AIRGRAM

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TO: AID/W

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March 25, 1970

FROM: Bogota

SUBJECT: NON Capital Project Paper (PROP)

REFERENCE:

Project No: (regional, supplied by AID/W)

Country: Colombia
Submission Date: 25 March 1970 Revision #
Project Title: Legal Education Reform
U.S. Obligation Span FY '70 and '71 Regionally funded FY '70, Mission funded FY '71. Any Continuation past FY '71 contingent on Results PAR to be conducted after project in effect 1 year.

Gross life of project financial requirements
U.S. Dollars $325,726 AID
U.S. owned local currency None

Comp Country cash contribution $394,280
Exchange Rate 18.35
Other Donors
Ford Foundation $906,760

1. A. SUMMARY DESCRIPTION

1. Justification: The Colombian legal system has not kept pace with the requirements of the quickening tempo of economic change, or slowing economic modernization, and is not responding to the increased demands placed upon it for social justice. The

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LA/SA

defective operation of the legal system is the result in large measure of the unsatisfactory performance of Colombian lawyers who are not only lacking in technical competence, but also in an understanding that the law should be used as an instrument to solve the practical problems presented by the current needs of Colombian society. The primary reason for their shortcomings is that the system of legal education currently followed suffers from low teacher and student preparation and from an emphasis on the memorization of concepts rather than on training in analytical thought or investigative techniques. The significance of the lack of empirical work in dealing with practical problems and the absence of policy-oriented research is considerable. For example, judges normally interpret legislation without explicit consideration of practical and policy arguments. Law professors do not do serious research to support proposals for reform. Even the Legislature lacks a research staff to gather the necessary facts for enacting new laws. In the course of drafting bills and decrees there is often a lack of systematic data, a lack of detailed knowledge of experience and innovation in other countries; in short, an absence of sustained work and thought to support specific proposals for reform. These deficiencies are at least partly responsible for poorly drafted laws and decrees, which lead to confusion and unpredictability as well as for the prevalence of outmoded legislation and the failure to produce effective substitutes. The results of this process on the problem of procedure and judicial administration are quite visible. On the criminal side, judges are overburdened with cases and with the responsibility they bear under Colombian law to investigate as well as judge them. As a result, in 1965 75% of all inmates in jail (24,000 of 33,000) had not yet been judged guilty and their average term of incarceration was three years. On the civil side, banking and accounting procedures had considerable inefficiency in financial operations, and corporation and commercial laws do not foster the development of modern commerce and industry.

2. Five participating Colombian law schools (joined together in La Asociacion para La Reforma de la Enseñanza del Derecho - ARED) have, in cooperation with the Ford Foundation, developed a program of legal education reform. AID has concluded that it can best help to improve the law's contribution to Colombian social and civic development and make an impact on these problems by supporting this effort.

3. 2. Program Goals: The program seeks to:

(a) Achieve an improvement in the analytical rigor and social relevance of legal education in Colombia. The success of the reforms at the participating schools could serve as base from which reforms could be extended to the remaining twelve Colombian law schools. (However, no extension effort is programmed or contemplated until a formal PAR evaluation shows the reform in this program has really taken hold in the ARED schools.)

4. (b) Bring law students and teachers into closer contact with the real problems of Colombian law, particularly through empirical research and student activities, such as legal aid.

5. (c) Make law teachers more sensitive to the public policy implications of their substantive areas in the hope that they and their students will generate alternative legal solutions to pressing social needs. This would be done in collaboration with agencies of the Colombian government.

6. (d) Reinforce and extend the cooperative efforts of Colombia law schools interested in reform both for their mutual strengthening and to avoid duplication.

7. (e) Assist in the publication of relevant research results and other legal materials, in part to extend the program's impact beyond the law schools to the practicing bar. Special post graduate training programs will be mounted to the same end.

8. The participating schools are bearing about one third the total $936 thousand two-year cost of the program and have jointly agreed with Ford on a detailed budget and plan of action.

9. B. SETTING

The foregoing critique of the Colombian legal system in general and legal education in particular is one in which many influential Colombians concur. In fact the participating law schools were chosen because they had identified some elements of the problem and had begun to attempt reform prior to Ford's offer of support. Some had begun the effort to upgrade their faculties and others had modified their lecture system which gives little scope for student

participation, for practical training or for problem solving. Prior to deciding that U.S. lawyers could make a contribution to legal reform in Colombia both the Ford Foundation representative in Bogota, a lawyer by training, and the dean of the Harvard law school, on temporary assignment for Ford, queried Colombian lawyers. Those who had studied in the United States were unanimous in the opinion that the North American technique, e.g. active, problem solving, could be adapted with great profit into the Colombian law schools. Other Colombian lawyers surveyed by questionnaire were in broad agreement on many of the shortcomings of the legal educational system. Many governmental officials stressed the handicap which ill trained layers have in a country where law graduates occupy so many key administrative and political posts. Business executives complained of the hampering effect of outmoded and impractical laws on their ability to operate effectively.

