

Labdoc

Enablement-Empowerment

THE POOR SHALL NOT REMAIN SMALL: Broadening access of the organized poor to the market by means of strengthening NPOs through Constitutional Justice

Conference of the Global Network of Government Innovators. Ash Institute at Harvard University's John F. Kennedy School of Government and the Centre for Government Studies at Leiden University's Campus. Reestablishing the link between public management and social justice

Conference proceedings (A. Ruiz-Restrepo / preliminary version)

The Hague Panel Access to Justice—Bridging the Gap between Principle and Practice Access to the Economy from the Improving Access to Public Services. Context setter: Alex Brenninkmeijer, National Ombudsman, Former Judge, Former Law School Dean, The Netherlands. Innovators: - 'Overt Drug Market Strategy', Jim Fealy, North Carolina, USA; 'ARB-Waste Recyclers', Adriana Ruiz, Colombia; 'Nyayagrah Program for Mass Community Based Legal Aid', Harsh Mander, India.

2007

Adriana Ruiz-Restrepo

*For the purposes of this paper Adriana is acting as the pro bono lawyer and friend of the ARB (arbsp@gmail.com) and in her own capacity as a Colombian lawyer and political scientist (aruizrestrepo@gmail.com).



1. WHO & WHEN?

The disadvantaged in this case were the waste recyclers, rag pickers and/or scavengers forced to live in poverty. Unable to find work in the formal sector and wanting to survive without stealing or confronting the law, they either ended up or even worse, were born into making a living from trash. Garbage is either used for satisfying their own needs or for recovering the recyclable materials that they first manually separate in glass, metal, paper and plastic, and then sell to the formal recyclers who commercialize those materials as secondary commodities for large industries. In developing countries, waste disposal is not only to be considered in light of its environmental impact; social concerns should be at least equally important.

Waste recyclers separate and classify trash where ever they can find a space to do so. They are therefore extremely unwelcome, if not harassed by neighbors and the police. Such is a consequence of the lack of space or any private property where to perform their survival activities or to accumulate the recyclable materials. That is why, on their self made chariots pulled by horses across long distances, every day they have to collect and then transport the recyclable materials to the buyers. The health risks underlying this precarious informal business are evident, even more for children. Frequently, waste recyclers are complete households bounded for survival. A study of Colombia's Ombudsman Office in 1996 found that, in the five main cities of Colombia -a country currently of 40 million people- 14% of the waste recyclers or scavengers were children between 8 and 18 years old, 69 % of them had been surviving from this activity for more than a year; 22 % were analphabets; 65% had dropped school for work and 13% were studying. Children in waste recycling earned between 15 - 45 dollars per month and 58 % of them contributed their money to the household.

After a general strike of Bogota's cleaning and waste management public service, in the mid-nineties, the Administration in turn invited and partnered with the waste recyclers to help to control and mitigate its impact. The Waste Recyclers organized themselves in response to the city's plea and helped mitigate what could have been a major sanitary problem; they mobilized more than 700 tons of daily waste back in 1995.

This experience allowed the waste recyclers to formalize and enter the business market by means of waste management services, as they knew how to fully take care of the activities of collection, transport, processing and of course the recycling of solid waste. They organized themselves through the *Asociación de Recicladores de Bogota - ARB*, a third degree association, a non profit organization serving as an umbrella for 25 waste recyclers' co-operatives that are also non-profit organizations but of an economic solidarity nature. The ARB decided to turn into a public service provider in accordance with Law 142 /94, with the idea of progressively entering the formal business of public waste management¹. ARB started building waste management experience as contractors in small neighboring municipalities of the city of Bogota.

2. WHAT HAPPENED?

In view of the upcoming bidding of Bogota's waste management public services, the ARB found international partners willing to integrate a consortium that would give them a fair and equal chance of winning one the six waste management zones in which Bogota had been divided for such public contractual purposes. Through this formal waste management business scheme, waste recyclers had figured out a way how to become the employees of their own business and therefore enjoy formal and decent work, subsequent health insurance, social security benefits, as well as their life time dream of offering education to all of their children. Unfortunately, they came upon significant barriers that prevented them from gaining access to the formal sector.

