Judicial Reform: Trends & Developments



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February 2005

Four Points

1) Need for Reform is Ancient and Enduring
2) Borrowed Solutions Common
3) Key Issues in Recent Reforms
4) Overcoming Opposition to Reform

Ancient and Enduring Issue

English Example --

- 1340: Parliamentary inquiry into causes of court delay
- 1640: English rebels demand procedural simplification
- 1820: Popular press pushes for reform
- 1909: Parliament investigates trial courts' performance
- 1995: Case management adopted to reduce delay

Borrowing Principles

- Let us not turn to American in order to slavishly copy the institutions she has fashioned for herself but in order that we may better understand what suits us; let us look for instruction rather than models.

  Alexis De Toqueville, 1848

- Fit -- Too different or close enough?

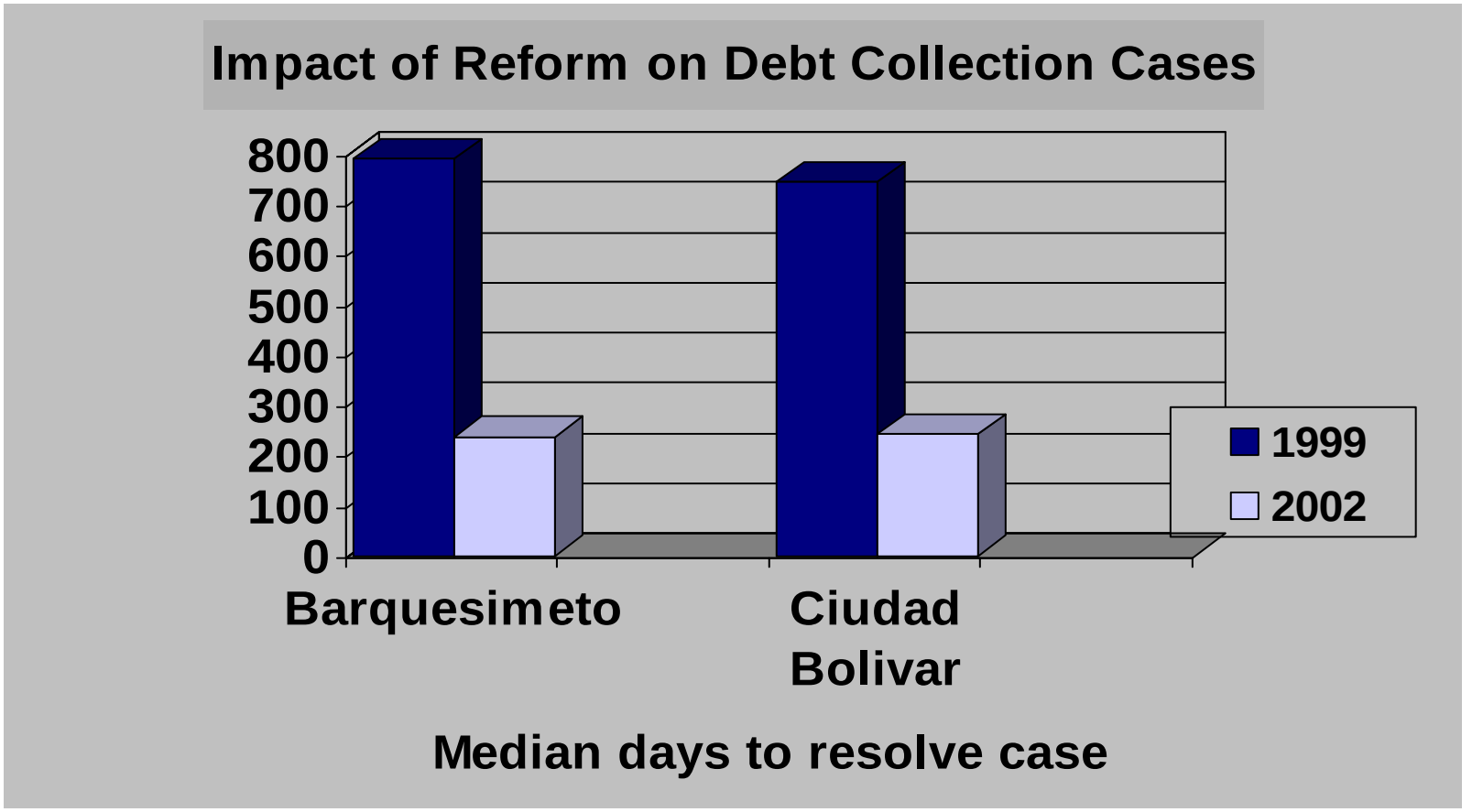
Major Issues in Recent Reforms

- Procedural Change
  - Compactness, immediacy & proportionality
- Governance & Management Reforms
  - Independence, accountability

Case Management

- Why: Delay not solely attributable to court size, caseload, or case mix
- What: Set expectations, monitor and measure actual events, take responsibility for performance
- Common mistakes
  - Lack of empirical research
  - Judges not supported

Venezuela Results



Overcoming Opposition to Reform

- Typical Sources –
  - Lawyers, clerks, enforcement agents
  - Large debtors, tenants' rights groups
  - Executive branch bureaucrats
- Methods for Overcoming –
  - Consensus building through dialogue (divide and conquer)
  - Information campaigns
  - Leadership