brazil's stance will change. Furthermore, Brazil's open support for *brasiguayos* (soy producers and land owners) in rural Paraguay is presenting a significant obstacle to Lugo's plan to undertake agrarian reform.

Relationships with the leftist populist Hugo Chavez of Venezuela will continue to ignite concerns among President Lugo's opponents. His left wing allies in the government may welcome a stronger alliance with Venezuela, but his international agenda seems pragmatic and strategically open to relations with all countries in the region regardless of their political stance. The media, opposition parties, and the private sector see the relationship with Venezuela as a threat, and often use it as an excuse to discredit Lugo's policies in general.

Lugo has continued Paraguay's historically good relationship with the U.S. A bilateral agenda is developing that will focus on reducing drug production and trafficking, consolidating democratic institutions, and increased trade from Paraguay to the U.S. using preferential tariff agreements for the export of meat and artisan work in order to aid the business sector in Paraguay.

3.6 SUB-NATIONAL GOVERNMENTS

Most of the 17 departments and 235 local governments (mayors, governors, and local and regional council representatives are all elected officials) are controlled by the ANR and PLRA. Governors and mayors have not represented a political force over national politics while the Colorado Party held control over the national government, in part because of the control that the national party (or leaders within factions) vertically exerted over its regional leaders, and because of "the good relationships" municipal leaders enjoyed with different ministers and other national government organizations."⁶⁴ Local leaders have not played an influential role during the first months of the Lugo administration, but are likely to become important opposition players in the future, as they represent an important source of revenue to support the party's clientelist machine and to help the Colorado Party return to power in the 2013 presidential competition (see more details in Section 4.1). The 2010 municipal elections will also present a significant test to both the ANR and PLRA as they will seek to keep dominance at the sub-national level to strengthen the opposition to the national government and prepare for the 2013 elections.

3.7 ILLEGAL GROUPS

Illegal groups in Paraguay continue to exert political influence through political parties, economic elites, and by using informal channels to power. They are represented by drug and arms traffickers, smugglers, and the black market (*tabacaleros*), who operate with wide impunity and represent a real threat to the competitiveness of the formal economy and to the security of the country. The pervasiveness and power of these actors are based on the size of the economic resources they generate,⁶⁵ the power they exert in the formal institutions in Paraguay, and the high profiles of those intimately involved in politics and the media. The level of influence of these actors on President Lugo's agenda will be reflected in the fight against corruption in customs, new tax policies, drug eradication efforts (marijuana in San Pedro State), and enhancing the state's presence in territories (mostly on the border with Brazil) where many of the illegal enterprises operate with wide

⁶³ Based on actual market prices of electricity, Paraguay is "subsidizing" about 20 percent of Brazilian domestic energy used, a subsidy reckoned to be worth \$3 billion per year. An increase in the price of electricity or the possibility for Paraguay to sell a domestic surplus of energy at market price would represent a considerable revenue boost to Paraguay.

⁶⁴ Interview with Jose Anibal Moreno, Mayor of Coronel Oviedo. April 2009.

⁶⁵ There are no formal estimates of the share of the informal sector over the formal but rough estimates represent more than 70 percent.

impunity. They are an important anti-system force threatening the consolidation of democracy and governance in Paraguay, and have an informal source of power that challenges the democratic transition in Paraguay.

3.6 FILTERING IN POLITICAL ACTORS

The main source of support for the agenda of change is still weak. The president does not have a clearly articulated and organized political constituency supporting him. His agenda has raised high expectations among a populace that is demanding change and wants to receive more benefits from the ongoing democratic transition. Social groups, NGOs, and international donors are the main supporters of Lugo's agenda, while an entrenched Colorado Party, and to some degree the PLRA, continue to dominate key institutions and exercise their power as they plan to retake the presidency in 2013 or earlier. Economic elites and the media also play an important role in opposing the Lugo agenda.

The Lugo administration is dealing with an unreasonable level of expectation that was created during the campaign and which brought him to power, but which has now led to a level of discontent and impatience. The focus going forward should be on working with "champions" within his administration to deliver tangible results in the areas of anticorruption, security, social reforms, and service delivery, and improving his communication strategy to make his constituency aware of successes.

The media is filling the void left by the judiciary, mainly exposing corruption in both the justice sector and public administration in general. It is also playing an important role defending the violation of democratic principles in the system. However, the low level of professionalism and responsibility often found in the media distort the actual role of the media. This is an area requiring close attention.

The rural sector will become an important area of struggle in the near future. Lugo's main constituency, the social movements, believes they have the opportunity to advance their social agenda but are encountering strong resistance from the rural economic establishment. Without political capital to advance land reform within the agrarian reform package, Lugo will have serious difficulties responding to these demands for reform, and runs the risk of alienating his most important allies in the rural areas while also dealing with an explosion of conflict because of occupation of lands and violence.

Finally, the role of external actors will continue to influence domestic affairs in the years to come. Brazil's position toward Itaipú and its support for *brasiguayos* will not change and will continue to challenge President Lugo's electoral promises to increase revenue through a fairer agreement on Itaipú, and to stop the dominance of colonizers over rural *campesinos*. Lugo's relationship with Venezuela will continue to be the subject of news headlines, will receive the scrutiny of the media and opposition parties, and will be used as an excuse to block Lugo's reform agenda. The U.S. will continue supporting Lugo's agenda of reform with a special interest in strengthening democratic institutions, and interdicting drug production and trafficking.

4.0 INSTITUTIONAL ARENAS

4.1 GOVERNANCE ARENA

In Paraguay, the public sector is a very dynamic arena where democratic reformers and the still strong Colorado Party struggle for control. Control over the sector is especially important for the consolidation of democracy because most Paraguayans have not received the benefits they expected from the newly democratic system in regard to improved public services and living conditions. In order for democracy to be consolidated, citizens will have to trust and participate in that system. In order for that participation to occur, however, they will have to receive some tangible benefits.

One of the major impacts of President Lugo's victory is the fact that political disputes over control of the public sector now occur within and among branches of government, instead of only within the Colorado Party. That dynamic is well represented by three critical governance challenges the Executive must deal with: its legislative agenda and policies, appointments, and procurement. In addition, the role and authority of local governments has achieved new prominence.

Legislative agenda and policies. President Lugo has not yet been able to unite his coalition and overcome the majority strength of the Colorado/UNACE parties in Congress in order to move his reform agenda forward. He lost early initiatives in the area of tax reform, and the approval of the 2009 budget. His failure to obtain a quorum in the Senate to discuss his proposal to reform the Judicial Sector was perceived as a sign of weakness and lack of political savvy. The decision of Congress to delay for a further year the introduction of the income tax (*Impuesto a la Renta Personal*) has an impact on the government's fiscal plan and wealth redistribution—social initiatives that are the backbone of Lugo's agenda (the productive sector does not pay income taxes in Paraguay). Colorados who previously supported that legal initiative under Duarte resisted this time, forging alliance with factions of the PLRA, UNACE, and CSOs in the private sector (UIP and ARP). In addition, the struggle over the approval of the 2009 budget demonstrated how the Colorado Party exerts power to maintain its clientelist networks. Defying a conservative fiscal policy led by Dionisio Borda, the Ministry of Finance, Colorados, and factions of the PLRA approved the budget only after substantial line items were added to favor their constituency in the public administration. This bold political move cleverly transferred political responsibility to the Executive, which, because of fiscal constraints, will not be able to approve some of these budget liabilities, and will therefore end up bearing the blame.

In summary, to overcome the stalemate in Congress, Lugo would need to engage in negotiations and reach compromise with either Franco's faction of the PLRA or with factions of the Colorado Party and UNACE. Perhaps the potential costs of such negotiations to his electoral agenda, and the risk of strengthening Franco's plans, is what prevents Lugo from engaging in these discussions.

Lugo's executive- appointments. Lugo has made some important appointments that show a strong commitment to fulfill his campaign promises, choosing Ministers of Hacienda, Civil Service, Interior (and the National Police), and Health, who are committed to ending party control over the public interest. Conversely, in the key positions in Itaipú, he appointed figures who epitomize traditional partisan interests, perhaps reflecting a practical consequence of the negotiation dilemma explained above.

The work that Lugo's cabinet "reform champions" are undertaking in their posts represents a good source of energy and a window of opportunity for Lugo's pro-change platform. Dionisio Borda, an independent, is

back in the Ministry of Finance after pursuing successful fiscal and anti-corruption reforms during the first years of Duarte's administration.⁶⁶ He is considered one of the most effective and influential members of Lugo's cabinet because of his technical and honest broker reputation. He also brings credibility to the government's negotiations with IFIs and other donors and has retaken the leadership of reforms in areas of customs, financial controls of the public administration, procurement processes, and the transparent distribution of transfers to sub-national governments (royalties from Itaipú and Yacyretá dams).

Rafael Fillizola, the Minister of the Interior and part of the inner circle of President Lugo, is leading important efforts to advance, in the administration, an agenda to fight corruption. Among others, the reform of the National Police is a key effort under his coordination. He is introducing new leadership and institutional incentives in the institution to raise its morale, transparency, and accountability.

Another example is Lilian Soto, who as head of the Public Function Secretary is fighting an uphill battle against the political establishment entrenched in the public administration's bureaucracy. She is establishing new hiring and selection processes and systems through "*public concursos*," public selection processes that reward merit over party affiliation.

So far, these champions' are struggling with their reform efforts. Setbacks have included the 2009 budget, delays on the personal income tax law, and the cautious approach taken to dealing with the problem of the large number of *planilleros* ("phantom workers" who are paid but do not actually have positions) in the public administration).⁶⁷ Similar examples are found in the National Police (see ROL arena) and Ministry of Health (see below under procurement).

All of these struggles illustrate the greater struggle that continues over access to and control of the public coffers, and whether public resources will be controlled by the government for the public's benefit, or by the political parties for private benefit. The replication and sustainability of these "good practices" in the longer term will signify the success or failure of Paraguay's democratic experiment.

Procurement and corruption. While there are many sources of corruption in Paraguay—including contraband, money laundering, drug trafficking, and trafficking in persons—the most institutionalized form of corruption in the public sector is through government procurement processes. Businessmen and the private sector in general have routinely classified Paraguay's public sector as extremely corrupt mainly because of the opaque processes and clear favoritism shown in government contracting and procurement of goods and services. Civil society organizations, reformers in government, and smaller "good government" parties have consistently focused on this issue, particularly through efforts to enact a Freedom of Information Act to gain better access to information, including information about procurement. The most important actor in this struggle has been President Lugo who made anticorruption a central part of his presidential platform, and appointed a number of ministers who have consistently fought for greater openness. For example, the Public Administration Modernization Unit championed by the Minister of Finance is providing coordination on policies to strengthen processes and systems across different ministries. Also, with support from the USG/MCC Umbrel 2 program, the government is launching a comprehensive anticorruption program in the Ministry of Health to build more transparent procurement systems.

The political parties' interests in retaining control over procurements presents a serious challenge to the administration's reform, both at the national and sub-national level. The administration of social programs in Itaipú continues to be known as an important source of corruption through its vast procurement processes

⁶⁶ During his participation in Duarte's government (2003-2005), he made significant advances in improving internal auditing and anti-tax evasion policies. Under his leadership, customs underwent thorough internal reform with significant contributions in income generation. He also led the creation of the Office of Public Procurement alongside external auditing systems of public enterprises which led to an estimated 30 percent savings on the annual government procurement bill.