10 C. STRATEGY

By financing part of the program first through regional funds and later from Mission resources AID will be able to influence its development and implementat so that it will give attention to development problems of particular interest in the Title IX area which may be useful in the development of other programs of a similar nature in L.A. or other areas of the world. For instance one of the early topics for study, research, and greater law school involvement will probably be the administration of criminal justice which will complement long-standing Public Safety efforts as well as an AID backed reform project now underway in the Attorney General's office Other problems - the study of which could become part of the program - are: ways to facilitate the legal process of granting land titles - especially under the current Colombian land reform program; the creation of new mechanisms to foster savings and investment such as savings and loan system, insured investment funds, and transferable security interests in current accounts; model municipal or departmental tax codes; modernization of the negotiable instruments law; efficient organization and reporting of government and judicial decisions.

11. Without AID participation some aspects of the program would have to be severely curtailed or alternatively two law schools would have to be eliminated entirely from the project. Since this latter alternative would seriously undermine ARED and its collective reform efforts and probably cause considerable bitterness among the schools it is probable Ford would elect to curtail selected aspects across the board. There is really no alternative strategy for correcting the deficiencies of the Colombian legal system. Individual projects can and should be launched but in the absence of a serious effort to get at the root of the problem - legal education - their chances for making a significant impact are diminished. This program was planned and

designed with a view toward AID's eventual participation and has been operational for six months.

12. E. PLANNED TARGETS, RESULTS, AND OUTPUTS

The budget which is attached hereto indicates that the AID contribution to this project will be in four areas, methodology seminars, foreign fellowships, funds for North American professors in Colombia and library development.

13. The principal purpose of the methodology seminars is to expose Colombian law professors to the active teaching method which is employed in United States law schools. The first year FY '70 will be regionally funded and the second year FY '71 will be Mission funded. Each seminar will be attended by professors from the ARED law schools and will last about one month. The seminars will be conducted by law professors who are accustomed to the active, rather than the lecture, type of law class. In addition, the visiting North American professor will participate in the seminars. Part of each seminar will be devoted to the preparation of teaching materials by the Colombian professors and conducting demonstration classes with these materials. The result of the seminars should be the introduction into the participating law schools of a teaching methodology which is more challenging to the student and should result in trained lawyers who are more capable of using modern problem-solving techniques.

14. The largest single component of the program with respect to AID contribution is participants for foreign study. The purpose of this element, which consists of approximately 30 man years, is to expose Colombian law professors to North American law school teaching methods and to give them an opportunity to prepare teaching materials for their own use. It is contemplated that these professors will return to their respective law schools and introduce active teaching methods which will be more challenging to the law student and result in better trained lawyers.

15. The program provides for two man years of visiting professorships by North American law professors. These professors will collaborate with the faculties of the ARED schools in the preparation of teaching materials; attend the methodology seminars, and establish a relationship with an entity of the Colombian government which is active in their field. They also will return to the United States law schools where they will develop a body of knowledge with respect to the legal problems of Colombia; will be able to work with Colombian students who study in their universities, and will be of possible use in similar programs of legal reform for social and civic development in other countries.

16. Finally, the Colombian law schools suffer from inadequate library facilities and personnel. A major aspect of the program to be financed by AID is the training of library personnel in a course to be held within Colombia and financing participants for study in the United States. The purpose of this study is to train law librarians to become an integral part of a modern law faculty with adequate training in research and other law library techniques.

17. F. COURSE OF ACTION

In July 1969, the Ford Foundation began its support of ARED's (Universities of Antioquia, Cauca, Externado and Los Andes) reforms which include "common programs" and "separate programs". It is hoped that Nacional will join the program, though no firm plans have been made.

18. Among the "common programs", to be undertaken jointly by the law schools, will be such activities as the two annual seminars in teaching methodology; the six-month training course for law librarians; joint publication of a law review, legal indices and court decisions, law textbooks and reports on significant research projects; periodical meetings of law deans and professors from the participating law schools to review and evaluate achievements; special postgraduate training courses for judges, practicing lawyers and other scholars.

19. The "separate programs", to be undertaken by the law schools individually, will include such activities as fellowships for U.S. study of Colombian law professors and students; purchase of books and library equipment; an in-service training period in a U.S. library for each law school's chief librarian; international travel by law deans and professors; student activities such as legal aid, government internships, etc.

20. In addition, U.S. law teachers and research scholars will go to Colombia for varying periods to cooperate with ARED and the individual schools in the development of the program. Under this portion of the program, Professor Lloyd Weinreb of Harvard University School of Law went to Colombia in August 1969 for a 12 month period as visiting researcher and special advisor to ARED.

21. One Colombian teacher, Mr. Enrique Gaviria of the University of Los Andes, is now at the Michigan Law School under this program to prepare teaching materials for his course in international law. Other Colombian law professors are expected to receive similar fellowships as the program develops.