The first obstacle was that according to articles 15 and 17 of L/142/94, public services providers in big cities like Bogotá had to be formed as stock corporations. This meant that as much as the ARB was already an existing and active provider of services, due to its non-profit and economic solidarity nature, legislation only allowed them marginal operation, in marginal, and of course, less lucrative markets, such as those of small and rural municipalities.

The second obstacle appeared when the Terms of Reference for Bogota's waste management bidding process came out. The conditions requested by the Administration were so narrow that the ARB would not even stand a chance of winning one of the six waste management zones.

The third obstacle was that the National Decree 1713 of 2002 established that once garbage was brought outside buildings, it became private property of the waste management contractor

¹ Colombian consultants on behalf of the Mckinsey Foundation, also a non profit organisation, accompanied the ARB in preparing for business.

assigned to the zone. Although no prosecutions against waste recyclers were known by us, this decree created a certain level of uncertainty, anguish and discouragement among them. It produced, in sum, a negative psychological effect by criminalizing their only mode of survival.

3. THE ARGUMENTS FOR CHANGE

A. We raised their exclusion from a legal and administrative discussion of normative compliance to a constitutional arena where the purpose and scope of the rules of the game in society, and their reasonability, is better examined. Exclusion and discrimination, i.e. barriers, gaps and voids within the rule of law, turn more visible when fundamental human rights and other funding general principles of law such as equity and dignity are brought in to create tension or not, with facts that are formally legal.

(1) When demanding the constitutional review of the provisions of Law 142/94 we argued that the right to equality, specifically the right to be granted equal treatment in face of the law, was violated to the point of denying the waste recyclers the mere opportunity to access and compete within the business market of privatized public services. Further, we argued that those provisions were founded on the false premise of the higher efficiency of stock corporations as compared to non profit organizations of either a civic or a solidarity nature. By doing so, the legislator had confined the poor to life in poverty, i.e. non-formalisation and limited growth by means of normative exclusion. Regulation had thus introduced a market barrier that, with out even considering the real possibility of success in the bidding, excluded and refrained these poor citizens from enjoying their right to equal entrepreneuring opportunities. We argued that we understood "access" as the minimum entitlement to be granted to any citizen living under a democratic regime. We also claimed that the substantive freedom of association (organization) and the right to participation were violated by the content of such provisions. The Constitutional Court of Colombia through its judicial decision C-741-03 stated that *"(...) the Court confirms that in this case the problem regarding the principle of equality refers not only to equality in rights, but to equality in opportunities and [furthermore] an equal legislative treatment(...)"*^{2/3} and added that as much as the Congress was granted by the Constitution with a clause of freedom of normative configuration the means chosen in this particular case to guarantee the good quality of public services to the users was not a conducive mean and that therefore *"(...) the efficiency and quality of a service provided is not ensured by creating insurmountable access*

2 Constitutional Court of Colombia C-741-03 pg. 65

3 Spanish to English translation provided by the author hereinafter.

*barriers for [such non profit] organizations.*⁴⁴ The Court decided to condition the provisions in question to be subject of an inclusive interpretation thereafter, opening thus the door of access to the market to the waste recyclers.



(2) Simultaneously, and targeting the bidding process with an autonomous constitutional public action, we requested a writ of protection for the waste recyclers' human rights to enjoy equal treatment from the authorities, the right to a substantive due process, the right to work, and the right to receive an administrative treatment in light of the principle of good faith (notion of legitimate trust in public authorities). As a preemptive measure, we requested the suspension of the waste management bidding process with the purpose of impeding the extreme and definite damage that such exclusion would have on the waste recyclers' mentioned rights and notably their right to livelihood (minimum vital).

As a subsidiary argument, we argued that, given the huge scope of the waste management bidding process, the Terms of Reference were (1) not broad enough to grant access to competition to the waste recyclers co-ops such as the ARB, and (2) just as the contractual process revealed through its Terms of Reference, the Administration did not include any substantive measures for mitigating the social impact that will result from taking away the waste recyclers only survival means when privatizing recycling as one of the services to be provided by the future contractors.

