
21 Cost-Saving Measures For The Judiciary

By Jessica Vapnek¹

Abstract:

Courts around the world are increasingly facing budget cuts and funding shortfalls. Budget problems are particularly acute in developing countries, where courts need to increase efficiency and access to justice while also managing resource limitations. International development agencies and donors expect measurable progress to justify continued funding of judicial reform projects. Yet, as rule of law efforts in developing countries improve public perception of courts and streamline court administration, more cases may be filed. Greater use of the courts puts greater strain on court resources, triggering the need to implement cost-saving measures while maintaining effective court administration.

This paper outlines 21 measures that courts can implement to reduce costs. Specific examples from developing countries are presented wherever possible, with additional examples drawn from the United States and Europe. Although this paper is intended mainly for audiences in developing countries, the issues facing those courts are similar to issues addressed through court reforms in the United States over the past 50 years.² For this reason, examples of cost-saving measures from developed countries such as the United States may be directly applicable or could be used as starting points to spur further cost savings innovation in the developing world.

Section I of this paper explains the context for the implementation of judicial cost-saving measures, and raises some issues for reflection. Section II sets out specific judicial cost-saving measures, dividing them into three categories: measures that address court operations; measures directed at staffing and salaries; and measures that relate to court and case management. Section III discusses ways that countries and judiciaries can generate ideas for new and innovative cost-saving mechanisms.

1. Implications of Judicial Cost-Saving Measures

There is little doubt that implementation of cost-saving measures can make courts more agile and well-organized. Court systems and staff can benefit from inward reflection and identification of steps to reduce non-essential spending and eliminate redundant processes. In this way, many courts may see improvements in efficiency and accountability. Regular evaluation of court spending holds court administrators more accountable for their expenditures and expense reporting. Improvements can yield more streamlined, transparent, and economical procedures and administrative structures.

But courts rarely cut costs solely to increase efficiency for efficiency's sake. Courts implement judicial cost-saving measures in an environment of increasing scarcity: budgets are trimmed and courts must cut costs like other government departments. But cutting costs in the courts is unlike cutting costs in other sectors. Courts in many jurisdictions are independent and intentionally removed from the political process, and therefore have no avenue to advocate for themselves or for preserving their budgets. More importantly, reductions in court funding can have deleterious societal costs. Due to funding cuts and concomitant staff and service reductions, court users can experience undue delays or outright denial of due process or access to justice. And in an environment of legal uncertainty, investment can decline.

Thus there is a need to proceed with caution when reducing court costs. Some cost-saving measures may be inevitable where courts are faced with budget limits. The key is to implement only those measures that are essential, and keep them in place only as long as necessary. Courts may find it useful to introduce easier, less disruptive, and less controversial measures first. This will reduce backlash from court employees and the public. Campaigns designed to raise public awareness and educate court personnel on the implications and importance of cost-saving measures can reduce the negative reaction and generate interest in complying with the proposed modifications to court operations. Once initial changes are made, courts and the public can begin to see the value of cost savings and efficiency improvements which can foster interest in other cost-saving innovations. Freezing and lowering salaries, imposing furloughs, and postponing filling vacancies, however, should be used as a last resort and only as temporary measures. The effects on morale, efficiency, and responsiveness can be long-lasting once judges and staff work too long and too hard in an environment of austerity, and the implications for access to justice are grave.

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² Warren, Christie S. "Court Administration as a Tool for Judicial Reform: An International Perspective." Williamsburg, VA: Institute for Court Management, 2001; p. 11.

2. Types of Cost-Saving Measures

2.1 Operational Measures

Courts can implement operational changes to cut costs. These measures involve modifications to how, where, and when the courts conduct routine administrative activities.

1. Reduce Operating Expenses

To deal with decreases in budgets allocated to the judicial system, courts in jurisdictions such as Greece, Lithuania, Slovenia, England, Wales, and the United States have opted to freeze or reduce operational costs.³ Relatively simple steps include energy-saving measures such as turning off lights and fans when rooms are unoccupied and resource-saving measures such as requiring that attorneys provide copies of documents submitted to courts so that courts do not have to spend time and supplies making copies.