⁶⁷ Facing pressures from political parties and the powerful public administration unions (Colorado strongholds within the administration) the Minister is "buying" time inventorying the number of temporary workers, who are workers without an actual position in every entity of the national public administration.

that do not see the light of day, and have virtually no oversight. Over the next decade, as new contracts with Brazil and other countries replace the present ones, the level of resources going into Itaipú is likely to multiply; the lack of reform in Itaipú thus not only characterizes the present system, but poses an even larger threat to good government and rule of law in the future. The Comptroller General mentioned that his office does not have reliable access to Itaipú, which is still considered a “black box.” The new “Czar of Itaipú” appointed by Lugo is not known as a reformer. Itaipú, like most other parts of the public sector, remains the tool of important political factions and parties, who are the strongest actors opposing more open procurement processes and greater competition to decrease fraud and abuse.

The local government arena an area of democratic governance and future struggles? The circumstances for sub-national governments have changed little since 2004. On the revenue side, municipalities’ income from their share in Itaipú and Yacyretá dam royalties⁶⁸ doubled from \$32 million in 2004 to \$65 million in 2007 and is expected to continue increasing. This source represents close to 90 percent of the revenue of departmental governments and more than 20 percent of revenues for municipalities. Own source revenues have not, however, increased significantly beyond the municipality of Asunción. Donor efforts to strengthen the fiscal capacity of municipalities have only marginally impacted their collection efforts, and their taxing authority remains limited. Municipalities have authority over property taxes (*impuesto inmobiliario*) but that tax needs a thorough review in order for it to positively affect the local government treasuries because the tax base is undervalued (i.e., the market value is significantly higher than the average fiscal value).⁶⁹

Formal internal and external control mechanisms remain weak which makes municipalities vulnerable to corruption and to clientelist practices from political parties. Many of the analysts interviewed considered that decentralization has promoted the “democratization of corruption” as political parties have used municipalities as a source to bank party operations nationwide. Strengthening the capacity of local government is a common priority among international donors. Additional efforts are needed to increase the capacity of local governments to deliver public services and to reduce incentives for political party patronage and corruption.

Departmental governments continue to be weak. With unclear functions and nonexistent fiscal authority, they play a coordinating role for national government investments. Among elected authorities, the departmental level of government creates more expectations than it can really deliver.

Citizen participation at the local level is gradually increasing with the implementation of public accountability practices (*rendición de cuentas*), participatory budgeting, and especially with partnerships between local governments and Local Health Councils. At Local Health Councils, government and citizens share responsibility for delivering public health services. The councils thus represent a positive participatory governance practice. Starting as local initiatives in 1998 with support from USAID, there are now more than 60 councils and a goal of increasing the number to 200 by the end of 2009.

As discussed earlier, the 2010 municipal elections are an important event, especially for the Colorado Party and the PLRA. These parties will attempt to maintain their control over local governments and will push for more resources to keep party structures and political operatives active in preparation for the next presidential elections in 2013. A Colorado victory in the municipal elections could very likely highlight the political profile of mayors and governors as an important source of opposition to the Lugo government’s reforms. This possibility should prompt the national government to develop a strong intergovernmental relations agenda

⁶⁸ In accordance to Law 1.309-98 departments and municipalities are entitled to 50 percent of incomes from royalties coming from the two dams. It also prescribes a gradual transference of such revenues to sub-national governments starting with 10 percent in 2000, and gradually increasing 5 percent each year through 2007. However, by 2007, sub-national governments received an estimated of 28 percent or 12 percent less than the original goal. Departments and municipalities located in the areas of the dams received a higher share. Ricardo Canaese. *Royalties and Compensaciones Recibidas por Municipalidades y Gobernaciones*. GEAM 2007.

⁶⁹ *Impuesto Inmobiliario: Herramienta Clave para la Descentralización Fiscal y el Mejor Uso de la Tierra*. Paraguay. World Bank Report N. 37456- PA. 2007.

(including a new decentralization bill) that sets clear policies and incentives to work with local leaders, promoting more coordination with national priorities, and mitigating the political conflicts that would originate from a weak relationship.

While it has taken some marginal strides in that direction, the national government is still far from having that capacity in an area that should be a priority going forward. Ongoing efforts to strengthen the Unit of Decentralization of the Ministry of Finance (MOF) are a step in the right direction but more is needed; it is still a weak office in the ministry where decentralization traditionally finds the strongest resistance. With funding from donors, the MOF created a “one stop window” for local leaders to communicate with the national government on special areas of interest—for example, royalties’ transference and capital investment projects, among others.⁷⁰ That unit is also tasked with the responsibility of developing the decentralization policy of the national government and structuring and coordinating a policy for the capacity-building efforts of sub-national governments. Furthermore, several ministries are also working on intergovernmental and decentralization issues. Among others, the Ministry of Health (as mentioned above) coordinates decentralization of primary health services to Local Health Councils, and the Ministry of Interior oversees political relationships with sub-national governments (though without much influence).

4.2 JUDICIAL AND LEGAL ARENA

Constitutional framework and substantive procedural laws and reforms. The 1992 constitution continues unaltered despite ex-President Nicanor Duarte’s attempts to amend it to allow his own re-election. His efforts damaged his power in the Colorado Party and diminished his popularity, triggering massive mobilizations from CSOs and political parties that ended in the defeat of the anti-democratic intentions behind the reform.

There have been few substantive law reforms since 2004 (when USAID’s last DG Assessment was prepared). Efforts to implement the new adversarial system established with the 1998 and 2000 Criminal and Criminal Procedures Codes respectively, continued during the last years without major impact on efficiency and access to justice indicators. A similar case was in the Civil Law area where no major changes occurred during the last years.

In general, the primary legal issues are associated with the application of the law and the lack of public trust because of weak institutions and the prevalence of “informal” practices. The informal and illicit sectors continue to grow without control and, at the same time, negatively influence the formal sector—business practices, intellectual property rights, and others.

Justice Sphere. Nowhere in the political system has the struggle for power between political parties and good governance reformers played itself out more than in the justice system and most especially in terms of providing equal justice under the law. So far, in spite of the quantity of institution-building that has occurred throughout the justice arena over the past 20 years, and the most recent efforts from the new administration, political parties have not relinquished their grip over judicial institutions. Efficiency, equality before the law, access to justice, and independence has been severely compromised by the corruption of the democratic principles laid down in the Constitution.

The Lack of Independence in the Selection and Decision Making in the Judiciary. Independence of the judiciary is still weak in Paraguay in both the selection of judges, prosecutors, and the judiciary overall, and in the decisions that those actors make within their authority.

⁷⁰ This window will decrease the transaction costs for mayors, which includes contracting consultants and “lobbyists” in Asuncion to sort out the national bureaucracy. It is also intended to decrease existing corruption from MOF’s operatives who charge “commissions” (bribes) to mayors to disburse royalty transfers.

Judicial selection continues to be significantly influenced by parties through “party quotas” instead of considerations of merit, integrity, and commitment to the rule of law. The current system presents an important challenge to the administration’s reform agenda because the political parties that have the power to change the system continue to cling to it to assure their share of public resources. The system is justified on the basis of so-called pluralism. As one member of the Council of Magistrates said when asked about the party quota system, “in the Council I represent the Liberal Party and its members who voted for me, this is how pluralism works.”⁷¹ Thus the politicization of the judiciary is explained as a legitimate expression of pluralism.

The key institutions with authority over the selection process remain under the control of the Colorado Party and minor representation from UNACE and the PLRA. The Council of Magistrates is responsible for most judicial appointments and consists of eight members—five associated with the Colorado Party, the President of the Council with UNACE, one with the PLRA, and one independent. The Colorado Party has also assured significant representation in the Supreme Court with six of the nine justices related to that party.

The political influences in the system are still strong despite efforts—mainly supported by donors and with the oversight of NGOs—to strengthen the Council’s mechanisms for conducting a more transparent and fair selection process. Recent efforts supported by USAID to create an information system to keep information on applicants current so the members of the Council could track the applicant’s record is not being used.

Most recently, a struggle has taken place over the decision to fill a vacancy for the third justice of the TSJE. Despite commitments by the Council of Magistrate to conduct an open and transparent selection process that would favor merit and qualifications over political quotas,⁷² recent declarations from political party operatives indicate political negotiations are taking place to exert influence over the final decision (see details under Section 4.3. Competitive Arena).

Party quotas are exercised by the Executive, the Council, or Congress. The last Supreme Court overhaul took place during Duarte’s government, which, taking advantage of low public confidence in the institution, changed six of the nine justices, with the Council of Magistrates acting as a conduit for the negotiations and decision making rather than acting as the leader of the process.⁷³ Most recently, power seems to be moving to the same Supreme Court Justices and, rumors say, to ex-President Duarte as he continues struggling for control of his party. For example, the justices recently decided to remain in their posts, defying Congress and several other political actors. Despite commitments made at the time by the new justices to subject their tenure to confirmation by the Senate every five years instead of lifetime tenure, most justices in recent years have sought refuge under the lifetime tenure interpretation. Four justices (three associated with the Colorado Party and one with the PLRA)⁷⁴ responded to threats of impeachment by citing the authority of the Court to rule “immobility” based on Article 261 of the Constitution, which gives grounds for the life tenure (75 years old) interpretation. The justification, in the words of the President of the Supreme Court, was to “protect the independence and autonomy of the Supreme Court from political influence.”⁷⁵

The party quota system works to protect party leaders from the application of the rule of law because it assures party influence over judicial decisions. Several recent examples provide evidence. During Duarte’s tenure, the Supreme Court accommodated the president’s agenda when it was demanded, supporting his efforts for re-election and absolving Lino Oviedo (an electoral calculation made to prevent a possible

⁷¹ Interview with Miguel Abdon Saguier, PLRA Senator and member of the Council of the Judiciary.

⁷² That considers the process explained before and adds public hearings to expose the candidates.

⁷³ Crosby et al., *Paraguay Democracy and Governance Assessment*. 2004. USAID . p. 19.

⁷⁴ Antonio Fretes, President of the Supreme Court; Raul Torres Kirmser; Victor Nuñez; and Alicia Puchea de Correa are the four Justices with “immobility” (*inamovilidad*) and related to the Colorado Party. Two judges associated with the PLRA have also obtained the declaration of immobility - Justice Sindulfo Blanco and Justice Miguel Bajac.

⁷⁵ Interview with Antonio Fretes. April 2009.

coalition with Lugo). Also, as recently as April 2009, the Supreme Court overturned lower court corruption decisions against high-profile members of the Colorado and Liberal party, absolving ex-Presidents Luis Gonzalez Macchi and Juan Carlos Wasmosy, as well as former Comptroller General Leonardo Fretes Ventre (PLRA).

Any important reform of the judiciary will require a political agreement in Congress. That scenario is unlikely at the moment as President Lugo has little political clout in Congress, and the Colorado Party has little, if any, incentive to change the “rules of the game.” With the Colorado Party in the opposition and representing an important force in Congress, the incentive is to continue the status quo to maintain important access to power. Only an important political event outside of Congress could generate the political energy for a major reform in this area, and that is not likely to take place. Lugo’s unsuccessful attempt to convene Congress to discuss the reform of the Judiciary, which followed social movements and some CSOs’ pressure in the media for an overhaul of the Judiciary, showed that extra partisan mobilization is not likely to generate any change in this agenda.