As it was extremely difficult to prove exclusion by means of the narrowed terms, and the constitutional arena is not intended for presenting such a debate, we requested the judge to invert the burden of proof on the Administration. Hence, we transferred the burden of proof of due diligence for equal treatment plus the burden of evidence of diligence in their constitutional duty to grant special protection to vulnerable populations such as the waste recyclers. We requested positive discrimination measures not only in view of granting access to the waste management business market but also with the purpose of leveraging economic and thus social progress of the poorest of the poor (economic justice), i.e. the waste recyclers and their children. We did have to clarify though, that we had to bring the human rights debate to the constitutional judge as there were no other legal means available for protecting them from such exclusion and given that the administrative contractual law of Colombia did not contain any socio-economic inclusion devices.

The Constitutional Court of Colombia once again accepted our arguments through the decision T- 724/03 in which it held that when determining the scope of the activities of the potential contractors the Administration *"(...) did not include any effective measure that could, by allowing the participation of the ARB a marginalized group from the city, tend to maintain and strengthen the activity that they have been conducting through many years as a means of subsistence (...) [on the contrary with] the treatment given, the conditions of marginalization*

4 Constitutional Court of Colombia C-741-03 pg. 75

and social discrimination of the waste recycling populations were accentuated insofar as the waste recycling of solid waste in the city will end up in the hands of the waste management operators, none of them to be the ARB as it was excluded [from the competitive bidding] (...)⁵



Additionally the Court also decided that it deemed "(...) necessary to prevent [Bogota's Administration in strictly enforceable terms] to include in future occasions affirmative actions for Bogota's waste recyclers, whenever it will proceed to contract cleanliness public services, given that the activity that they conduct is bound to such activities, and in view of attaining conditions of substantive equality and compliance with the social duties of the State, and that on any ground should it relapse on such omission as that incurred within the bidding process 01 of 2002, in regard of Bogota's waste recyclers population (...)⁶". Furthermore, the Constitutional Court of Colombia exhorted the City Council to include affirmative actions in the city's administrative contractual process in favour of those groups that in reason of their marginalization and discrimination conditions require a special protection of the State, and given that Law 80 of 1993 did not include any development of the Article 13 of Colombia's Constitution [right to equality]. This, due to the fact that public authorities tend to limit themselves to comply with the rules established in the Code and such does not consecrate substantive measures of such nature, thus unacknowledging Article 13 of the Colombian Constitution.

Finally, and regarding the administrative law realm, it is to be noted (3) that the contested Article 28 of National Decree 1713 of 2002 was soon derogated in full by National Decree 1505 of 2003.

B. It should be highlighted the argument woven around the nature and role of the organizations through which, traditionally and normally, the poor citizens' associate and entrepreneur for gaining socio-political and economic inclusion and/or redistribution opportunities was an innovation on its own.

In fact poor people remain mostly backstage of Non Profit Organizations, at least in developing countries. In fact, and precisely for avoiding equivoques leading to misinterpretations and cases like this, I have been propounding⁷ to understand NPOs as civic-solidarity organizations. Using a positive identity for the description of these organizations instead of a negative residual one, their juridical nature is clarified and inaccurate misleading descriptions can be overcome.

⁵ Constitutional Court of Colombia, T-724-03 pg. 15

⁶ Constitutional Court of Colombia, T-724-03 pg. 16

⁷ As presented in research working papers in view of my PhD on "The juridical nature and political perspectives of the Third Sector" (Paris 2) and other academic and civil society scenarios.

In fact this denomination has the intrinsic virtue of presenting this kind of organizations -that are as private in their origins as those created for the pursuit of individual and subjective gain- with the legitimate and lawful right to access the market where goods and services are exchanged, regardless of the nature of the organization or purpose of the transaction. And by doing so, my hypothesis has been that it would progressively end up facilitating poor people's access to the market and boosting their development opportunities by the simple means of accurate conceptualization and the use of unequivocal language as it will progressively influence decision makers and thus public policies.

