

**A.I.D. EVALUATION SUMMARY - PART I**

PD-ABC-324  
X.D

1. BEFORE FILLING OUT THIS FORM, READ THE ATTACHED INSTRUCTIONS.  
2. USE LETTER QUALITY TYPE, NOT "DOT MATRIX" TYPE.

**IDENTIFICATION DATA**

<b>A. Reporting A.I.D. Unit:</b> Mission or AID/W Office (ES# <u>538-40-03</u> ) <u>RDO/C</u>	<b>B. Was Evaluation Scheduled in Current FY Annual Evaluation Plan?</b> Yes <input checked="" type="checkbox"/> Slipped <input type="checkbox"/> Ad Hoc <input type="checkbox"/> Evaluation Plan Submission Date: FY <u>89</u> <u>Q 4th</u>	<b>C. Evaluation Timing</b> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Ex Post <input type="checkbox"/> Other <input type="checkbox"/>
<b>D. Activity or Activities Evaluated</b> (List the following information for project(s) or program(s) evaluated; if not applicable, list title and date of the evaluation report.)		

Project No.	Project /Program Title	First PROAG or Equivalent (FY)	Most Recent PACD (Mo/Yr)	Planned LOP Cost (000)	Amount Obligated to Date (000)
538-0645.17	Caribbean Justice Improvement Project (University of the West Indies Component)	8/86	7/91	\$10,400	\$6,900

**ACTIONS**

E. Action Decisions Approved By Mission or AID/W Office Director Action(s) Required	Name of Officer Responsible for Action	Date Action to be Completed
An investigation into the feasibility of extending the PACD to facilitate the completion of Project activities.	Dennis Darby	Jan 30 1990 (completed)
An investigation into the feasibility of having UWI delegate responsibility to RDO/C for the conduct of construction activities in the Primary Beneficiary Countries.	Dennis Darby	Jan 30 1990 (completed)

(Attach extra sheet if necessary)

**APPROVALS**

<b>F. Date Of Mission Or AID/W Office Review Of Evaluation:</b>				
		(Month) 09	(Day) 22	(Year) 89
<b>G. Approvals of Evaluation Summary And Action Decisions:</b>				
	Project/Program Officer	Representative of Borrower/Grantee	Evaluation Officer	Mission or AID/W Office Director
Name (Typed)	Dennis Darby	Sir Keith Hunte	Darwin Clarke	Aaron Williams
Signature	<i>Dennis Darby</i>	(in draft)	<i>Darwin Clarke</i>	<i>A.S. Williams</i>
Date	8/27/90 as revised		09/04/90	

**ABSTRACT**

**H. Evaluation Abstract (Do not exceed the space provided)**

The project aims to strengthen the legal systems in the region and to foster the maintenance and performance of national justice systems. The project is being implemented by the University of the West Indies (UWI) in ten Caribbean countries.

The purpose of this mid-term Evaluation was to assess the progress being made by the Eastern Caribbean beneficiary countries in utilizing the grant assistance provided by the Caribbean Justice Improvement Project. The methodology used by a three person team in conduct of this mid-term Evaluation included a thorough review basic project documentation such as the Project Identification Document, the Project Paper, the Project Grant Agreement and project correspondence and reports. The evaluation team also conducted interviews with AID/W, RDO/C and UWI project staff and key personnel in the beneficiary countries. Written comments from both the UWI Project Director and RDO/C were sent to the Chief of the Evaluation party for consideration for incorporation into the final report. The major findings and conclusions are:

- o Implementation of the project by UWI and RDO/C is commendable.
- o The Project has suffered from design overload since it sought to accomplish too much in too many beneficiary countries with limited resources and implementation capability.
- o USAID should employ the leverage of its total economic assistance programs to influence beneficiary countries to accord higher priorities to the Justice Sector and to increase budgetary appropriations accordingly.
- o The evaluators noted the following "lessons":
  - o that it is unwise to hinge the success of a particular development project activity on the technical services to be supplied by other Donors.
  - o where significant policy reforms would be required from particular beneficiary countries, and a particular grantee does not have the necessary leverage to effect these reforms, it is preferable to have a bilateral project activity.