Low Quality, Lack of Accountability, Widespread Impunity, and Corruption in the Judicial Sector. In accordance with the UNDP Survey on Governance (2008), the Judiciary (including the Public Ministry, Public Defenders, and Justices of the Peace) is among the least trustworthy⁷⁶ institutions in Paraguay. This is demonstrated by the dissatisfaction of the population with the quality and access they have to justice, and the widespread level of corruption that exists within the judicial sector, as well as the perception that the Judiciary has been captured by economic and political elites.

The problem of confidence in the judicial sector is not related to physical access to the court system, which has improved significantly over the last five years;⁷⁷ it is more related to the lack of professional and ethical standards, political and economic influence on decisions, corruption within the system, and the lack of effective internal control and disciplinary mechanisms. As a result of pressure from the NGO community and support from donors, the Ethic Tribunal for the Judiciary was created in 2006. In addition, new mechanisms to streamline disciplinary cases within the Supreme Court Administrative Council (within the Superintendence Council) and the Magistrate Tribunal (*Jurado de Enjuiciamiento de Magistrados*) have generated small improvements in terms of increasing the number of cases reviewed and public access. However, the Magistrate Tribunal continues to operate without great credibility, acts in a partisan manner, and absolves nearly all judges of wrongdoing. The Magistrate Tribunal has handed down 458 rulings since it was created in September of 2006; of these, it has absolved all but 41 judges. The Tribunal of Judicial Ethics and its Consultative Council’s most important achievement so far has been the request for the suspension of party affiliation, while they serve as judges, of 520 largely Colorado Party judges of the 733 throughout the country. More work is needed in this area.

The Public Ministry also shares structural problems affecting its capacity to fulfill its constitutional mission. An important actor in the fight against corruption, the Public Ministry, is facing its own serious problems of corruption and is heavily influenced by political and economic agendas. Outside of Asuncion, the problem of corruption is based on relationships and nepotism. Significant investment in upgrading the forensic capacity of the institutions and increasing the capacity of prosecutors through training and exposure to international best practices have rendered some interesting results, albeit representing small areas of hope within the institution. The Economic Crimes and Anti-Corruption Unit (ECAU), through successful anticorruption prosecutors (such as Arnaldo Giuzzio, Carlos Arregui, and Rocío Vallejo), raised its profile by prosecuting high-level officials, but the prosecutors were then subject to threats of demotion from the Magistrate Tribunal.

⁷⁶ Twenty-five percent of respondents say they trusted the Supreme Court and other Courts, whereas 30 percent trusted the MP.

⁷⁷ From 2003 to 2007, Paraguay increased the budget to finance new courts and the operations 32 percent, with an average of 12 judges per 100,000 habitants (above countries such as Argentina, Chile, and Peru with 8 judges/1,000,000 habitants).

The Comptroller General's Office is another important actor partnering with the ECAU in the fight against corruption, having improved its reputation and audit capacity. Still, the institution remains institutionally weak and irrelevant without clear administrative sanction authority and real authority to exercise its external control mandate over other public sector institutions.⁷⁸ The CGO still has to demonstrate its commitment to fight corruption while additional efforts to upgrade its external control capacity are underway, and a significant amount of resources will be dedicated to strengthening mechanisms for performance and operational audits in the public administration, including departments and municipalities.

Security and the National Police. Crime rates are rising in Paraguay, as they are elsewhere in Latin America, and there is a growing sense of personal insecurity. The crime rate is increasing steadily, more than doubling between 1990 and 2000, and the trend continues. Criminal behavior, increasingly violent, has become a regular feature in the border areas of Paraguay, where in addition to problems of smuggling and drugs, human trafficking is getting worse. In that context, the National Police has become more a part of the problem than a part of the solution. Corruption is widespread in the police force and the institution is ill equipped, with low capacity and low morale. The problem also has political roots as the police force was originally “designed to grant political power rather than security of citizens.”⁷⁹

There are allegations of human rights violations by the police, but they are not perceived as routine nor as state-sponsored actions as used to be the case during the dictatorship. However, recent executions of citizens by the police and the relations of police with organized crime (kidnappings) are prompting public concerns. Contradictory, a *Centro de Información y Recursos para el Desarrollo* (CIRD) survey reflects that more than 51 percent of those interviewed would justify any action, regardless of its legality, to fight crime.

With a weak police force, the “privatization” of security is proliferating. In urban areas, the security business continues to operate illegally and without state control. There are more than 150 businesses registered and only 10 operating legally, and more than 50 operating without any registration.⁸⁰ In the rural areas, citizen security committees are springing up, with more than 13,000 members. According to COHEDUPY, in most cases, these committees operate illegally. In addition, there are allegations of human rights violations (tortures and murders) by some of these groups (www.codehupy.org).

The Ministry of the Interior is undertaking important efforts to reform the national police with support from several donors, including USAID/MCC.

The Role of Civil Society and the Media in the Justice Sector Reform Struggle. The press and the NGO community are also champions for judicial sector reform. NGOs have advocated for reforms to help neutralize party forces, closely follow changes in the politics of the justice system, and publicize through their websites and blogs apparent violations of laws and regulations by justice institutions. They also work more generally on education and outreach programs to mobilize support and change citizen culture to support improved rule of law.⁸¹

The press is often an ally in uncovering and publicizing judicial misdeeds. In April 2009, for example, *Ultima Hora* captured pictures of a Justice of the Peace accepting a bribe. In this particular case, prosecutors from the ECAU and the press worked together, with the justice-focused NGOs playing a supporting role through their

⁷⁸ In accordance with Octavio Augusto Airaldi, the General Comptroller, only 10 percent of 130 cases submitted to the MP have been processed. Interview April 2009.

⁷⁹ Elvio Segovia Vice-Minister of Political Affairs of the Interior Ministry (interview).

⁸⁰ IDB *Evaluacion de la Gobernabilidad Democratica*. Op cit.

⁸¹ For example, *Semillas para la Democracia*, in conjunction with the Ethic Tribunal and other NGOs, organized a campaign (financed by USAID and CIRD) to promote judicial ethics and raise awareness.

blogs and newsfeeds. Second, they fight “externally” in the wider political system—investigating and exposing corruption throughout other parts of the government.

ABC Color, for example, in an editorial (May 23, 2009) that focused on the TSJE appointment, noted that the judicial appointment system does not function democratically:

“The Nation needs another way. The TSJE should be a key part of democracy. The system of party quotas is a threat to judicial independence.... The system of selecting the Justices for the Supreme Court and the Supreme Electoral Court, established in the 1992 Constitution, clearly has not functioned well. The Consejo de la Magistratura quickly became politicized—in the bad sense of this word—and the Senate, in turn, has followed the same twisted orientation. The result to this point has been that the Senate does whatever it wants to. When their majorities were too slim [to guarantee the outcome], Senators set up a pact, creating the party “quota” for selections. As a consequence, the Nation has not been able to count on a trustworthy administration of justice, but rather one that day by day becomes less legitimate.”

4.3 COMPETITIVE ARENA

Since the last USAID DG Assessment was completed five years ago, there has probably been more change in this arena than in any other. Certainly the election of a non-Colorado Party president stands out as the single most important event during this period and, with it, the possibilities for opening up the political party system to greater competition. However, in other ways, the structural defects of the electoral system have also become clearer, defects that truly threaten the long-term possibilities of consolidating democracy and the legitimacy of the system in the eyes of ordinary citizens. Reforms in this area are critical and difficult, but with a growing number of players now pressuring to improve the electoral process.

The Electoral Arena. The electoral rules and institutions to set up and run elections, and to define the electoral system, were established in the 1992 Constitution to provide an independent and fair electoral process that would result in elections that fairly represent the will of the people. However, both limitation in the independence of the electoral institutions and the system of closed party lists are putting serious strains on the quality of the electoral system in Paraguay.

The Struggle over the Independence of the Electoral System. The key institution to ensure the integrity of the electoral system is the TSJE, the Superior Tribunal of Electoral Justice. Together with lower electoral courts and prosecutors, the TSJE is responsible for the administration and legal decisions of all electoral processes in Paraguay. As noted in Section 3, the reputation of the TSJE was relatively good in the early years after its creation in 1995, but it progressively became more partisan in support mostly of the Colorado Party, creating significant doubts about its independence. That influence is shown in recent controversial decisions; one in 2006 allowed President Nicanor Duarte to run for presidency of the Colorado Party and, in 2008, to run as an elected senator rather than life-senator (who has no voting powers)—both in clear violation of the Constitution. In addition, opposition parties have repeatedly questioned the electoral register, also under the jurisdiction of the electoral court system, which is believed to contain irregularities that favor the Colorado Party. That political influence is also common in lower court decisions which, combined with the lack of technical capacity of judges and staff, constitutes a significant threat for the consolidation of the electoral system. Regional electoral courts are exposed to the influence of regional and local Colorado Party offices that meddle in the internal elections of the party for governor and municipalities.

Partisan influence over the electoral system starts with the selection of the Ministers (judges) of the TSJE and other court judges and staff. As explained in the preceding Section 3.3, the Council of Magistrates is a key actor responsible for the selection of the members of the TSJE and other electoral courts. Operating mostly by the party quotas system, the TSJE and lower courts have increasingly been filled with Colorado loyal judges, a trend that is likely to continue despite efforts from independent NGOs and the media. In November of 2008, the only “independent” TSJE judge left the court and a process to fill that vacancy started. As of the time of writing this report, the influence cast by the party quota system is in place,

controlling the process to select the replacement. After seven months, although the Council has set up an open process for the selection of the new judge, following its normal procedures including a long list of 47 candidates and public hearings, public pressures from UNACE are making it clear that the party quota continues as a defining factor in the selection process. Partnering with the president of the Council, a senator representing UNACE, the president of the TSJE closely related to the Colorado Party publicly stated during the public hearings sessions in the TSJE that other candidates were not admissible because “the composition of the TSJE has to follow a political balance whereby UNACE, the third political party in Congress, should get the position.”⁸²

The Colorado Party control over the electoral system goes beyond the TSJE, including toying with the Supreme Court. One month before the 1998 election, they successfully called on their party allies on the Court to declare General Oviedo ineligible to run, when he was almost surely destined to win the election. A decade later, in 2008, leaders again found pliable members of the Court to overturn a previous ruling keeping Oviedo in jail, this time to prevent a possible coalition between him and Lugo. As referenced in the background section, Colorado leaders have several times manipulated the presidential primaries of their party to guarantee their own people would become the candidates, including the 2008 election.

There are also Constitutional “rules of the game,” contributing to maintaining the power of traditional party leaders in Congress and providing obstacles for effective reforms in this area. One of the major detrimental rules is the system of “closed lists” for the senate and deputies’ seats in Congress and similar systems in regional and municipal councils. In Paraguay’s closed list elections, citizens look at a ballot divided by parties as opposed to by candidates (uninominal). The closed lists are decided internally within political parties, giving citizens little room to decide directly for a candidate. This kind of system strengthens the leadership of the party, since the leaders choose the order of the candidates in the ballot. In countries with weak parties, with little cohesion and leadership at the center, this kind of ballot may be important in helping develop a candidate’s loyalty to party leaders. In Paraguay’s case, however, the problem is the reverse; candidates are already too tied into a centralized party system and are not sufficiently attuned to their constituents. Since a voter does not vote for an individual, only the party, there are no incentives to vote against an unsatisfactory candidate; therefore, there is very limited accountability from voters if a Congressman ignores his constituency.