In light of this line of thought, a main argument advanced for demanding the unconstitutionality of Law 142/92 was the false premise according to which stock owned corporations were more efficient, and therefore the only ones to be authorized to provide services in big cities, while cooperatives and associations could only provide their services in small/rural municipalities. The legislator was regulating under the assumption that efficiency is related to profit making and that non-profits should merely relate "proportionally" to marginal markets and not to the formalized and lucrative big markets that flourish in the main cities.

In the public action requesting a writ of human rights protection, an argument was advanced under the same rationale. It was argued that there was a systemic contradiction to seek and claim the formalization of the poor workers and informal businesses and to invite them to live lives with prosperity, dignity and within the rule of law, while at the same time the only organizations available to the impoverished citizens were systemically excluded, ignored or sub-valued. The poor people and the organizations they create in view of an economic or sociopolitical empowerment within the legal order were finally restrained in their efforts to access the formal economy and create sustainable growth.

4. OBSTACLES & LESSONS

Barriers or failures that create *systemic exclusion* and consolidate discrimination are always subtle, diverse and subsist and underlie within the rule of law. At least that is so in democratic states, as it would be extremely difficult to introduce a gross injustice without it being noticed by the specialized press or active CSOs and thus easily amended by social control or political pressure on the decision makers, or in the worst case scenario, easily removed by the administrative/ commercial judge.

In this case, it turned out to be extremely difficult to make a point of the exclusion as it was created by completely "legal" norms. Most of the case's readers, such as the *a quo* and *ad quem* judges easily came to dismiss the case as soon as they verified that the relevant norms were

duly invoked and formally complied. For instance, the “*accion de tutela*” or request of a writ of protection was lost both in first instance and impugnation or appeal. Furthermore when it made it up to the Constitutional Court and finally reached the opportunity of being chosen for review, the case was filed. Precisely what happened is that our case was *grosso modo* synthesized as a case of citizens’ discontent regarding an administrative bidding process, thus not interesting or unjust enough as to be worth a constitutional review by the High Court. My last resource was therefore to plea for a constitutional review to the Office of Colombia’s Public Defendant or Ombudsman, Mr. Eduardo Cifuentes, and to one of the nine members of the Constitutional Court, Justice Cepeda; both accepted my plea and presented a letter of insistence to the Case Selection Committee of the Constitutional Court. Their insistence was accepted and finally our case made it to the high constitutional arena where we believed that the waste recycler’s exclusion by regulation would be noticed and redressed, just as it effectively occurred.

5. OUTCOME & IMPACT

The ARB case paved the way for the recognition of waste recycler co-ops as legitimate economic actors and potential public contractors in every future bidding process related to cleanliness public services, as the upcoming recycling zones or parks.

In addition, an affirmative action in Bogotá’s contractual processes was ordered in the broadest terms, for “(...) all those groups that given their conditions of exclusion and discrimination require of a special protection from the State (...)”⁸ thus broadening access and offering leverage to the poor and protection to their initiatives of economic empowerment.

Also, non profit organizations, or better, civic-solidarity organizations had their economic role and potential market efficiency clarified and their key democratic role reaffirmed by the Constitutional Court of Colombia and thus strengthened for the entire Third Sector by means of constitutional jurisprudence.

As citizens, the waste recyclers now have more confidence in the State, a higher self-conception of themselves as economic actors and therefore continue to conceive and explore new and complimentary business plans, such as massive compost production based directly on dumps and the production of recycled paper. Juridically speaking, the ARB leaders, Nohra and Silvio, were empowered in their fundamental rights by Colombia’s Constitutional Court, to the point

⁸ Constitutional Court of Colombia, T-724-03, pg. 18

that they have recently mentioned that if any further poverty stigmatization or relapsing treatment occurs they would like to consider the possibility of bringing their case to the Inteamerican Court of Justice, proving their newly acquired trust in formal justice⁹.