22. The International Legal Center is assisting Ford in implementation. While Ford retains overall management responsibility it has given ILC a grant primarily to plan and supervise aspects of the project to be carried out in the United States including the recruitment of U.S. resource personnel, the matching up of Colombian participants with U.S. law professors and the planning of participant programs.

23. AID contribution to the program would go to the International Legal Center for the dollar costs including fellowships to Colombians for study in the United States, salaries of U. S. visiting professors, researchers, and lecturer in library science and U.S. library internships.

24. G. ISSUES

There are two principal risks inherent in this program:

25. (1) Political sensitivity of U.S. "presence" in and U.S. relations with the Colombian law schools. It appears that this risk is greatest in the National University, and the latter's participation in the program is not yet assured.

26. (2) Shortage of well-qualified candidates for training in the U.S., especially with regard to English language capability. Colombian law students, unlike students in several other faculties, generally do not have to learn English since virtually all written material they have studied is in Spanish. Thus, it may be difficult to find sufficient numbers of Colombian lawyers who have high motivation toward the objectives of the program, good academic qualifications, and adequate English competence as well.

27. The Mission considers these risks to be significant but acceptable in view of the program's potential for initiating a process of fundamental change in the role of law as an instrument of development. In other words, the objectives of the program are important enough to justify AID participation despite the acknowledged risks. With careful management, they can be minimized.

28. The problem of political sensitivity must be given close attention in each phase of program implementation. Where discussions with law deans, professors and student leaders indicate the likelihood of significant opposition to U.S. technical assistance or fellowships, the Mission may have to defer assistance to those faculties until such time as the "climate" improves.

29. With regard to the English language problem, the Mission will strongly urge promising candidates to devote maximum effort to language training in Colombia. Experience may show, however, that intensive training in the U.S. is necessary in some cases. If so, the added costs, and delays in beginning academic programs should be accepted due to the special character of this experimental program.

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	FY 70			FY '71			(1)
	AID PORTION REGIONALLY FUNDED			AID PORTION MISSION FUNDED			
	AID	COL.	FF.	AID	COL.	FF	
1. Professors Training							
A. 2 Methodology Seminars in Colombia of 4 weeks each with a total of 20 Colombian participants and 4 visiting professors	4,120	350	6,130	4,120	5,350	6,130	
B. Foreign Study (30 man years) Fellowships to study in U.S.	75,000			75,000			
Fellowships in Europe, L.A., U.S. or other		50,000			50,000		
Family Supplements			25,000			25,000	
C. Funds for Teaching Material Preparation (5 Colombian professors = $4,000)		5,000	5,000		5,000	5,000	
D. Secretarial expenses, duplicating facilities, etc. for full-time professors (20 full-time professors, 1 secretary for 2 professors.		25,000	2,500		25,000	2,500	

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	FY '70 AID PORTION REGIONALLY FUNDED			FY '71 AID PORTION MISSION FUNDED		
	AID	COL.	FF	AID	COL.	FF
2. Research						
A. Research funds for Colombian professors (10,000 to each faculty)		5,000	25,000		5,000	25,000
B. Research funds for Colombian students ($4,000 to each faculty)		2,000	10,000		2,500	10,000
C. Funds for North American Professors in Colombia (2 man years, $40,000 each)	80,000					
3. Library Dev						
A. Six-month course for librarians with 1 visiting professor and short-term consultants	20,000	11,000	11,500			
B. Books ($5,000 each faculty)		12,500	12,500		12,500	12,500
C. Equipment (duplicating facilities etc. $5,000 to each faculty)		5,000	12,500		5,000	12,500

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	FY '70 AID PORTION REGIONALLY FUNDED			FY '71 AID PORTION MISSION FUNDED		
	AID	COL.	FF	AID	COL.	FF
D. Fellowships for library directors of each faculty for internships at US law schools after the Medellin course (1 person from each faculty, 6 months)	25,000	5,000				
4. Publications						
A. Joint Law Review (quarterly)		7,500	2,500		7,500	2,500
B. Indices and Court Decisions		15,000	5,000		15,000	5,000
C. 5 textbooks to avoid duplicating efforts		2,500	10,000		2,500	10,000
D. Research Results		2,500	6,500		2,500	6,500
5. International travel for Deans and Professors to increase knowledge of legal reforms in U.S., L.A. and Europe ($3,000 for each faculty)		2,500	7,500		2,500	7,500

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	FY '70			FY '71		
	AID PORTION REGIONALLY FUNDED			AID PORTION MISSION FUNDED		
	AID	COL.	FF	AID	COL.	FF
6. Student Activities						
Legal aid, government internships, etc., ($5,000 for each faculty)		2,500	12,500		2,500	12,500
7. Meeting of Colombian Deans and Professors in Colombia		1,250	2,500		1,250	2,500
8. Special Training Courses for Judges, government lawyers, etc.			2,500			2,500
9. International Legal Center Administrative Costs (15% of total cost)	30,618			11,868		
TOTALS	$234,738	$160,100	$159,130	$ 90,988	$144,100	$147,630

GRAND TOTAL	AID	COL	FF
	325,726	304,200	306,760

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