Other cost-cutting measures include relocating courts to less expensive land or buildings and hiring less expensive vendors and contractors. In Serbia, after threatening to outsource mail services elsewhere, court officials successfully negotiated with the postal service to reduce the cost of delivering notices of service and process by registered mail.⁴

Evidence from court workload studies shows that courts with one or two judges are significantly less efficient than larger courts.⁵ Courts can close court locations with caseloads that do not justify full-time judicial services, although it is important to study whether residents of the area – which may be a remote rural location – do not then face prohibitive transportation costs to access courts that are now farther away.

Courts can also shift responsibilities and costs onto litigants, although this too can have deleterious effects on access to justice in poorer jurisdictions. Parties filing civil complaints rather than the courts can be made responsible for serving respondents with copies of complaints and for issuing certificates of service of process. When respondents file answers to complaints with the courts, respondents can be required to serve plaintiffs with copies of the answer.

To supplement cost-saving measures, courts can generate funds through user fees to support budgetary needs. User fees that can be applied to the judiciary budget include filing fees, penalties, and fines.⁶ Care should be taken to publicize the fee scales to reduce the possibility of corruption.

2. Centralize and Share Court Operations

Centralizing certain back-office court functions can cut costs and increase efficiency. Centralization minimizes duplication of operations within courts or between different departments of large courts, streamlining communications, standardizing administrative activities, and conserving staff, space, and office supplies. Some processes that may be centralized include payments, collections, human resources, procurement, training, auditing, emergency preparedness, and information technology management. The New Hampshire courts established a centralized customer service call center to replace customer service offices and free up court staff for case processing.⁷

Courts can also share costs and services for operational and administrative functions. In Florida, the state courts, state attorneys, public defenders, and other justice sector agencies share costs on a pro rata basis for state-funded court services, including court reporters, court interpreters and translators, and experts.⁸ Rhode Island and Iowa bankruptcy courts have partnered to maintain each other's operations in the event of a temporary closure.⁹ Library services are another area where courts can share costs.

³ European Commission for the Efficiency of Justice. "European Judicial System, Edition 2010 (data 2008): Efficiency and Quality of Justice." Council of Europe, 2010; p. 47.

⁴ United States Agency for International Development (USAID). "Guide to Court Reform and the Role of Court Personnel: A Guide for USAID Democracy and Governance Workers." Washington: USAID, 2009; p. 31.

⁵ Flango, Carol R., Amy M. McDowell, Charles F. Campbell, and Neal B. Kauder, eds. "Future Trends in State Courts 2010." Williamsburg, VA: National Center for State Courts, 2010; pp. 33-34.

⁶ USAID Office of Democracy and Governance. Bureau for Democracy, Conflict, and Humanitarian Assistance. "Guidance for Promoting Judicial Independence and Impartiality." Washington: USAID, 2002; p. 26.

⁷ Fahey, Tom. "New court operations system set to launch on July 1." New Hampshire Union Leader, June 14, 2011. <<http://www.unionleader.com/article/20110615/NEWS06/706159981>> (February 1, 2013).

⁸ Fl. Stat. §29.018 (2010).

⁹ National Conference of Bankruptcy Judges Task Force on Cost Containment. "Task Force Report on Cost Sharing Among the Federal Courts: Options and Opportunities." National Conference of Bankruptcy Judges, 2011; pp. 6-7.

3. Use Technology for Administrative Tasks

Another way to achieve operational savings is to shift to technology-based systems where practicable. Mechanisms to streamline court processes include electronic filing of documents and pleadings, electronic case and document management systems, digital records for transcripts and files, and videoconferencing technology.¹⁰ Full implementation of these technologies can eliminate up to 60 percent of court clerical work, saving on payroll expenses and allowing staff resources to be allocated to other functions.¹¹

Electronic filing systems are less costly than paper filings that require printing and binding equipment and shelving space. Electronic filing systems also reduce labor costs associated with document review and can enhance efficiency by facilitating document location and retrieval. Electronic case and document management systems allow administrators to shift recordkeeping and scheduling functions away from overworked staff. Replacing court stenographers with digital audio or video recording of judicial proceedings can also cut staffing and document management costs.