And finally, and in ARB's own words, "(...) If we had not counted with all the tools and all the work that was done for allowing the permanence of the waste recyclers in the exercise of their activity, probably there would be no waste pickers found in the streets, dumps or in the garbage shoots, but instead new forced to be thieves, prostitutes, drug dealers, paramilitaries or guerrilleros. Thanks to such decision [at least] it is still possible for 18 000 people to continue to scavenge trash in search of their daily living.¹⁰

⁹ Due to reasons beyond their will, and as much as the legal strategy had an extremely successful outcome, the preemptive measures requested within the writ of protection were presented untimely by the petitioners and thus the bidding process could not possibly be suspended by the Court. The next opportunities to participate in the market of solid waste management for the ARB are the next integral waste management bidding process in the year 2010 and the upcoming process for privatizing areas for waste recycling in Bogota. (*parques de reciclaje*).

¹⁰ Personal letter [see : <http://bit.ly/29qvdKn> and <http://bit.ly/1yLZ7NS>]



ASH INSTITUTE

FOR DEMOCRATIC GOVERNANCE
AND INNOVATION

JOHN F. KENNEDY
SCHOOL OF GOVERNMENT



Universiteit Leiden
CampusDenHaag.nl

Global Network of Government Innovators

Strengthening Democratic Governance: IMPROVING ACCESS TO PUBLIC SERVICES

Worldwide Thematic Conference
November 6-8, 2007, The Hague, The Netherlands

Draft Agenda

Day 1, Tuesday, November 6, 2007

- 16:00 - 17:30** **Registration**
- 17:30 - 19:00** **Welcome and Opening Remarks**
- *Gowher Rizvi*, Director of the Ash Institute for Democratic Governance and Innovation
 - *Jorrit de Jong*, Fellow of the Ash Institute for Democratic Governance and Innovation
- Keynote speeches**
- *Naresh Singh*, Executive Director of the Commission on Legal Empowerment of the Poor, New York, USA (Confirmed)
 - *Luke Harris*, Professor of American Politics and Constitutional Law at Vassar College, New York and Founder and Program Director of the African American Policy Forum (AAPF), USA (Confirmed)
- 19:00 - 19:45** **Reception**
- 19:45 - 22:00** **Dinner**
- Dinner speech by *Harry van Zon*, Director of Public Sector Innovation, Ministry of the Interior and Kingdom Relations, The Netherlands (Confirmed)

Day 2, Wednesday, November 7, 2007

- 09:00 - 09:30** **Review of the Agenda**
- *Gowher Rizvi*, Director of the Ash Institute for Democratic Governance and Innovation
 - *Jorrit de Jong*, Fellow of the Ash Institute for Democratic Governance and Innovation

09:30 - 11:45

Parallel panels: Panel A and Panel B

Panel A

Access to the Economy: Facilitating Small Business Development

Context setter: *Linda Kaboolian*, Lecturer in Public Policy, John F. Kennedy School of Government, Harvard University (Confirmed)

Innovators:

- 'Access to Savings-Based Financial Services', *Francisco Padilla*, Mexico (Confirmed)
- 'Simplifying Licensing for Opening a Business', *Erik Gerritsen*, Amsterdam, The Netherlands (Confirmed)
- 'Bhoomi' (Self-sustainable e-Governance project for rural land records in India), *Rajeev Chawla*, India (Confirmed)

Panel B

Access to Justice: Bridging the Gap between Principle and Practice

Context setter: *Alex Brenninkmeijer*, National Ombudsman, Former Judge, Former Law School Dean, The Netherlands (Confirmed)

Innovators:

- 'Overt Drug Market Strategy', *Jim Fealy*, North Carolina, USA (Confirmed)
- 'ARB-Waste Recyclers', *Adriana Ruiz*, Colombia (Confirmed)
- 'Nyayagrah Program for Mass Community Based Legal Aid', *Harsh Mander*, India (Confirmed)