**COSTS**

**1. Evaluation Costs**

1. Evaluation Team		Contract Number OR TDY Person Days	Contract Cost OR TDY Cost (U.S. \$)	Source of Funds
Name	Affiliation			
Arthur Mudge	TVT Associates	30 days	\$76,000.00	CJIP
Duke E. E. Pollard	Independent			
Joseph Archibald	Independent			
2. Mission/Office Professional Staff Person-Days (Estimate) <u>30 days</u>		3. Borrower/Grantee Professional Staff Person-Days (Estimate) <u>30 days</u>		

## A.I.D. EVALUATION SUMMARY - PART II

### SUMMARY

J. Summary of Evaluation Findings, Conclusions and Recommendations (Try not to exceed the three (3) pages provided)

Address the following items:

- Purpose of evaluation and methodology used
- Purpose of activity(ies) evaluated
- Findings and conclusions (relate to questions)
- Principal recommendations
- Lessons learned

Mission or Office:

RDO/C

Date This Summary Prepared:

August 1990

Title And Date Of Full Evaluation Report:

Caribbean Improvement of Justice Project (Midterm Evaluation) July 1988

The project aims to strengthen the legal systems in the region and to foster the maintenance and performance of national justice systems. The project is being implemented by the University of the West Indies (UWI) in ten Caribbean countries.

The project consists of the following components:

- A) UWI Component for Operational Support to UWI, for a full time project Director, Administrative Assistant and Secretary;
- B) Law Library Development Component to ensure an adequate central law library facility in each country;
- C) Case Reports/Textbook Revolving Fund to address the lack of reported cases and other legal materials;
- D) Law Revision and Reform for the printing of various revisions to the laws of the seven primary beneficiary countries;
- E) Regional Technical Assistance and Training for the strengthening of legal systems in the Caribbean Countries; and)
- F) Country Specific Activities for specific in-country legal system improvements as previously identified, in order of priority, by each country.

#### Findings

The project evaluators concluded that, generally, those responsible for the implementation of the project were to be commended for the significant accomplishments achieved under the project. The Evaluators were however, of the opinion that the project suffered from design overload in that it sought to accomplish too much in too many project beneficiary countries with limited resources and implementation capability.

#### Recommendations

The evaluators recommend that there should be no subsidy of separate case reporting for individual microstates. Any subsidies or other encouragement should go to research and analysis at a regional level, while relying on commercially viable regional reporters for the reporting of selected cases.

The evaluators also recommended against emphasis on Court Registry modernization in specific beneficiary countries as the bulk of their activities do not bear so directly on Administration of Justice as to warrant high priority within the project.

RECOMMENDATIONS- Other recommendations include:

A) Construction:

-The UWI should delegate to USAID responsibility for CJIP construction activities including approval and disbursement authority.

-Countries experiencing substantial delay in construction should consider employment of a private sector Architect/Engineer Advisor supervisor for their project.

-USAID/UWI should see that no substantial investment is made in likely redundant facilities

B) Law Revision

-USAID/UWI should recommend for adoption by other beneficiary countries the Dominica proposal for desktop publishing in Law Revision

-UWI/USAID should consider sympathetically requests for project funding to revise the laws of beneficiary countries where law revision commissioners have not yet been appointed, subject to those Governments undertaking to finance the printing of such laws and subject further to their agreeing to comply with relevant time schedules for various stages of revision as determined by UWI/USAID.

-AID/UWI should negotiate with primary beneficiary countries to provide for use of local currency proceeds for sale of law revisions.

-USAID should consider extending the PACD now for up to one year for completion of code revision only.

C) Library Development

-UWI/USAID should maintain the policy of not financing purchase of legal materials for beneficiary countries unless satisfied that suitable accommodations are in place for them.

D) Court Registries

Beneficiary Countries should use the National Center for State Courts Report in reorganizing their court registries to make best use of available storage, vaults, equipment, security methods, staff, training opportunities and systems to upgrade and expedite the work of the registries.

E) Legal Aid

UWI/USAID should provide financial assistance to the Organization of Commonwealth Caribbean Bar Association (OCCBA) to strengthen its capacity to support the establishment of legal aid programs in the beneficiary countries.

## S U M M A R Y (Continued)

**F) Case Reports/Textbook Revolving Fund**

AID/UWI should reconsider the design of the Case Reports/Textbook Revolving Fund.

**G) Training**

UWI/USAID should require that paralegal training programs be tailored to the specific needs of each beneficiary country and be so structured as to be self sustaining after the PACD. They should also require a self-evaluating element to facilitate their future direction and development in a manner responsive to perceived needs.

**H) Technical Assistance**

UWI/USAID should take appropriate measures to ensure that facilities and equipment are properly maintained. This may require technical assistance to develop adequate maintenance systems, in addition to budget increases for maintenance.

For the remaining life of the project UWI/USAID should program tightly the technical assistance to ensure necessary support for project priorities

AID/UWI should provide for long range planning for Justice systems from TA funds available under the recently approved project amendment. Such long range planning should include analysis of potential cash savings from consolidation of facilities and use of appropriate technologies.

**I) Project Administration**

AID/UWI should give higher priority, including higher levels of compensation as appropriate and sharper definition of responsibilities, to the role of primary coordinator.