Videoconferencing technology for virtual meetings, staff trainings, and court hearings is another area of savings for courts. Furthermore, use of videoconferencing for remote arraignments, remote testimony by expert witnesses, and interpreters not available locally saves on transportation costs for courts and court users alike. Geographically dispersed courts in particular benefit from videoconferencing, as it saves the cost of transportation of prisoners and witnesses. In Minnesota, judges in the rural Ninth Judicial Circuit are encouraged to use videoconferencing for civil cases.¹²

Challenges for successful implementation of technology-based systems, particularly in developing countries, include deficiencies in technical infrastructure, shortages of technically competent personnel, and limited budgets for ongoing maintenance and operating costs.¹³ Prospective users of new technologies in developing countries may not be highly computer literate and may also require extensive training. For technology-based systems to be effective, they should not automate existing disorganized administrative systems. The first step before implementing an electronic system is implementation of a well-organized paper system to be used as the basis for the electronic version.

The adoption of technology to serve administrative functions in courts should be accompanied by thoughtful review or development of efficient information tracking and file management processes.¹⁴ Although cash-strapped judiciaries may fear the high initial outlays to implement electronic systems, cost-benefit analysis may well show that the efficiency gains overall will pay for the expensive up-front costs within only a few years.

4. Use Technology to Publish Legal Information

Courts can disseminate codes and laws, court decisions, legal research materials, and legal commentaries using CD-ROMs, DVDs, and online databases, which reduces publishing costs. Although scanning past legal cases and other older documents requires a significant initial expenditure, courts realize long-term cost savings once all records are centrally accessible in electronic format. Access to legal information in electronic format increases efficiency for judges and court staff by allowing for quick searches, consistent records, and more comprehensive research. It also increases access to justice for the public who can follow the progress of court cases filed and retrieve information about laws, court operations, and the legal system in general.

A number of developing countries have embraced technology despite budget limitations. Afghanistan, Côte d'Ivoire, and Haiti are looking into centralizing criminal records to reduce the burdens on court staff and increase efficiency and transparency. In Afghanistan, the lack of a nationwide information system allows dissatisfied parties to re-file the same case in the next province, leading to inefficiency and negative public perceptions of the legal system. The World Bank worked with the Albanian courts to develop a computerized, Internet-accessible database for Supreme Court decisions and a similar database for Albanian legislation.¹⁵ Belize, too, has made its Constitution and legislation available on a government website for many years. In 2009, Vietnam released for the first time a CD-ROM and online version of its benchbook, a manual providing information about laws and legal procedure.¹⁶ With future revisions to be emailed to courts, Vietnam's benchbook has become an essential tool for training judges.

¹⁰ Flango et. al, *supra* note 5, at 39.

¹¹ *Id.*

¹² Lederer, Fredric I. "The Effect of Courtroom Technologies On and In Appellate Proceedings and Courtrooms." NCSC, 2001 http://www.ncsconline.org/d_tech/ctc/showarticle.asp?id=2 (February 1, 2013).

¹³ USAID, *supra* note 4, at 34.

¹⁴ Toope, Steven J. "Legal and Judicial Reform through Development Assistance: Some Lessons." 48 McGill L.J. 357 (2003), at 399.

¹⁵ USAID, *supra* note 4, at 35.

¹⁶ United Nations Office on Drugs and Crime (UNODC). "Resource Guide on Strengthening Judicial Integrity and Capacity." New York: United Nations, 2011; pp. 94-95.

5. Cut Court Hours

Another way that courts can cut costs is to limit their hours of operation, although reducing court hours limits litigants' access to the courts. The only additional argument in favor of reducing court operating hours is that court staff can use the extra time to process backlogged court files and meet any mandatory deadlines required by law, such as the processing of criminal cases. In the United States, as of July 2011, courts in 22 states had reduced their hours as a cost-saving measure.¹⁷ The San Francisco Superior Court in California cut the operating hours of its clerks' offices by one hour per day as a response to budget cuts.¹⁸ Florida court clerk offices, facing a 7 percent budget cut amounting to \$31 million, reduced hours open to the public by 1.5 hours per day.¹⁹ As noted earlier, these types of cost-cutting measures should be viewed only as temporary measures to address budget shortfalls, and should be reversed as soon as the pressure eases.