09:30 - 10:15

Innovator Interviews

10:15 - 10:45

Questions and Comments from the Floor

10:45 - 11:00

Break

11:00 - 11:45

Small Group Discussions

11:45 - 14:45

Parallel panels: Panel C and Panel D

Panel C

Dealing with the Disadvantaged: Creating New Opportunities for Participation

Context setter: *M. Ramesh*, Associate Professor at the Lee Kuan Yew School of Public Policy, Singapore (Confirmed)

Innovators:

- 'Network Program for Adolescents Dealing with Multiple Problems', *Clara Pels*, The Netherlands (Confirmed)
- 'Breaking the Transmission of Poverty and Inequality: the case of Oportunidades', *Rogelio Gomez Hermosillo*, Mexico (Confirmed)

- 'America Works, Ex Offender Program', *Peter Cove and Lee Bowes*, USA (Confirmed)

Panel D

Access through Technology: Putting the Citizen Front and Center

Context setter: *Arre Zuurmond*, Professor of Public Administration and Innovation, Delft University of Technology, The Netherlands (Confirmed)

Innovators:

- 'Citizen Relationship Management System', *Judi Zito*, Miami-Dade County, Florida, USA (Confirmed)
- 'Fighting non take-up through e-government', *Marjolein ten Kroode*, The Netherlands (Confirmed)
- 'Citizen Assistance Service Centers', *Elba Andrade*, Brazil (Confirmed)

11:45 - 12:30

Innovator Interviews

12:30 - 13:00

Questions and Comments from the Floor

13:00 - 14:00

Lunch

14:00 - 14:45

Small Group Discussions

14:45 - 17:00

Parallel panels: Panel A and Panel B (see above)

14:45 - 15:30

Innovator Interviews

15:30 - 16:00

Questions and Comments from the Floor

16:00 - 16:15

Break

16:15 - 17:00

Small Group Discussions

17:00 - 18:00

The Access Agenda: Plenary

18:30 - 19:30

Reception

Speech by *Wim Deetman*, Mayor of The Hague, The Netherlands (Confirmed)

19:30 - 22:00

Dinner

Keynote speech by *Michael Lipsky*, Professor at Georgetown University's Public Policy Institute in Washington DC and Senior Program Director at The Demos Center for the Public Sector in New York. Author of the widely acclaimed volume 'Street Level Bureaucracy'. (Confirmed)

Day 3, Thursday, November 8, 2007

09:00 - 11:00

Parallel panels: Panel C and Panel D (see above)

09:00 - 09:45

Innovator Interviews

09:45 - 10:15

Questions and Comments from the Floor

10:15 - 11:00

Small Group Discussions

11:00 - 11:15

Break

- | | |
|----------------------|--|
| 11:15 - 12:45 | The Access Agenda: Plenary |
| 12:45 - 13:00 | Concluding Remarks and Farewell |
| 13:00 - 14:00 | Buffet Lunch |



Universiteit Leiden
CampusDenHaag.nl

Global Network of Government Innovators
Strengthening Democratic Governance:

IMPROVING ACCESS TO PUBLIC SERVICES

Worldwide Thematic Conference
November 6-8, 2007, The Hague, The Netherlands

Summary

The Global Network of Government Innovators, jointly convened by the Ash Institute at Harvard University's John F. Kennedy School of Government and the Centre for Government Studies at Leiden University's Campus The Hague will explore the subject of 'access' in democratic societies. 'Improving Access to Public Services' is part of a series of conferences on strengthening democratic governance. The thrust of this conference is on re-establishing the link between public management and social justice. Democratic societies in many cases fail to enable their citizens to realize their full potential and thereby fail to realize the potential of society as a whole. Attendees at this conference will examine governance structures, institutions, policies and processes which either advance or impede access to public services. Fifty to sixty individuals, from government, NGO's, the private sector and academia will be invited to attend. They will spend two days in The Hague comparing real world examples of innovations with current theory to create an Access Agenda for research and action. It will be published on: <http://www.innovations.harvard.edu> and included with the new book 'The State of Access' which is being co-authored by the Ash Institute and the Centre for Government Studies.