Paraguayans may be dismayed by their politicians, may not trust their parties or their Congress, and may not even be convinced that Paraguayan democracy is a great political system; nonetheless, they are very involved in politics at election time. In 2008, about 66 percent of eligible voters went to the polls, considerably higher than world averages for democracies. Absentee rates for women, native Guarani speakers, and the poor are somewhat lower than for other groups. Those who did not vote cited as their chief reason the lack of an identity card (10 percent of those who did not vote), followed by the long distance to a voting poll, and, thirdly, by the lack of an appealing candidate. This indicates that the chief reasons for abstentions lie in procedural measures—registration, better distribution of polling sites, and sufficient outreach to traditionally marginalized groups—rather than in citizen apathy or indifference.⁸³

The high turnout rate in national elections in Paraguay is not necessarily connected with strong democratic practices. An important reason that explains the high turnout during national elections is the strength of the clientelist structure of the two major parties; they are well-oiled political machines that can get their voters to the polls. In the last elections, between one-quarter and one-third of the electorate was taken to the polls by activists in the political machines of the Colorado and Liberal parties. Helping that structure is the high rate of party affiliation—70 percent of adults are formally registered in political parties. Mobilization is even higher for poor people than in other sectors of the population; four out of every 10 poor voters reported that they were conducted to the polls by party operators. In contrast, nine out of 10 people who were not

⁸² *Ultima Hora*, May 30, 2009.

⁸³ UNDP 2009 survey ob cit.

affiliated with parties got themselves to the polls with no party assistance, and two-thirds of those who did not vote were also not affiliated with a party.

The Arena of Political Party Competition. The 2008 election was a watershed event, leading to the first presidential defeat of the Colorado Party and the first peaceful, democratic turnover of the Executive in Paraguayan history. This event also offers an opportunity to examine and provide an update on how the parties—the real “power contenders” in the Paraguayan political system—organize themselves, and the nature of democratic competition. In addition, it provides a unique opportunity to review the Lugo victory, which illuminates the struggle for political power in Paraguay and the opportunities for democratic consolidation. The following are a few salient findings:

1. Lugo’s victory did not bring about a transformation, “it did more to rearrange the electoral map than to transform it.”⁸⁴ The Colorado Party, together with UNACE, still represents the majority of the votes. The last rifts of the Colorado Party contributed to the electoral outcome and to a growth in the constituency of UNACE. Whether the internal factions and divisions of the Colorado Party continue or new alliances within the party and with UNACE emerge will be important predictors of future political representation in Congress and the presidency in Paraguay.
2. However, the results of the elections seem to represent the will of the people. A measure of this is not only the electoral results, but post-electoral democracy surveys that showed a dramatic change in the belief in the legitimacy of the government, and in democracy itself. As Abente points out, however, it was the unification of the opposition that helped to coalesce citizens’ general discontent and brought about an effective political outcome in the elections.
3. The Colorado Party “bought into” the democratic rules of the game in this election, ceding power peacefully when they lost. But it would have been very difficult to do otherwise, given how the institutional factors were arrayed: international and national electoral observers, a vigilant press, and an electoral administration “checked” by these other electoral actors.
4. The maturation of one or more of the many small “reform-oriented” parties is not likely to result in the emergence of a new, powerful “reformist,” and potentially majority party in the foreseeable future. Although these parties are able to recruit attractive candidates, they do not do well electorally. The election turns up no credible evidence that a party not based on clientelism can shrug off its “boutique” elitist flavor and win the presidency. While the alliance of several small parties close to Lugo with the Liberal Party gave him the victory, it was the Liberals, not the smaller parties that made that victory possible. As Abante has shown, the two traditional clientelist parties continue to share more than three-quarters of the vote, as they have in every election.
5. The Liberal Party is growing in power at all levels, quite apart from the presidential victory, and developing a political apparatus of its own through the control of a number of important municipalities and departmental governments. It has won one-quarter to one-third of the elections at the municipal level since 1991. It has also begun to win gubernatorial elections—from one-third to half—including the largest, central, with 30 percent of the population. As Abente has pointed out, by controlling local governments, the Liberals can satisfy constituents’ needs and develop loyalty to the party.

Political Party Financing. The financing of the two major parties as institutions, and for particular candidates and elected officials, is opaque and complex, widely viewed as corrupt, and sometimes illegal. Political parties often circumvent financing regulations aided by the electoral justice. Despite several accusations of misuse of state funds, the electoral court has not followed up by opening a serious investigation. Civil society organizations and minor political parties have taken the institutional lead in pushing for reform, heartened by a citizenry fed up with corruption but without the means for changing the

⁸⁴ Diego Abente, *Journal of Democracy*, Vol 20m Number 1, January 2009. National Endowment for Democracy and the Johns Hopkins University Press.

system. Often with USAID assistance, they have focused on new legislation requiring more transparency in party financing. Within the civil society community, this is often one element of a broader anticorruption effort, recognizing that even if such legislation were to pass, the passage of the legislation would be only one, and not the major, measure of “cleaning up politics.”

Other Spheres of Competition—New Public Power Balance and an Increasing Role of NGOs and the Media. With the Colorado Party in the opposition, there is a new balance of public powers in Paraguay which is injecting a new dynamic of competition into the political arena. Such competition, however, is limited and does not necessarily strengthen a healthy check and balance system; instead, it is posing significant obstacles to the reforms needed to consolidate democracy in Paraguay. As noted in previous arenas, the Executive, with a fractioned and weak political coalition and opposition in Congress, is incapable of getting key legislation passed in Congress. The judicial sector is controlled by the traditional parties which, through the “party quota” system, continue responding to the parties’ agendas and particular interests.

Civil society organizations and the media are increasingly playing an important role in the struggle to fight corruption and to provide transparency in the electoral system challenging the still-strong influence of the party quota system. The results of the 2008 presidential elections are in part due to the action of a network of NGOs, which partnered with international organization to provide objective observation and oversight in the election. Their strong organization and decisive actions ensuring respect for the actual will of voters prevented any major fraud in a critical electoral event when Lugo was leading in all pre-election polls. The most recent struggle is occurring in the selection of the judge for the TSJE.

4.4 THE CIVIL SOCIETY ARENA

At the national level, NGOs seem increasingly active, with an important role to play in nearly every aspect of democratic reform. One measure of their maturity is their ability and willingness to work together on important reforms, forming several networks that magnify their impact. Perhaps the most important network is the *Coordinadora de Derechos Humanos del Paraguay* (CODEHUPY), now 10 years old, which includes about 30 groups that focus on human and democratic rights, broadly defined. CODEHUPY’s annual report on human rights provides an excellent compendium on the activities in the NGO sector, and civil society generally—demonstrations, farmers’ and union activities, land invasions, as well as legal analyses and recommendations for improving the legal environment for civil society activities and reforms. This provides some of the most comprehensive data available on an annual basis of the level of social mobilization in the country.

In addition to this established network, NGOs form alliances and temporary groups to further particular reforms. In 2006, for example, seven organizations (including a network of *Contralorias Ciudadanas*) helped draft legislation to increase citizen participation in the budgetary process and to open up the process with freer access to information.

While important advocates and sources of expertise, individual NGOs lack the political clout to push legislation through or force a change in power relations. In alliance with the press, many NGOs have lobbied intensively for a Freedom of Information Act, to give them greater access to government actions and increase government transparency and accountability. They lacked the power, and the bill has been defeated twice, the last time in 2006.

However, NGOs are a critical element of reform once allied with more powerful actors, providing not only expertise, but access to the press and outside communities, and linkages to the international arena, often with a “*poder de convocatoria*.” They are excellent communicators. Their websites and blogs are well developed, often exhortatory, and informative. Their relationship with the media is complex and somewhat symbiotic. The media rely on them for analysis and as an “intellectual player” on any issue involving democratic reform, and occasionally for first rate studies and analyses. In turn, much of what turns up on the blogs and websites of NGOs often has come directly from the media.

Local CSOs. The principal organizations for mobilizing citizens at the local level, besides political parties, are *comisiones vecinales* (neighborhood associations) and “local councils,” which are often the principal organizations for mobilizing citizens around government issues—usually to demand a better service or partner for the delivery of services (e.g., Local Health Councils). The capabilities of these groups vary greatly; some have been around for years, while others drift in and out of existence as an issue becomes salient. They also vary in terms of levels of purpose, expertise, autonomy from political parties, and linkages with government. Overall, they are important to governments and donors as one of the few vehicles of peaceful citizen participation, putting demands on government, or collaborating with local government in reform efforts. In the health sector, Local Health Councils (as well as department and national councils) have been the key to the success of providing more health services to the communities. The governor of one department whom we interviewed faced a waiting room full of representatives from neighborhood councils. He noted that during “public audience” days he was available only to such representatives, not to individuals.⁸⁵ This was his way of filtering out individual petitioners and ensuring that the requests were valid community needs. (Since he was known to have roads as his primary interest, most of the neighborhood council requests were for road improvements.) For women and men, local councils often offer the only real way to participate actively in civic life. USAID’s gender analysis points to these groups as an important vehicle for increasing women’s participation. For these reasons, they are often considered an essential partner in local development efforts.

Organization of Economic Groups. Although not usually considered as “partners of democratic reform,” there are many organizations in rural areas such as cooperatives, networks of micro-enterprises, and similar economically based groups that, in Paraguay, should be considered in regard to their impact on the advancement of democracy. Particularly in rural areas, there is an underlying lack of a “democratic culture” because of the influence of clientelism and an individual’s belief that a powerful “patron” is a better bet than political organization. Producers and farmers have already made a different choice, away from clientelism, to work in concert with others in similar situations to better their situation. Partnering with such groups—which are practical, peaceful, and interested in results—to increase the quality of democracy is a real possibility. In an interview, representatives of the IDB working with groups of micro-enterprises thought that if a democracy initiative were added, it would strengthen the overall program. This “module” could focus on how to access the government and how to mobilize to influence government decisions—classic interest articulation functions that help develop democracy. USAID programs in the economic sector could also be good partners in such an endeavor.

Mass Mobilization Organizations and Agrarian Reform. Compared to other Latin American countries, Paraguayans seem to take to the streets with less frequency than their counterparts elsewhere. This may be in part because of their tight allegiance to political parties, with over 70 percent being formal members of a party and more inclined to work through party clientelist networks. But demonstrations and marches are certainly one of the “mobilization tools” that citizens use to voice their concerns. The 2007 Annual Human Rights report for Paraguay detailed every demonstration, land invasion, and similar citizen “street” action, including a large march of 20,000-40,000 people demonstrating against the president’s efforts to pressure the Supreme Court to allow him to run for president again. The great majority of these are peaceful and limited in purpose. In contrast, farm groups and *campesinos* are better organized and use mass protests to pressure the government on a more sustained basis.

One of the most critical struggles President Lugo faces is over agrarian reform. In his electoral campaign, the president stressed the need to support greater access to land ownership among the landless, and his support among the poor was based in part on this commitment. Because of his weak political position within the Congress, and even within the Liberal Party, he has not been able to deliver on this promise. The (MCNOC) has been increasingly strident, helping organize land invasions that have involved upwards of 7,000 *campesinos*. At one point, over 4,000 families occupied about 20 properties in seven departments. They were removed by

⁸⁵ Interview with Gustavo Alfonso, Governor of the Department of Guairá.

police—who treated them very roughly, leading the human rights community to protest—and undermined Lugo’s legitimacy with the very group that most supported him coming into power.