6. Improve Judicial Budgeting

Changing the way court budgets are developed and executed can generate cost savings. For example, decentralizing some budget analysis functions from central administration to local courts can allow for more efficient and responsive budget review. Reviewing court operating budgets using regularly updated local information helps refine spending decisions to more accurately allocate funds to areas of need, and can help identify areas for further cost savings. In Rwanda, the Ministry of Finance and Economic Planning sets the overall judicial budget, incorporating input from lower courts,²⁰ which are responsible for developing and reporting their spending priorities. Similarly, Tetra Tech DPK's USAID-funded project in the Democratic Republic of Congo is helping build the capacity of provincial courts to accurately generate budgets which are conveyed to the central authorities responsible for developing the overall judicial budget. More accurate budgeting and advocacy led to a 300% increase in the budget allocated to the judiciary in 2011, although the actual disbursement of the budgeted amounts was less successful.

2.2 Staffing and Salary Measures

Staffing and salary changes should be implemented with caution, as they are unlikely to improve the efficiency of court administration. Instead, they will lead to curtailing of court activities, reductions in court services available to the public, and morale effects on remaining staff. For this reason, the cost-saving measures presented in this section should be considered only as a last resort and temporary response to judicial budget cuts.

7. Cut Court Staff and Use Existing Court Staff More Efficiently

Administrative, clerical, and security positions performing redundant or nonessential functions can be eliminated. Creating cross-trained teams of staff rather than specialized positions can offset staff reductions. This can reduce turnover rates, create greater time and resource efficiencies, and increase job satisfaction. Keeping customer service offices and trial courts open while consolidating back office work may also preserve access to justice. This has additional effects of achieving economies of scale and making full use of the current staff. In Alabama, Minnesota, Oregon, Utah, and Vermont, courts have eliminated positions that are no longer necessary, low priority, or no longer affordable and reallocated staff to functions where there are greater needs.²¹

8. Freeze or Reduce Salaries

In 2011, courts in 42 U.S. states froze the salaries of judges and court staff, and courts in 13 states reduced salaries.²² In New York, where judges have not had a salary increase since 1999, nearly 10 percent of judges leave the bench annually.²³ This can reduce expertise within the judicial system and decrease efficiency in court administration. Additionally, in some countries, especially developing countries, salary reductions for judges and court staff may have the potential to increase corruption as bribes are sought to generate lost income. In some jurisdictions, laws may prohibit the reduction of judges' salaries to ensure independence of the judiciary, such as the US Constitution's protection of salaries for federal judges.

¹⁷ National Center for State Courts (NCSC). "Cost-Saving Measures By State." Fall 2012. <http://www.ncsc.org/Information-and-Resources/Budget-Resource-Center.aspx> (February 1, 2013).

¹⁸ Cheever, Julia. "SF Courts Cut Hours, Lay Off 200 Employees." SF Appeal Online Newspaper, August 3, 2011. <http://sfappeal.com/news/2011/08/sf-courts-cut-hours-lay-off-200-employees.php> (February 1, 2013).

¹⁹ Adamson, Lauren. "Court clerks cut back office hours to save money." Herald-Tribune, June 26, 2012. <http://www.heraldtribune.com/article/20120626/article/120629678> (February 1, 2013).

²⁰ NCSC International Programs Division. "Rwanda Decentralization of Judicial Administration and Financial Management Final FY 2006." Arlington, VA; NCSC, 2006; pp. 23-24.

²¹ Flango et al., *supra* note 5, at 34.

²² NCSC, *supra* note 17.

²³ Glaberson, William. "Pay Frozen, More New York Judges Leave Bench." New York Times, July 4, 2011. www.nytimes.com/2011/07/05/nyregion/with-salary-freeze-more-new-york-judges-are-leaving-the-bench.html (February 1, 2013).