Rationale

We define effectiveness of democratic governments in terms of the extent to which people enjoy equal opportunities to all realms of public life: politics, public services, justice and the economy. Laws and regulations formally guarantee access to goods and services. Reality routinely disappoints: Public health care does not lead to accessible health care for all members of the public. The right to attend public schools does not guarantee quality education. The right for women to work means little if child day care is non-existent or unaffordable. A transparent and fair judicial system

does not automatically provide access for those seeking justice. The availability of government information and communication does not mean that people understand what their democratic rights are. Making democracy work is one thing, making it work for *everyone* is a challenge in its own right.

Dialogue

Participants will discuss the 'theory' and 'practice' of innovative governance from the following perspectives:

- **Why is it that some people have access to public services and other people don't?** What are the causes of exclusion, what are the reasons people are unaware or unable to use public services? What are the mechanisms at work in democratic institutions that impede access? What are the major determinants of inequality in terms of access?
- **What are successful strategies to improve access?** Looking at examples of successful practices, what are the innovations, approaches, methods, techniques and technologies that increase access for the greatest number of people? What are the experiences with innovation strategies focused on access?
- **What are the challenges for practitioners and academics?** Although many practices and innovations are context specific, the issue of access plays a role in virtually all societies. Very little research has been conducted on that specific dimension. Practice might be very much ahead of theorizing. What would an Access Agenda look like? How can we strengthen fruitful partnerships?

Format

In addition to internationally recognized key note speakers, the conference will include four core panels. Each panel will be introduced by an academic expert and innovators from around the world will present case examples. Following these presentations, conference participants will share their experiences in small groups to deepen dialogue and discussion. The panels will be:

1. Access to the Economy: Facilitating Small Business Development

Starting a small business is for some people a dream come true, yet for others sheer necessity. Those who have no realistic chances of regular employment, often become entrepreneurs by necessity. Creating and maintaining a good climate for entrepreneurship and making markets accessible for new businesses is an important function of democratic governance. Around the world entrepreneurs find similar obstacles on their path to success or survival: lack of access to credit, inadequate enforcement of property rights, and

burdensome regulatory frameworks. In this panel we assess the mechanisms that impede entrepreneurship. Innovators present successful remedies to overcome obstacles.

2. Access to Justice: Bridging the Gap between Principle and Practice

Few people oppose the adage 'Equal Justice Under Law'. At the same time it is quite clear that institutions of justice are not equally accessible. Lawyers are expensive and legal aid is scarce. Procedures are complicated and require knowledge of and experience with the law. Many people are not aware of their rights or of ways to have them enforced. This panel assesses the relations between the way institutions of justice function and the outcomes they achieve in terms of equity and equality. The cases will demonstrate how innovative approaches towards litigation and trials result in more effective and equitable outcomes.

3. Dealing with the Disadvantaged: Creating New Opportunities for Participation

Every society has citizens who are marginalized. In some societies being disadvantaged is the norm, in others it is the exception. School drop-outs, homeless people, the chronically unemployed and slum dwellers have at least one thing in common: they did not make it to or within the 'regular' system. They tend to live in a parallel world with its own characteristics. In this world survival is more important than meeting standards and expectations from the government. Therefore, dealing with the disadvantaged requires exceptional skills and knowledge of their context. Recognizing the strengths, not the deficiencies of the marginalized, is central to success. The innovators in this panel share ideas, experiences and strategies to provide new opportunities for the marginalized.

4. Access through Technology: Putting the Citizen Front and Center

The advent of new technology has revolutionized the way citizens communicate with their governments. On-line portals and web transactions in many cases have diminished paperwork and excessive bureaucracy. After the initial euphoria, however, came the question: "Has the internet truly made public services more accessible for the public?". Warnings about a 'digital divide' have made governments sensitive to the idea that technology is not an end in itself, but a multi-faceted tool that is only as strong as its user. This panel will discuss the channels public organizations are using to meet the needs of their citizens. The cases display sensible solutions that combine old and new technologies and put the citizen front and center.