Moreover, other important economic actors are caught up in the struggle over agrarian reform, some closely tied into the Colorado and Liberal party leadership in the Congress. Among them are the large soy producers, many of them *brasiguayos*, who have great political clout and feel that the *campesinos* have particularly targeted them during the land invasions, violating their property rights. This in turn has led the Brazilian government to weigh in, undertaking military exercises at the border and passing legislation protecting the property rights of Brazilians even outside the borders of Brazil. Large landowners, both Brazilian and Paraguayan, depict the *campesinos* as “criminals,” and their movements as driven by leftist ideology.

The rural poor have few options politically. So far, they have opted to remain in the traditional clientelist networks, trusting a leader (like Oviedo) to “do something” for them. Their experience with democracy Paraguayan-style has created disillusionment, and they have less faith in it as a system than other Paraguayans. The “democracy” that they have experienced in Paraguay is one in which traditional elites, tied to landowners, develop policies and legislation that favor their own groups, not the public interest, and certainly not the interests of the poor. The poor have thus found it necessary to tie in to traditional patron/client linkages, looking for a single “leader” who will champion their cause. Unless democratic institutions are developed in rural areas, and reasonable government services and justice provided, democracy cannot be consolidated in Paraguay.

4.5 DISTILLING INSTITUTIONAL ARENAS

Even after 20 years of electoral democracy, Paraguay’s authoritarian and clientelist political culture remains deeply rooted. It will take more than one generation to develop new political patterns and a robust democratic culture.

Electoral competition is the most successful arena in the democratic transition in Paraguay, with regular elections increasingly free and fair, and always with the vigilance of civil society groups and international observers. In this area, the recognition of Lugo’s electoral victory in April 2008, and the further peaceful handover of power in August of the same year, represents democracy’s biggest accomplishment. On the deficit side, although national elections manipulation seems remote at this time, party leaders are still able to manipulate internal primaries to decide on presidential candidates or positions on closed party lists.

The greatest problem in the competitive arena seems to lie in the continued politicization of the TJSE—which is not fully committed to neutral electoral outcomes, and is possibly the best bellwether of how clean elections are likely to remain. However, it is critical to look at the TJSE as part of another and more important institution: the Magistrate Council.

The struggle over the nature of the Magistrate Council lies at the heart of the transformation of Paraguay’s political system from one controlled by political parties for their own interests, to one committed to the wider public good. At present, the Magistrate Council represents the largely “unreformed” part of the Paraguayan political system, controlling not only the TJSE, but also in effect controlling appointment of members of the Supreme Court, other judges, and others in the rule of law arena. With membership explicitly carved up between the parties, and even ostensibly “independent” members tied into the parties, it severely compromises the legitimacy of both elections and the rule of law, and its power extends to other levels of government. The control of the CM by party interests is not likely to diminish soon, and it represents a kind of “ceiling” on the legitimacy and level of rule of law reforms that will be possible. It is hard to conceive of an independent, autonomous Supreme Court, or judges or prosecutors, without reform of the CM. Hence, while the system may be able to improve in areas not of major interest to political parties, such improvements are likely to be bent, through appointments at least, towards partisan favoritism and control.

If the competitive arena shows the greatest potential for democratic consolidation, and the rule of law remains problematic, the public sector institutions occupy a middle ground as an arena for reform. Certainly, traditional clientelism persists strongly, procurement processes are largely opaque and subject to corruption, and state assistance often favors political allies. Nonetheless, in some parts of this arena, there have been some important improvements, and strong reformers—the president, some members of the senate, key ministers, and civil society groups have made some headway. They have been aided by the election, which brought to power a president with anticorruption aspirations—and a different political party, the Liberals, in formal control of the government. Public sector workers, therefore, are no longer merely steadfast Colorado members. Recruitment and promotion processes are subject to at least three different pressures: Liberal Party followers who favor replacing Colorado loyalists with their own; the reformers now in government (assisted by civil society groups) who favor replacing them with technically competent, competitively selected people; and, of course, many pockets of Colorado stalwarts who hope to survive until the next election. This new “flux” in the system offers real opportunity for reform, both at the national level, and perhaps even more, at the sub-national level.

In the long run, without a citizenry that demands and expects a robust democracy, reform processes will fade. Although a highly centralized government, the Paraguayan political system appears to be developing a nascent local governmental system characterized by citizen involvement and activity. This has been in part due to a concerted effort by many donors, rather than “political will” from the government or the parties. In fact, as the discussion above makes clear, control over the finances available to local governments may become an increasing arena of struggle in decentralization efforts. But there is substantial push-back, both from local forces and the NGO community, as well as donors.

The rise of political and social involvement at the local level, however promising, will not be sufficient in the short or medium term to transform the political culture, particularly in neglected, poor areas of the country. To hasten a deepening of democracy in this arena, a more comprehensive series of changes need to occur, increasing a neutral state presence in the rule of law, providing improved services (education, health, water, agriculture, etc.), and working with rural organizations to strengthen democratic processes.

In conclusion, the consequences of party control of the state have been dire for the country, perpetuating great inequality and poverty levels much higher than they should be. In May 2009, Julio Torres, the head of Amnesty International Paraguay summed this up well: “We confront a crisis of human rights, of the lack of health, education, land, human dignity and work, leading to a powder keg of insecurity and inequality which is ready to explode....20 years after the end of the Stroessner regime, all Paraguayans continue living in [a situation of] exclusion, discrimination, and humiliation.”

For Torres, as echoed in this report, the problem lies with the political elite in power: “the three powers of the State must change their mentality.” From a commitment to rewarding friends and allies, the government must move to a sense of providing for the public good.

4.6 FILTERING THE DONORS

The IDB, the JICA, UNDP, and GTZ are among the donors that have democracy and governance programs in Paraguay.⁸⁶ Many are working in the same areas in which USAID focuses. In decentralization, there are similar programs among many of the donors focusing on improving local governance, or working through national public institutions, such as the *Ministerio de Hacienda*, to improve linkages between national and local governments. USAID, as well as the IDB, seems interested in improving training and technical assistance capabilities within ministries to help municipalities. This should be an area of discussion, to minimize potential duplication of effort.

⁸⁶ The assessment team could not meet with World Bank (WB) representatives after several attempts nor did they find updated information in the WB's web page with the new strategy for the period of analysis.

Most donors have programs based in municipalities, focused on improving financial administration or general administration, or, in some cases, oriented towards a particular service. JICA, GTZ, and UNDP all have programs in this area, and IDB is considering more involvement. At present, its rural focus is largely to strengthen economic groups, such as networks and alliances of producers and micro-enterprise groups. USAID has done an excellent job of working with other donors to develop the Performance Municipal Measurement System (MIDAMOS), a common measure of municipality effectiveness, and several donors have agreed with the idea of expanding the tool outside the limited number of municipalities now using it.

Donors also seem to have overlapping interests in their support to the Secretary of Public Function, either to advance better and more competitive processes for hiring, or to expand the national reform effort down to the municipal level. While the reforms in this ministry are only a year old, beginning with the Lugo administration, and therefore there are no “competing” programs among donors, this seems an area where careful donor coordination needs to occur soon.

In justice, there is probably the greatest need for discussion. IDB is beginning to plan a comprehensive ROL program as well. The IDB had not met with the United States Government (USG), but expressed to the assessment team that they would like to do so. Based on their recent analysis of the sector, as well as the WB’s 2005 study, it is probable that IDB’s judicial reform will focus on goals of increasing physical access to justice, improving efficiency in the administration of justice, reforms focusing on new Criminal and Criminal Process Codes, judicial orality, civil law reforms, developing training for judges and prosecutors, improved indicators of justice, and other modernization programs.

IDB and GTZ particularly have commissioned a wealth of studies in the area of governance and democracy, as has USAID/DG; it is not clear that cross-learning from the results has developed. For example, IDB just completed a long analysis of “governability” in Paraguay, which, although longer (400 pages) in many ways, follows the USAID DG assessment methodology. UNDP’s recent surveys and reports on democracy provided excellent information for this assessment, but the survey results have not been shared with USAID.

The USG/MCC Threshold program is about to start a follow-up program focusing on the strengthening of internal control and law enforcement mechanisms in several institutions of the judicial sector and public administration (Supreme Court, administrative tribunals, Public Ministry, Comptroller General Office, National Police, and the Ministry of Health, among other institutions). It also comprises a citizen participation and public communication component to disseminate the results to the program and empower NGOs and CSOs to provide oversight and to apply pressure and promote sustainability.

In summary, while we did not find duplication of effort at present, we found some excellent areas of collaboration, and new programs are now gearing up and could lead to potential overlapping.

5.0 STRATEGIC AND PROGRAMMATIC RECOMMENDATIONS

5.1 STRATEGIC APPROACH

This analysis concludes that:

- President Lugo’s election and the peaceful handover of power that followed it represent an opportunity for promoting democratization in Paraguay; and
- The country’s long non-democratic history means that old patterns of state and party control continue to be strong and persistent.

In Paraguay, there are serious and capable democratic reformers who are pitted against a deep “democratic deficit” that has strong historical roots and is linked to the country’s economic inequality and poverty. Given the new opportunities and challenges, this assessment recommends expanding the current USAID DG portfolio significantly to support the new government’s commitment to consolidate democracy by confronting social injustice and corruption. Our recommendations are based on five strategic approaches:

Increasing direct support for public sector institutions where a direct linkage can be made between the program and the substitution of good governance practices to replace party control. This recommendation builds on the anticorruption efforts of the first MCC Threshold Program and is compatible with the follow-up program (Threshold II) which focuses on efficiency and accountability in public sector institutions, particularly in health, justice, and police reform. This argues for incorporation into USAID’s portfolio of an increased support to government and state institutions, focused on the “supply” side of government reform, in addition to the “demand” side only approach which has been the focus in the past (2004 DG Assessment). The following table summarizes the programmatic recommendations proposed to target this strategic approach.

Table 5.1: Summary of Recommendations to Support Public Sector Institutions “Supply Side”

Area	Scope of the Intervention
5.2.1 Strengthen Anticorruption Agenda	Follow recommendations of the 2008 Anticorruption Assessment and continue support of Threshold II activities to strengthen anti-corruption control and enforcement mechanisms (including institutional support to the Ministry of Health, Public Function Secretary, Comptroller General and Public Ministry, Ministry of Finance audit systems, among others)
5.2.2. Strengthen the Judicial Sector	Continue institutional strengthening efforts under Threshold II in the Judiciary and activities to improve access to justice
5.2.3 Strengthen the National Police	All activities proposed under this component

Area	Scope of the Intervention
5.2.5 Expand Democratic Civil Society Organizations and State Presence in Rural Areas	Improve the capacity of the central government to coordinate and carry out social investment plans in rural areas
5.2.6 Strengthen Decentralization and Local Governance	Increase capacity of the Unit of Decentralization under the Ministry of Finance Increase capacity of local governments to deliver services Increase intergovernmental coordination (central, departmental, and local) Support the Ministry of Finance to expand integrated financial systems to municipalities Support the Ministry of Finance and the Comptroller General to promote internal audit capabilities in municipalities Support efforts of national state and government agencies in the sub-national level (for example, support the decentralization of the professionalization of the public administration led by the Secretary of the Public Function)
5.2.7 Strengthen electoral processes	Provide training to technical staff of the TSE

It is important to realize, however, that direct support for government institution-building carries a higher risk of failure than the current strategy which emphasizes support for nongovernmental institutions and reformers in the country context described in previous sections. Therefore, it will be essential to understand the risks in order to design a strategy that helps to minimize them.