9. Impose Furloughs

Another cost-saving measure to be implemented only temporarily is to require that judges and court staff take paid or unpaid furloughs. This can negatively affect access to justice by delaying case processing, but it can be an effective temporary measure to reduce payroll expenses. In 2011, 21 U.S. states imposed furloughs for court administrative staff with pay reductions, while 10 states imposed analogous furloughs for judges.²⁴

10. Postpone Filling Vacancies or Fill Vacancies with Retirees, Part-Time Staff, or Volunteers

Courts can delay filling vacancies as a temporary measure to reduce costs, although this creates case and document processing backlogs, increases burnout among existing staff whose workloads increase, and decreases efficiency. In 2011, 33 U.S. states delayed filling judicial vacancies.²⁵ At the same time, 37 states postponed filling judicial support position vacancies.²⁶

Encouraging early retirement of judges and judicial staff can permit the courts to hire them back as less expensive consultants. In place of new judges, New York courts have come to rely on Judicial Hearing Officers (JHOs), retired judges who relieve sitting judges of some duties and provide assistance where needed. There are approximately 300 retired judges working as JHOs in New York State.²⁷ California also permits retired judges to serve on cases and pays them the difference in their retirement benefit and the salary of sitting judges.²⁸ This can help reduce case backlog while also managing the demand for new judges whose salaries are more expensive. Another option is to hire part-time employees, who do not receive healthcare and other employment benefits.²⁹

In some jurisdictions or countries, courts can fill vacancies with volunteers, particularly from local law schools and legal aid organizations. This not only reduces payroll expenses, but also increases knowledge of courts and court functions among younger lawyers. Volunteers' responsibilities should be limited to relatively simple matters, such as editing, fact-checking, and calendaring. In Macedonian courts, law student volunteers assist judges in editing draft decisions.

11. Train Judges and Court Staff

Training court staff can reduce transaction costs and increase efficiency in the court system. Judges, who direct the pace of proceedings and allocate resources, contribute to the efficiency of court systems as well. Lack of knowledge and experience on the part of judges and court staff can slow down court processes and subject courts to costs associated with mistakes having to be corrected. In South Africa, training for court staff includes practical business skills and leadership.³⁰ This sensitizes staff to the need for continuous quality improvement of the courts and turns them into champions of judicial system reform.

12. Create Performance Standards

Creating performance indicators and targets can make court staff more accountable for their actions. In the Itagui district of Colombia, a Judicial Support Office sets performance standards and goals for court personnel,³¹ and ensures performance indicators are met through periodic evaluations. The indicators include specified time limits for certain actions, such as document collection, document filing, and communication with court personnel.³² Evaluations help courts determine which administrative staff members are not performing their duties up to standards and the circumstances under which inefficiencies exist. Courts then use this information to achieve cost savings and improve productivity by making changes to administrative procedures and staffing.

This is a difficult area because efficiency indicators can readily compromise the quality of judicial decision making and independence. For this reason, developing a culture of internal judicial review and quality assurance is essential. A great deal of work has been done in this area by the National Center for State Courts in the U.S. and the International Consortium for Court Excellence at the international level. The former has developed CourTools³³ while the latter has established the *International Framework for Court Excellence* as a recognized standard for quality improvements in court

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Glaberson, *supra* note 23.

²⁸ Cal. Gov. Code. §68543.5.

²⁹ This has been implemented in Florida. See Palombo, Jessica. "Clerk of Court Cutting Hours to Reflect Budget Cut." WFSU, June 21, 2012. <http://news.wfsu.org/post/clerk-court-cutting-hours-reflect-budget-cut> (February 1, 2013).

³⁰ USAID, *supra* note 4, at 34.

³¹ UNODC, *supra* note 16, at 33-34.

³² Id.

³³ "CourTools: giving courts the tools to measure success", a project of NCSC at <http://www.courttools.org/>

performance.³⁴ Improving efficiency at the cost of compromising the quality of justice can be worse than having inefficient court processes – as the fact of efficient court systems in totalitarian states amply demonstrates.

2.3 Court and Case Management Measures

Court and case management measures for judicial cost savings involve changes to when and how judges adjudicate cases.

13. Modify Court and Case Assignments

Court systems can change the assignment system so that courtrooms are shared among judges, which can increase efficiency. An arrangement where one particular courtroom is exclusively used by one judge means that at all times some courtrooms are not in use. Non-exclusive arrangements provide the flexibility to adjust courtroom assignments in the face of new judicial appointments and caseloads.³⁵

Formula-based case assignment systems, which automatically allocate cases to judges according to a pre-established formula, can reduce court expenses because they require minimal supervision and maintenance from court staff. In the Philippines, for example, cases are assigned to judges by lottery in the trial courts.³⁶

