Resilience to external pressure

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Types of pressure

• Need to differentiate between due and undue pressure
• Justice is a social service and it exists within the society, not in a vacuum
• Judicial independence and judicial accountability
• Interaction with other entities: administrative control bodies, intelligence, enforcement bodies
Due pressure

- Interest of the society in the performance of justice
- Media interest in cases with high resonance
- Public debates related to public policies in the area of justice
- Political decisions in relation to justice reform
- External evaluations related to justice performance indicators
Undue pressure

• Statements from politicians and other opinion leaders undermining judicial independence
• Protests demanding acquittals or convictions
• Interference into concrete cases:
  – Calls to prosecutors or judges
  – Abusive use of immunity rules
• Tardive notifications sent to investigators
• Administrative chicanes to limit the efficiency of the justice system – budget, human resources
Justice: one of the three state powers

• What is and what is not subject to judicial review?
• Administrative discretion – bad policies versus criminal behavior
• Legislative discretion – bad laws versus criminal behavior
• Involvement of the Judiciary in drafting of legislation and in administrative decisions
Accountability mechanisms

- Superior Councils for the Judiciary – career management insulated from political actors
  - Entry into the profession
  - Discipline
  - Promotion
  - Training
  - Defense of judicial independence
- Political actors – involved in top appointments and revocations in the judiciary (Supreme Court, Prosecutor General)
Vulnerabilities of the justice system

- Limited possibility to explain judicial actions
- Legal language not easily accessible to the public
- Inconsistent jurisprudence – real or apparent
- Dependency on the quality of work of other entities
- Interaction between the justice system and the intelligence