1. **Maintaining and expanding support for non-governmental organizations that promote democratization and good governance.** The core of the DG program should remain focused on supporting citizens and organizations committed to improving the quality of Paraguay’s democratic political system. This recommendation addresses the fundamental democracy problem in Paraguay—partisan politics exercises extreme control over the state without regard to the public good. Supporting CSOs that expose and fight corruption, promote better governance, and support the participation and empowerment of traditionally excluded groups is a way to provide a strong counterweight to party interests that control the state.

Working with political parties. Since the end of the dictatorship, USAID/Paraguay has moved in and out of party reform activities. The DG program has recognized that political parties are critical stakeholders that, due to vested interests, currently represent impediments to the democratic transition. The parties need to govern in the wider public interest, rather than to only benefit their narrow partisan interests, but right now the internal party dynamics are such that they function mostly as political machines, heavily subject to the partisan wheelings and dealings of their leadership. This assessment consequently puts the issue of the power of political parties front and center, suggesting that the nefarious influence that parties have over the state must be mitigated by increasing the transparency of governmental decision making, improving corruption enforcement mechanisms, and de-politicizing key appointments in electoral and justice arenas as well as in local governments.

Some of these reforms can be addressed through working inside of parties, and some by increasing pressures and checks and balances from without. But party reform activities have proven difficult to implement in Paraguay and achievements are hard to measure. For progress to be made, it seems that some incentives need to be put in place that would lead to a greater willingness on the part of the parties to engage in reform. Sometimes, such incentives can be found in electoral currents and codes, sometimes through other checks and balances, and sometimes through pressure from civil society. In Paraguay,

given the past difficulties in working with parties, the assessment team cautions against moving too quickly in seeking to immediately and directly “strengthen” political parties.

Hence, rather than “reforming” political parties directly, this assessment suggests a more indirect approach that focuses squarely on the problem statement. While it might be possible to achieve some minor reforms—for example, increasing the proportion of women candidates,⁸⁷ or motivating political parties’ leaders to promote more transparent decisions at the local level⁸⁸—such efforts will not likely affect the underlying dynamic of parties that do not govern in the interests of the majority of Paraguayans. Rather, reforms must help to create incentives so that party leaders see that it is in their electoral interests to widen the number of beneficiaries in the political system from the current small number involved in traditional patron/client networks, to a much larger number of constituents. For example, policy dialogue could be promoted to examine electoral practices of closed party lists so as to increase the accountability of party leaders to the voters. Similarly, support could be continued to CSOs/NGOs that monitor nominations to key state positions. Civil society can also serve an important watchdog and oversight role in monitoring elections as well as the technical capacity of the TSE. In general, a more professional and alert civil society can help identify and reward the good performance of political leaders and managers in the public sector, increasing the incentives for such behavior. In addition, improving and widening access to services to the population (see number 4 below) would in turn promote electoral agendas grounded on good government performance.

Given the centrality of the parties to the DG problems in Paraguay, this is not to suggest ignoring political parties as a critical stakeholder in the system, and therefore as a “target” for USAID activities. Party members, including party leaders, should be included in appropriate activities, such as participating in “think tank” seminars on important policy issues, working with local neighborhood associations, supporting political party financing and electoral reform. In addition, the Mission should closely monitor the political party terrain for any emerging opportunities to fruitfully engage, and a political party assessment in about a year would be an appropriate means by which to keep the finger on the political pulse.

2. **Continuing the leading cross-cutting emphasis on anticorruption and transparency efforts in the DG portfolio.** Corruption in Paraguay is widespread in all levels of government, and in the formal and informal sectors. President Lugo’s political will is a necessary condition to confront corruption, but it is not sufficient. Attacking corruption requires a comprehensive strategy at several layers. This assessment suggests that anticorruption and transparency efforts should be embedded into all components of USAID’s portfolio, promoting systems to identify corruption, “turning the lights on,” and strengthening mechanisms for enforcement at all levels (national and sub-national). This suggests anticorruption and transparency components on the program’s “supply side” that work with the public administration (national and local) to strengthen control and prevention mechanisms, and in the judicial sector to encourage more transparent enforcement processes. It also affects the “demand side” by expanding the oversight role of CSOs, including the media, to increase the “interest and ownership for anticorruption efforts.”⁸⁹

⁸⁷ The 2008 USAID Gender Assessment makes this point very strongly. It shows that women suffer disproportionately from the effects of poverty, corruption, and policies that benefit patron/client networks rather than society as a whole. Programs that focus on those issues are more important to women’s wellbeing than those tinkering with gender balances on party lists. Moreover, the Gender Assessment shows that even legislative reform on this very specific point of better gender balance on party lists did not succeed.

⁸⁸ USAID Paraguay is implementing a very interesting program supporting political parties’ leaders to promote a good governance agenda in 50 municipalities. It has worked with the ANR, PLRA, and PPQ, encouraging their participation in public accountability sessions (public hearings, access to information, among others) at the local level. However, political parties have not shown strong interest to participate in this program, limiting the results to a few scattered cases without a clear indicative of success (interview with Eduardo Bogado from the DG office of USAID).

⁸⁹ Benjamin Crosby et al., “Assessment of Corruption Paraguay.” USAID Paraguay, July 2008. p. 7.

As mentioned earlier, USAID’s anticorruption portfolio is well underway, at least for the next three years, with the Threshold II program about to start. The experience resulting from that work should guide the continuation of the DG portfolio in that area. In addition, the recent 2008 USAID Assessment of Corruption provides a long list of constructive recommendations, several of which are part of the Threshold II program, that are worth serious consideration. Several of those recommendations have been identified and others are proposed in Section 5.2.3 below.

3. **Adding a new strategic focus (with attention on cross-sectoral linkages) on rural areas of high poverty, where state presence is limited and citizens are effectively excluded from state benefits and meaningful political participation outside of elections.** Political and social exclusion, rooted in traditional patron/client relationships based on land ownership and elite power, remains a significant problem for democratic governance because the public’s expectation is that powerful elites, often attached to party leaders, will be favored over the poor majority. All aspects of the DG portfolio should be examined in terms of this strategic focus. For example, the successful practices established in USAID’s local government programs should be expanded, focusing to the extent possible on sub-national governments in departments and municipalities characterized by greater poverty, isolation, and lack of government resources. In addition, programs to support national government institutions (e.g., Secretary of Public Function, the National Police, justice programs) should include this strategic component, as should civil society programs, and enhanced donor collaboration efforts. Furthermore, DG intervention should maximize its coverage and impact through cross-sectoral linkages with other activities of the Mission, such as the work the Economic Growth office is funding to promote micro-enterprises and business organization in poor rural areas.

Besides improving the quality of democratic governance in these areas, such support may have other positive effects. One may be to spur poverty reduction, as some of Paraguay’s poorest areas are able to put demands on the government to receive more—and more widely distributed—benefits. Second, citizens in these areas tend to have less support for democratic values and more support for authoritarian politics. A by-product of increasing citizen participation and empowerment may be to shift the political culture towards greater and deeper support for democracy. Democratic survey results in Latin America have shown that those who participate in local government activities develop a more “diffuse” support for democracy at the national level.

5.2 PROGRAMMATIC RECOMMENDATIONS

5.2.1 Strengthen the National Anticorruption Agenda⁹⁰

1. **Assist in the development and/or socialization of the government’s Anticorruption Strategy and Action Plan nationwide.** For many, one of the weaknesses of Lugo’s presidency is its lack of legislative/policy initiative in key areas of the administration to set the national agenda and build support, political and social, around it. The development of a strategy should start from the government’s current efforts and experiences, and build from there through a consultative process that involves the media, NGOs beyond the mainstream, social movements, and other groups with proven capabilities to mobilize citizens. It should also reach out to political parties (or factions within the Colorado and PLRA) to gather support or to expose their opposition to the agenda. An action plan should also emerge from that effort with specific indicators to measure progress and to identify strategic obstacles. The strategy should identify a legislative agenda, a structure to monitor progress, and networks of support. The National

⁹⁰ The recent 2008 USAID Assessment of Corruption provides a long list of constructive recommendations including anti-corruption enforcement and control mechanisms, several of which are part of the Threshold II program, that are worth serious consideration. We have identified several of those recommendations and propose others in Section 5.2.3 below.

Integrity Plan for the period of 2006–2012 developed by the National Commission for Investigation of Corruption—CISNI—offers a good starting point to trigger the dialogue.⁹¹

2. **Continue support for civic education programs to promote a culture of integrity.** Corruption goes beyond political parties and the public administration, and is also part of a general culture in Paraguay. Changing that culture will require changing citizens’ perceptions of the issue and promoting a new culture of integrity. Working only on the “supply side,” identifying and prosecuting corruption will not be enough if citizens do not have a good understanding of the problem or are complacent about corruption. A civic education program should follow similar programs already implemented in Paraguay (CEJ). It should publicize the cost of corruption and the impact it has on all citizens, promote a pledge for anticorruption actions, and highlight positive actions of integrity. **All of these activities require a strong public communications component** and should be coordinated with efforts to increase access to information as described in Section 5.2.2.

5.2.2 Strengthen the Judicial Sector⁹²

Following previous USAID engagement in this area, the MCC Threshold II program will continue supporting the strengthening of the Judiciary focusing on organizational and regulatory reform for administrative tribunals.

1. **Continue strengthening control and law enforcement mechanisms within the justice sector with civil society ownership as follow-on to the MCC Threshold II program.** USAID should monitor the implementation of the Threshold II program and design a follow-on intervention based on its experience. In addition, we suggest the following programmatic recommendations for short-term and medium-term interventions:

In the short term

- Develop a communication program in the area of ROL. Use justice indicators scorecards to communicate the progress of Threshold II efforts and provide links with the media, NGOs, and CSOs that are partnering that effort. It is important to establish regular communication with the public to expose both problems, and integrity champions. This will help to expose responsibilities and highlight positive behaviors that need support, which in turn would help build demand for anticorruption efforts from citizens (as is currently planned for Threshold I II) (see Recommendation 5.2.1).
- In this effort, is it important to identify new partners outside of Asuncion and use alternative media and community radios, and link it to an eventual investigative journalism program (see Recommendation 5.2.2 below).
- Continue support (via *Semillas para la Democracia* or other NGOs) for oversight efforts with respect to the enforcement of the Ethics Code and with the implementation of standards for judicial selection and promotion.
- Provide training on the role of the judge (independent thinking, judicial responsibility) to improve the level of professionalism.

⁹¹ The 2008 USAID Assessment found that no national anticorruption strategy has been adopted in Paraguay. The National Commission for Investigation of Corruption in the Public Sector (CISNI in Spanish) was established in 1990 and completed two “National Integrity Plans” for the period of 2000-2006 and 2006-2012. However, the level of support of the GOP to those plans is unclear.

⁹² The assessment team presents in this section some of the recommendations and findings in the Concept Paper “Potential Rule of Law Programming Recommendations for Paraguay” presented by Gloria Jean Garland, Senior Rule of Law and Human Rights Advisor with the DCHA/DG office of USAID (dated May 20, 2009).