Under a continuous trial system, which has been adopted in the courts in Iowa,³⁷ one judge conducts a trial from beginning to end instead of having preliminary hearings or motions heard by other judges. The arguments for assignment of one judge for the life of each case are that it improves case management, reduces discovery excesses, and speeds access to courts as judges decide cases more expeditiously. Cost savings result when issues can be decided early, shortening the duration of each case.³⁸

14. Restructure Courts

Restructuring a court system can entail consolidating courts, reducing overlapping jurisdiction between courts, or creating specialized courts. Vermont has restructured the administrative division between state and counties and eliminated redundant jurisdictions.³⁹ In 2011, New Hampshire consolidated its district, family, and probate court operations for an estimated \$1.3 million in annual savings.⁴⁰

Creating specialized units within courts to handle different types of cases can realize cost savings and efficiency gains because judges handle disputes in less time due to their subject matter expertise. Without specialized courts, lawyers must present detailed information to generalist judges, which can raise costs and lengthen trials,⁴¹ whereas judges for specialized courts do not generally require extensive briefing in their legal area of expertise. Examples of specialized courts include family, environmental, probate, tax, workers' compensation, water, land, administrative, juvenile, drug, and business/commercial courts.

In Singapore, court reforms during the 1990s intended to divert cases from the Supreme Court to lower courts led to the creation of specialized courts.⁴² In addition to cost savings, establishment of these courts triggered a review of judges' skills that led to better training for lower-court judges.⁴³

Specialized courts are not as common in developing countries, which most often only have courts related to administrative, constitutional, and general jurisdiction. Creating specialized courts may have high initial costs, but due to the factors just reviewed, cost savings may be achieved over time, in addition to improved efficiency and quality of justice.

15. Favor Oral Proceedings

³⁴ "The International Framework for Court Excellence" International Consortium for Court Excellence, <http://www.courtexcellence.com/>

³⁵ Cf. Flango, *supra* note 5, at 99.

³⁶ USAID, *supra* note 4, at 21.

³⁷ Iowa Civil Justice Reform Task Force. "Reforming the Iowa Civil Justice System: Report of the Iowa Civil Justice Reform Task Force." Iowa Supreme Court, 2012; p. 5.

³⁸ USAID, *supra* note 4, at 23.

³⁹ American Bar Association (ABA). "Crisis in the Courts: Defining the Problem." ABA, 2011; p. 15.

⁴⁰ Fahey, *supra* note 7.

⁴¹ Zimmer, Markus B. "Overview of Specialist Courts." International Journal for Court Administration, August 2009, Vol. 2, No. 1: 46. <http://www.iaca.ws/files/IJCA-ThirdEdition.pdf> (February 1, 2013).

⁴² Malik, Waleed Haider. "Judiciary-Led Reforms in Singapore: Framework, Strategies, and Lessons." The International Bank for Reconstruction and Development/The World Bank, 2007.

⁴³ *Id.*

Many judicial systems are introducing or emphasizing oral proceedings, where arguments by litigants can be made, responded to, and decided upon more quickly and directly. Oral proceedings can be a useful way to cut down on time and costs. To effectively conduct oral proceedings, courts need adequate equipment, facilities, and administrative support to record what is said as well as manage evidentiary material.⁴⁴ Between 1994 and 2008, 15 Latin American countries have attempted to introduce oral proceedings for criminal cases.⁴⁵ Among these, Argentina, Bolivia, Costa Rica, El Salvador, and Guatemala have revised their criminal procedural codes to incorporate oral procedures,⁴⁶ while Peru and Venezuela have instituted oral civil proceedings.⁴⁷

16. Reduce Corruption

Corruption creates inefficiencies in the justice system, requiring more court staff and more time to complete tasks.⁴⁸ Some of the strategies used to reduce corruption include ethics training for judges and court staff, mentoring programs for judges and prosecutors, standardization and public disclosure of court fees and procedures, and open court proceedings. Courts in certain jurisdictions in the Democratic Republic of Congo have installed locked glass boxes outside the courthouse, to display court fees and reduce opportunities for rent seeking by corrupt judges and court staff. After Yemen was suspended from Millennium Challenge Corporation's grant program in 2005 due to noncompliance on several performance indicators, the Yemeni Government initiated anticorruption reforms, including sanctioning or suspending more than 30 corrupt judges.⁴⁹

Regularly lost or misplaced court records may be indicative of corrupt practices by court staff who interfere with the case management process in response to bribes from litigating parties. The case filing process must be transparent, both in terms of where the filing takes place and what the documents contain. Courts can improve transparency by allowing public access to court records and keeping court records under continuous court control. To combat corruption in Ecuador, windows were placed in the case filing area to allow the public to see the work of court registrars and clerks.⁵⁰

17. Increase Use of Alternative Dispute Resolution

Alternative dispute resolution (ADR) mechanisms, such as mediation and arbitration, reduce court caseloads and are generally less expensive than trials. There are various means to compel use of ADR, such as mandatory mediation or arbitration for certain civil cases. To reduce the number of pending civil cases, Italy requires mandatory mediation of certain matters, such as property rights, inheritance, medical liability, and damages caused by vehicles.⁵¹ The use of mediation in Italy is estimated to have decreased the average duration of legal proceedings from 547 to 202 days.⁵²

Since 2001, USAID-funded projects have established 16 ADR centers in Guatemala, making legal services available to over 100,000 persons.⁵³ These ADR centers mediate cases involving criminal, civil, family, and labor issues. Participation is voluntary, and free legal services are provided to women, indigenous people, and the underprivileged. The ADR centers in Guatemala have proven to be sustainable, as most ADR centers have continued to operate after foreign funding ended.⁵⁴

Problems associated with ADR can include lack of impartiality, lack of clear procedural guidelines and standards of conduct for mediators, unpredictability of decisions, and difficulties with enforcement. Nonetheless, public confidence and respect have grown for ADR, especially in developing countries where ADR allows for greater access to justice by disadvantaged groups and can be less intimidating and costly to the public than formal courts.

⁴⁴ USAID, *supra* note 4, at 23.

⁴⁵ Riego, Cristián. "Oral Proceedings in Latin America." *Americas Quarterly*, 2008. <http://www.americasquarterly.org/node/146> (February 1, 2013).

⁴⁶ Dakolias, Maria. "The Judicial Sector in Latin America and the Caribbean: Elements of Reform." Washington, DC: The World Bank, 1996.

⁴⁷ *Id.*

⁴⁸ Tanzi, Vito. "Corruption Around the World: Causes, Consequences, Scope and Cures." Washington, DC: International Monetary Fund, 2002.

⁴⁹ Millennium Challenge Corporation. "Building Public Integrity through Positive Incentives: MCC's Role in the Fight against Corruption" Washington, DC: MCC, 2005; p. 5.

⁵⁰ USAID, *supra* note 4, at 18.

⁵¹ Ghia, Studio Legale. "The World Jurist Association's Conference on International Arbitration and ADR: The Impact on the Rule of Law." Mauritius: 2011.

⁵² *Id.*

⁵³ UNODC, *supra* note 16, at 61-62.

⁵⁴ *Id.*

18. Increase Use of Small Claims Courts

Small claims courts resolve lawsuits below a certain monetary value, without the need for lawyers. Faster and with simpler procedures than other courts, small claims courts reduce costs for courts and litigating parties. Typical types of disputes include debt collection, landlord-tenant law, and consumer contracts. USAID-funded projects established 22 small claims courts in the Philippines,⁵⁵ helping draft small claim court rules, training judges and court staff, and publicizing the small claims court services to the public.⁵⁶ Belarus, Botswana, Brazil, Honduras, Mexico, Romania, South Africa, and Venezuela are among the developing countries with small claims courts that have recently increased maximum claim amounts.⁵⁷

19. Remove Certain Disputes from the Court Adjudicatory Process

Uncontested issues and issues that are not truly in dispute can be resolved administratively, rather than through the courts, to cut costs. Matters amenable to administrative resolution include cases that would otherwise have required courts to collect fines (such as parking tickets, traffic cases, and ordinance violations) as well as uncontested cases (such as uncontested probate, no-fault divorce, naturalization, name change, and juvenile truancy cases).⁵⁸ Failure to reach a resolution in the initial administrative review need not mean immediate referral to a court. Many administrative issues can be resolved by appeals to a tribunal within the administrative agency. New York City created administrative tribunals to decide certain types of cases formerly processed within criminal courts, including parking violations, noise pollution complaints, sanitation, fire, building code, health, and mental health violations.⁵⁹

20. Manage Appeals

Courts can cut costs by curtailing excessive or frivolous appeals, although care must be taken to ensure that defendants and litigants are not denied due process. Establishment of clear and fair rules for the appeals process allows courts to avoid unwarranted appeals and the concomitant paperwork, while affording litigants their rights to appeal. Strategies include limiting the scope of appeals, establishing time limits for filing appeals, and offering fast-track mechanisms for the review and resolution of certain types of appeals.