- Work to develop independent judge associations.
- Improve access to justice in poor rural areas through the following mechanisms:
 - Training and technical assistance for the Public Defender’s office;
 - Training and technical assistance for Justices of the Peace, or including Justices of the Peace in general judicial training programs in cooperation with the judicial training institute;
 - Construction or development of one or two justice houses in targeted rural areas to serve as a pilot on-stop service center; and
 - Civic education programs through civil society and the media to educate citizens on their rights and responsibilities, including access to justice services.

In the medium term:

- Evaluate MCC Threshold II progress and a continuation of activities in the priority areas of strengthening internal ethics controls, continued professionalization (and improved performance) of the Judiciary and administrative staff, and strong civil society advocacy and oversight.
 - Evaluate MCC Threshold II progress in the development of special tribunals for economic crimes and corruption, and provide continuity in this area with training and technical assistance.
2. **Promote actions of integrity in the Justice Sector that reward champions.** It is important to highlight those champions of reform wherever they are in order to support them and provide incentives for further reform. USAID promotes a partnership among NGOs, the media, and other relevant civil society actors for competition within the justice sector for an integrity reward. This should be coordinated with efforts to highlight a national anticorruption agenda.

5.2.3 Strengthen the National Police with Democratic Policing⁹³

Component 6 of the Threshold II program will focus on police and will include efforts to strengthen transparency and integrity, and reduce corruption within the national police by strengthening internal control and disciplinary systems. ICITAP will include ethics and human rights modules in the police cadet curricula, and will also work to improve the 911 emergency response and police communication systems.

Because the kind of institutional strengthening the Threshold II program envisions will take significantly more than the two years of the program, USAID should consider undertaking its own activities with police in the meantime and in closely following the Threshold II activities in order to assume the primary activities when they conclude.

1. **Support systems to guard against human rights violations in the National Police.**

- Coordinate with the ongoing Threshold II program, which is providing a comprehensive training program on human rights to the police.
- Develop a safe and credible way for citizens to make complaints about police behavior, leading to prompt investigation and action, and ensuring that citizens are aware of the complaint system through a public awareness program.

⁹³ The assessment team presents in this section some of the considerations and recommendations expressed in the Concept Paper developed by Gloria Jean Garland mentioned before.

- Within the National Police itself, ensure that there is an internal monitoring program of police abuse. There are a number of successful models in Latin America that could be considered, from civil review boards to mixed civil/police review processes.⁹⁴
 - Support national civil society and human rights groups that can provide broad oversight and attention to police practices.
2. **Assist the Ministry of the Interior and the National Police to ensure that the goals and approach of the police reform program are consistent with democratic policing.** Some of the specific activities planned (e.g., 911) are consistent with this, while other aspects, such as adequate external oversight, may need more support. These norms of democratic policing parallel the recommendations and goals in this assessment for other parts of the public bureaucracy and would strengthen the overall effectiveness of the DG strategy.⁹⁵
 3. **Support National Police reform for a community policing model.** USAID Missions in Latin America are moving to community policing models because they help lower crime rates better than other systems, because they help prevent crimes (rather than just improve prosecution of them), and because—particularly in more potentially violent settings with drugs and human trafficking—they are considered a critical element for success. Hence, several Missions involved in the Merida Initiative (El Salvador and Guatemala), and in countries with high violence levels, such as Jamaica, now have substantial community policing programs underway.⁹⁶ Results of some of these programs are mixed, so design in Paraguay should draw from the lessons learned in Jamaica, El Salvador, Guatemala, etc.
 - In terms of reinforcing the strategy, community policing (because it is inherently decentralized) should give a larger voice to local governments, empower local community organizations, and improve access to justice.
 - The Mission could consult with the police experts now in the USAID/DG Office, and/or with institutions such as the Inter-American Institute on Human Rights that have worked on community policing projects funded by the EU and other donors, or the Police Executive Research Forum (PERF) which has worked with USAID in Jamaica and elsewhere.

5.2.4 Improved Quality of and Access to Information through an Inclusive Media Program

1. **Improving the investigative reporting skills of journalists.** A program to improve the investigative reporting skills of journalists coupled with support for a code of ethics for journalists would enhance the quality, continuity, and objectivity of anticorruption investigations while still being respectful of individual civil rights. This program should be extended to journalists outside of Asuncion where the quality of journalism is even lower and the influence of economic and political elites is even higher. Between 2000 and 2004, USAID/Paraguay supported such an endeavor, which was considered by several of the senior political reporters the assessment team interviewed as effective, “making a significant difference in their own reporting.”

⁹⁴ Other measures, such as taping interviews with suspects to diminish any propensity to coerce confessions, should also be considered. Peter Finn, *Citizen Review of Police: Approaches and Implementation*. National Institute of Justice, Dept. of Justice, March 2001.

⁹⁵ Among them: David Bayley, *Democratizing the Police Abroad: What to Do and How to Do it*, National Institute of Justice, Dept. of Justice, June 2001.

⁹⁶ Working on police programs, while important, carries a potentially higher political risk than other programs. Some of the risk is due to historical factors, some because of the potential for abuse. Paraguay/DG should make a special effort to be closely involved with the basic choices around the model of policing, human rights concerns, etc., even more than in other programs. It may want to consider a workshop or conference, perhaps including police, civil society groups, local and national government officials, donors, etc., to introduce this approach to policing and begin to develop a common commitment to it.

2. **Expand community radio stations development.** USAID/Paraguay also supported a community radio program that was considered successful. An expansion of community radio in poor rural areas would increase local participation and can have a significant impact on democratic culture. The underlying purpose should be to ensure independence from political pressures and expand access to information. The DG office should review the status of community radios, assess legal issues, and promote the connection of those radios with NGOs, CSOs, and national media.
3. **Expanding new initiatives with alternative media, both with democracy-focused NGOs and in rural areas.** Recent changes in the regulatory environment are allowing for an increase in infrastructure investment for the upgrade and expansion of Internet in Paraguay. While the use of websites, blogs, etc., is still very limited in poor, rural areas, this is changing rapidly. Micro-enterprises are increasingly linked into market information, university students outside the capital increasingly have access to computers, and local and departmental government entities, as well as “deconcentrated” ministry offices located outside Asuncion, are likely to be leaders in bringing technology into use for increasing access to social services. Some secondary schools may be appropriate targets in this effort (particularly if part of a larger civic education project). This approach would not only increase knowledge of and access to government services and activities, but also allow a “reverse flow” of communication from individuals and local communities to press for reform, make requests, or provide feedback on service provision or potential problems of corruption.
4. **Continue support for Freedom of Information legislation.** Promoting access to information about public sector actions and decisions would prevent and help diminish corruption and the influence of political parties over selection of personal and public procurement. If the promotion of a national anticorruption strategy is successful (see Recommendation 5.2.1), a new opportunity to introduce Freedom of Information legislation may open. Efforts in these areas should be coordinated with the promotion of a wider anticorruption coalition.
5. **Improving the communications’ ability of key ministries in the government.** The Lugo government is interested in improving its outreach and its ability to communicate its initiatives and successes to the public. Activities to support the administration’s communications efforts would help the government to inform the public about its post-election activities, and thus garner support for its programs and reforms. While this effort would help the Lugo administration to gather a much-needed favorable public opinion, a word of caution is due as such institution-building could also unwittingly support a “government propaganda” function. It is therefore important that any effort in this area be coupled with the safeguard of Freedom of Information legislation to minimize the risks associated with enhanced communication capacity and to assure honest information dissemination, either within this administration or a subsequent government not committed to openness and reform.⁹⁷ (Note USAID has already begun consideration of a similar program with the support of the Office of Transition Initiatives.)

5.2.5 Expand Democratic Civil Society Organizations and State Presence in Poor Rural Areas

1. **Undertake a geographic mapping exercise of USAID and other donors programs with presence in poor rural areas.** The DG office should undertake a comprehensive geographic mapping exercise of the location of DG and other sectors of USAID/Paraguay programs, and other donor programs that have a presence in poor rural areas. This would be the first step in analyzing prospects for increasing work in rural areas and integrating work with other elements of Mission and other donor programs.

⁹⁷ The assessment team understands that the USAID Democracy Office in Washington has three media experts (including one expert in non-traditional media) who have indicated an interest in supporting Mission planning if there is a decision to move forward with a serious media program, or if more information is needed.

2. **Develop “democracy modules” that can be incorporated into economic development programs that work with groups of small-scale workers, farmers, micro-enterprise groups, and entrepreneurs in rural areas.** USAID should consider adding democracy training in its economic growth programs working in poor rural areas in Paraguay. The idea is to promote the civic democratic structures of social and economic organizations in rural areas. Other donors, such as the IDB, have indicated real interest in this area. The idea is to build on already existing “horizontal groups,” improving their ability to articulate their interests to government and build political coalitions to advance their economic interests.
3. **Develop a school-based civic education program to increase knowledge of democracy and democratic practices.** Continue with the school-based civic education program.⁹⁸ Coordinate with the GTZ program that worked with high school teachers in rural areas, developing a curriculum based on how democracy functions at the local level, including participating in open town meetings and participatory budgeting practices. This also helped develop linkages in a democratic context among school teachers, local governments, community organizations, and students.
4. **Promote state presence in poor rural areas by increasing service delivery and access to justice.** As noted earlier, promoting state presence goes beyond security, it also includes access to basic social services and justice for the population. The Government of Paraguay has started promoting the coordination of national programs (ministries) in specific poor rural areas of the country with the idea of focusing public investment specially to upgrade the living conditions in those areas (health, education, agriculture, and social development, among others). USAID should assess the degree of commitment and development of such coordination and assist the GOP in its coordination with communities and local governments in those areas. USAID’s early efforts supporting decentralization of health, working directly with Local Health Councils, has set a precedent in Paraguay, and a similar approach could be effective to promote coordination of the implementation of social infrastructure services that would have a significant impact in bringing a positive state presence to the rural poor. USAID can approach this working at both the national and sub-national level promoting a coordination mechanism with respect to public investment and services.

5.2.6 Strengthened Decentralization Policy Reform and Local Governance

Decentralization

1. **Support the national government in the development of a decentralization strategy with participation of sub-national governments.** The Unit of Decentralization under the Ministry of Finance is tasked with this responsibility and has plans to develop a strategy. The strategy will define the scope of a decentralization process (administrative, political, and fiscal), steps, intergovernmental coordination, the role of the different ministries of the national government, and the coordination of such a process. It should also propose a framework for the generation of institutional capacity at the local level. USAID could provide technical assistance (and advisors) for the elaboration of the strategy, and resources for conferences and public debates to promote an inclusive discussion on the issue.
2. **Support the strengthening of Municipal Associations.** Municipal associations are an important component of any decentralization and municipal strengthening program. The assessment team did not have enough time to evaluate the capacity of the associations in Paraguay but gathered from interviews that they are weak. USAID should support an association strengthening program to improve the representation and technical assistance role of *Organización Paraguaya de la Cooperación Intermunicipal* (OPACI). Although associations could be captured by partisan agendas, a strong representation and technical agenda would help to balance that influence, promoting a municipal agenda among local government representatives.

⁹⁸ USAID currently supports a program of this type through CEJ.