21. Consider Legislative Changes

Some jurisdictions would benefit from examining the legislation governing the courts to identify areas for reform which could cut costs and increase efficiency. Fundamental are measures to ensure early access to legal advice so that the need to go to court is minimized. Some examples include limiting the right to appeal (e.g., in Afghanistan under current law either party as a matter of right may appeal any decision for any reason, both to the court of appeals and the Supreme Court), eliminating in absentia cases (which require extensive resources), instituting plea bargaining (under consideration in the Democratic Republic of Congo), standardizing the criteria for assignment of free legal aid to indigents, establishing a bail system, and reforming the system of pretrial detention (such as is taking place in Haiti).

Court systems can also increase revenue by amending legislation to expand the categories of infractions and petty misdemeanors that can be dealt with through administratively issued fines or by raising the applicable amounts. This has the added benefit of eliminating court appearances for those cases that would otherwise have to be heard, which reduces demands on court resources.

3. Generating Ideas for Further Cost-Saving Measures

Courts seeking ways to reduce costs can solicit or generate new ideas for judicial cost savings in a number of ways. Court employees who originate judicial cost-saving ideas can receive rewards for making suggestions that are successfully implemented. Incentives can range from recognition to sharing a portion of the savings. Court departments may also be incentivized through bonuses to reduce costs without adversely affecting the quality of services provided. Such an arrangement would have to be carefully managed to make sure that the system was not gamed by court administrators who might inflate their budgets one year to cut them the following year. Contractors who make capital improvements resulting in cost reductions or who reduce fees for contracts that they have been awarded could also earn incentives. The

⁵⁵ ABA Rule of Law Initiative. "Focus on Small Claims Work in the Philippines." ABA, 2008.

http://www.americanbar.org/advocacy/rule_of_law/where_we_work/asia/philippines/news/news_philippines_small_claims_courts_feature.html (February 1, 2013).

⁵⁶ Id.

⁵⁷ The World Bank. "Reforms." <wbi.worldbank.org/reforms> (February 1, 2013).

⁵⁸ Flango, *supra* note 5, at 13-14.

⁵⁹ Goldin, David B., and M. I. Casey. "New York City Administrative Tribunals: A Case Study in Opportunity for Court Reform." *Judges' Journal*, 2010, Vol. 49, No. 1: 21.

U.S. state of Oregon has implemented both a state employee suggestion program and a government waste reporting system.⁶⁰

Many countries have established judicial councils or commissions composed of judges, court administrators, and other justice sector representatives. Where judicial commissions have broad policy-making authority over court administration, these commissions can be authorized to develop solutions to address courts' limited budgets. Tasks for judicial commissions can include reviewing legislation and policies that govern court operations and identifying which cost-saving measures would be legally permissible or easily amended. Without this type of state-sanctioned legal review and reform, some changes in court operations for cost savings may not be possible or may be difficult to achieve.

Conclusion

The choice of which cost-saving measures to implement in a particular country will depend on the local circumstances at play: politics, policies, budgets, donor priorities, and the governing legal framework. But whichever tools are devised or selected for implementation, these cost-saving measures should be properly tailored and appropriate to the local context and reality. Although cost cutting can be painful, some justice sector institutions in developing countries may find that implementation of judicial cost-saving measures generates continued support and additional funding from international development agencies eager to recognize and reward the efficiency gains or the cost-cutting outlook of these courts. The hope is always that funding cuts to the courts will be temporary, and that with time countries will increase budget support to establish or rebuild a court system which is well-funded, well-organized, efficient, and responsive, and offers access to justice especially to the weak.

⁶⁰ Rudawitz, David. "Save Oregon Incentivizing Cost Reduction in State Government," Oregon: Antevorte Consulting, 2003; p. 10.



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