Local Governance

1. **Expand municipal capacity-building programs and promote the replication of good practices to a larger number of municipalities.** USAID is sponsoring programs to strengthen the institutional capacity of local governments and participation of citizens in local decision making. The current portfolio is limited to 35 municipalities and covers service delivery, governance, municipal finance, and legislative administration (councils), among others. USAID should continue working in these areas and expand its coverage to more municipalities replicating good practices to increase the low capacity of municipalities in Paraguay. USAID should consider the following areas in their municipal capacity-building portfolio:
 - In coordination with other donors (such as the WB), promote efforts to increase municipal own source revenues by strengthening the structure of property taxes and increase its collection.
 - Following previous success with Local Health Councils, identify activities to support other functions that would likely devolve from the central government to local operation or management, such as education.
 - In close coordination with the Ministry of Finance, promote the implementation of compatible integrated financial systems.
 - Also in close coordination with the Ministry of Finance and the CGO, promote internal audit capabilities in municipalities (this is a component of the MCC Phase 2 program). In addition, strengthen the capacity of municipal governments to provide sound financial reports to the Ministry of Finance and CGO to comply with legal obligations and to facilitate external control processes from national control agencies.
 - Promote inter-municipal cooperation through associations or *mancomunidades* for the delivery of specific public services (trash collection, environmental management, etc.), the promotion of economic development at the micro-regional level, or partnerships for technical assistance (inter-municipal technical units). This is even more relevant in Paraguay where the majority of municipalities are small and have limited financial and technical capacity.
2. **Promote the institutionalization of MIDAMOS.** USAID should continue supporting the institutionalization of the tool focusing on three aspects:
 - Promote the application of MIDAMOS as a municipal management tool for direct use by local governments' officials. Local governments could be a client and a beneficiary of MIDAMOS. So far, the tool is implemented more to design and monitor technical assistance programs than to actually guide municipal decision-making processes. Performance measurement should be extended to help mayors and municipal managers to make decisions to encourage more effective and efficient allocation of resources and better quality of services. MIDAMOS can also be used as a tool to promote transparency and accountability as the information can be shared with citizens to measure the performance of government and use of public resources.
 - Promote MIDAMOS as an institutional capacity measurement instrument that would be useful for the national government to design the decentralization strategy. With ownership by the national government (hopefully institutionalized through national policy), MIDAMOS could be replicated in a larger number of municipalities and also receive funding from additional sources (other donors, private sector, and government funds) to make it a financially sustainable tool.
 - USAID should use the data provided by MIDAMOS as a source for evaluation of its local government programs.
3. **Increase coverage of municipal programs in rural-vulnerable areas where state presence is needed.** Although USAID is working in municipalities in rural areas, it should include a "state presence" content to its

intervention, coordinating local governments' activities with other national government and state services. Special attention should be directed to the departments of San Pedro, Concepcion, Caazapá, Amambay, and Canindeyú where conflict is more likely to erupt over land occupations and poor conditions of rural populations. This includes more emphasis on cross-sectoral linkages with economic growth, health, and environment programs of USAID, as well as coordination with other donors currently working in those areas. Local governments could play an important role in promoting inclusive and participatory decision-making processes for the allocation of resources to communities, working directly with social actors and communities.

4. **Support efforts of national state and government agencies in the sub-national level.** As mentioned earlier, USAID should support national government organizations' efforts to increase transparency and accountability in government including the sub-national level. Efforts are being made by the Ministry of Finance, CGO, Secretary of Public Function, the Ministry of Health, and other ministries. In particular, USAID should continue supporting the following activities at the local level:
 - Support efforts by the Secretary of Public Function to strengthen the civil service system at the local level. The Secretary has started to promote merit-based public selection processes, *concurso*s, and USAID should add this to its local government programs and support the Secretary with resources to implement training and human resource systems at the municipal level.
 - As mentioned above, USAID should work with the Ministry of Finance and CGO to improve municipal financial systems and financial reporting for external audit, and to create internal audit systems in municipalities.

5.2.7 Strengthened Electoral Processes with Stronger Citizen Participation

1. **Provide training to the technical staff at the TSJE.** It is critical that the selected technical staff in key positions in the TSJE have the necessary qualifications and training to manage electoral processes. With the E-Vote system failure, it is unlikely to return to electronic voting in the short run. The new process must be credible at every step, requiring strong technical expertise to make this happen.⁹⁹
2. **Continue support to strengthen national platforms for electoral observation.** Continue support to the Paraguayan platform for national observation to strengthen and expand its operation nationwide. The upcoming municipal elections represent a good opportunity to organize an even greater NGO role in electoral observation nationwide.
3. **Continue support to public campaigns to promote electoral participation by citizens.** USAID should continue dual-track support in this area, working with NGOs promoting citizen participation in elections, while also promoting institutional changes and control mechanisms in the electoral system to mitigate possibilities for electoral fraud.
4. **Continue supporting NGOs promoting advocacy for more transparent political party financing.** The achievement of greater transparency in party financing should be included as part of a broader civil society program that fights against corruption, including government procurement and access to government information (Freedom of Information Act). USAID should also continue supporting NGOs to advocate for reform and enforcement of the regulations to control the use of state funds by political parties.
5. **Support policy dialogue to reform closed party lists.** One way to create incentives to improve accountability of political parties is to change the selection of representatives whereby citizens can directly choose their candidate instead of closed party lists. USAID should work with NGOs in this area to promote agendas for reform.

⁹⁹ Interview with Jose Thompson, Director of Center for Electoral Promotion and Assistance (CAPEL).

ANNEX I: LIST OF PERSONS INTERVIEWED

PARAGUAY APR 13TH TO APR 30TH.

Civil Society

Agustín Carrizosa	President, CIRD
Álvaro Caballero	Coordinator, CIRD
Jorge Abbate	Executive Director, <i>Gestión Ambiental</i> (GEAM)
Romy Vaesken	Coordinator, GEAM
Carmen Romero	Coordinator, GEAM
Raul Montiel	Administrative Director, SARA KI
María Jose Cabezudo	Executive Director, SARA KI
Ramon Fogel	President, Rural Centre for Interdisciplinary Rural Studies, <i>Centro de Estudios Rurales Interdisciplinarios</i> (CERI)
Oscar López	Executive Director, DECIDAMOS
Astrid Gustafson	President of Directive Council, SUMANDO
Andrea Machain	Journalist
María Victoria Rivas	Executive Director, Centro de Estudios Jurídicos
Alberto Acosta Garbarino	President, <i>Desarrollo en Democracia, Desarrollo en Democracia</i> (DENDE)
Cesar Barreto	Director, DENDE
Pilar Callizo	Executive Director, Transparency International, Paraguay
Fernando Masi	Director, <i>Centro de Análisis y Difusión de Economía Paraguaya</i> (CADEP)
Milda Rivarola	Political Analyst
Victor Flecha	Executive Director, <i>Comunidad y Planeamiento</i> (COPLANEA)
Guillermina Kannonikof	Executive Director, Gestión Local

Mass Media

Edwin Brítez	Head of the Policy Area, ABC Color
Oscar Ayala	Director & Editor, <i>Ultima Hora</i>

Congress & Political Parties

Hugo Estigarríbia	Senator, Senate, Vanguardia Colorada, <i>Asociación Nacional Republicana</i> (ANR)
Sebastián Acha	Deputy, House of Representatives, Patria Querida
Enrique González Quintana	President of the Senate, UNACE
Santiago Mareco Aquino	General Director of Administrative & Finance, UNACE

Government

Raul Monte Domeq	Coordinator of the Technical Unit of Modernization, <i>Ministerio de Hacienda</i> (MH)
Lilian Soto	Minister, Secretary, <i>Secretaria De la Función Publica</i> (SFP)
Kenji Kuramochi	International Cooperation, SFP
Emilio Camacho	Legal Advisor, <i>Presidencia de la República</i>
Augusto dos Santos	Minister, Secretary, <i>Ministerio de Información y Comunicación para el Desarrollo</i>
Roque González	Assistant Secretary, <i>Ministerio de Información y Comunicación para el Desarrollo</i>
Martin Gonzalez	Director of the Decentralization of Health, <i>Ministerio de Salud Pública y Bienestar Social</i> (MSP y BS)
Elvio Segovia	Vice Minister of Political Affairs, Ministry of the Interior

Contraloría

Octavio Airaldi	General Controller, <i>Contraloría General de la República</i>
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Justice Sector

Rubén Candia Amarilla	General Attorney, <i>Fiscalía General del Estado</i>
Antonio Fretes	President, <i>Corte Suprema de Justicia</i>
Miguel Abdón Saguier	Member, <i>Consejo de la Magistratura</i>

Private Sector Association

Gustavo Volpe	President, <i>Unión Industrial Paraguaya</i>
Guillermo Stanley	Council Member, <i>Unión Industrial Paraguaya</i>

Labor Sector

Eduardo Ojeda Member of the Directory, *Corriente Sindical Clasista - CSC*

Church

Monseñor Adalberto Martínez General Secretary, *Conferencia Episcopal Paraguay - CEP*

International Organizations

Roberto Céspedes Advisor of the Office of Human Development, United Nations

Vladimir Radovic Resident Representative, *Banco Interamericano de Desarrollo (BID)*

Eduardo Feliciangeli Specialist in Modernization of the State, BID

Roberto Camblor Developing Specialist Fiscal Municipal, BID

Pierre Yves Baulin Advisor of Cooperation, *Delegación de la Comisión Europea en Paraguay*

Eric Dejoie Economic Advisor, *Delegación de la Comisión Europea en Paraguay*

Horst Steigler Resident Representative, GTZ

Andrés Molina Director of Technical and Financial Cooperation, JICA

Hidemitsu Sakurai Resident Representative, JICA

REGIONS

Civil Society – Villarrica

Bernal Garay Coordinator, *Centro de Desarrollo Socioeconómico*

Luis Oviedo Coordinator of the Health Committee, *Municipalidad de Villarrica*

Civil Society – Coronel Oviedo

Luciano Acosta President, *Cámara Junior Internacional*

Celso Kennedy Member, *Ciudadanos por la Reforma (CPR)*

Sara Esmelda Narvárez Coordinator, Rotary

Edgar González Mareco Member for the Private Sector, *Facultad de Ingeniería Agrónoma*

Guillermo Benitez Villalobos Director, *Dirección de Industria y Comercio*

Paulino Invernizzi Dean, *Facultad ciencias Agropecuarias*

Luis Alberto Núñez Rojas *Política UNCA*

Juan José Avalos *Desarrollo Comunitario*

Robert Torres *Desarrollo Comunitario*

Diana Portillo Villalba Secretary, *Cámara Junior Internacional*

Local Government & Municipal

José Ledesma	Governor, <i>Gobernación San Pedro</i>
Gustavo Alfonso	Governor, <i>Gobernación Guaira</i>
Jorge Aníbal Morales	Major, <i>Municipalidad Coronel Oviedo</i>
Edgar Bernal	President, <i>Junta Municipal Coronel Oviedo</i>
Víctor Luis Blanco Samudio	Secretary of Technical Planning, <i>Gobernación Caaguazú</i>
Gladys del Valle	Coordinator of the Neighborhood Commission, <i>Municipalidad de Villarrica</i>

U.S. GOVERNMENT

Embassy

Liliana Ayalde	Ambassador
Michael Fitzpatrick	Deputy Chief of Mission
Joan Shaker	Political Section Officer

USAID Paraguay

John Beed	Director
Michael Eschleman	Director Democracy and Threshold Program
Eduardo Bogado	Local Governments Advisor
Joaquín Cáceres	Civil Society Advisor
Alfonso Velazquez	Justice Reform Advisor
Graciela Ávila	Health Program Advisor

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