UWI/USAID financial officers should work out a more expeditious system for making disbursements.

**J) Policy Reform**

USAID should employ the leverage of its total economic assistance programs to influence beneficiary countries to accord higher priorities to the Justice Sector and to increase budgetary appropriations accordingly.

UWI/USAID should withhold relevant assistance to beneficiary countries whose commitments are not carried out in good faith.

**Lessons Learned:** The principal lessons learnt as a result of this evaluation are: (i) that it is unwise to hinge the success of a particular development project activity on the technical services to be supplied by other Donors. This is precisely what has happened in the case of the Law Revision component of the Project, where the pace and conduct of the law revision activities are effectively beyond the control of the project; (ii) where significant policy reforms would be required from particular beneficiary countries, and a particular grantee does not have the necessary leverage to effect these reforms, it is preferable to have a bilateral project activity; (iii) the implementation of construction activities with a high input of engineering services ought to be carried out by AID through more usual bilateral arrangements in those cases where a regional grantee does not have such expertise nor is seeking to institutionalize the development of such expertise.

**ATTACHMENTS**

K. Attachments (List attachments submitted with this Evaluation Summary; always attach copy of full evaluation report, even if one was submitted earlier; attach studies, surveys, etc., from "on-going" evaluation, if relevant to the evaluation report.)

**Caribbean Improvement of Justice Project (Midterm Evaluation)**

**COMMENTS**

L. Comments By Mission, AID/W Office and Borrower/Grantee On Full Report

The contents of this Evaluation Report were generally well received by RDO/C and the University of the West Indies. Implementation of those recommendations which are thought by RDO/C and UWI to be capable of implementation within the time left for the conduct of project activities are being actively pursued.

The OECS Secretariat was, however, of the opinion that while CJIP has performed and continues to perform a useful function as far as the OECS Countries are concerned the Evaluation Report failed to mention the law reform work being done by the OECS legal unit located in St. Lucia, as well as the work being done by a committee of OECS Attorneys General which has been set-up to look at law reform in the OECS Countries.

Office of Arthur Mudge

13 Dartmouth College Highway  
Lyme, New Hampshire

October 19, 1989

Mr. Dennis Darby  
United States Agency for International Development  
Regional Development Office / Caribbean  
Bridgetown, Barbados

Re: Caribbean Justice Improvement Project Evaluation- Eastern  
Caribbean and Belize

Dear Dennis,

Enclosed the final version of the evaluation as submitted to TVT Associates for publication and distribution. Most of the work since the "penultimate draft" has been editing; I have enclosed page proof indicating any substantive changes.

Thanks again for all the help. Please don't hesitate to call if I can be of any further assistance in this or any other matter.

Best personal regards.

Sincerely,



Arthur Mudge

XD-ABC-324-A

ISN 69973

**CARIBBEAN IMPROVEMENT OF JUSTICE PROJECT  
[EASTERN CARIBBEAN AND BELIZE]**

**MIDTERM EVALUATION**

July 1989

**TvT Associates  
Washington, DC**

**Team: Arthur W. Mudge  
Joseph Archibald  
Duke E. E. Pollard**

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K.

**CARIBBEAN JUSTICE IMPROVEMENT PROJECT  
(Eastern Caribbean and Belize)  
MIDTERM EVALUATION**

**ACKNOWLEDGEMENT**

The methodology for this evaluation is set forth in detail in Annex Nine and the partial list of people interviewed at Annex Ten. While the evaluation team accepts full responsibility for this report and any shortcomings thereof, we must acknowledge with deep gratitude the contributions of the many people who helped us with our work. Annex Ten is but a partial list of such contributors. Moreover, we must express particular appreciation for the complete support and limitless patience of Dr. Nicholas Liverpool, Project Director for the University of the West Indies, and Dennis Darby, Project Manager, and Janice Griffith, Executive Assistant, of the AID Regional Development Office for the Caribbean at Bridgetown, Barbados.

To the extent we have indicated criticism in our conclusions, the evaluation team claims no special wisdom. Indeed, by far the most valuable judgments and suggestions have come from the project participants themselves. In general, the evaluators have only served to transmit and reinforce the views of those who know the project best from their direct involvement therein.

We have tried to be as comprehensive and accurate as time permitted in our factfinding, and we have been particularly concerned to be fair in our conclusions. To the extent that we may have been unjust or otherwise failed in this effort, we ask to be corrected.

## EXECUTIVE SUMMARY

### A. Background

Among many attributes shared by the Commonwealth Caribbean states are their similar systems of justice, based on the English common law tradition. United Kingdom and Commonwealth precedents still carry great weight, and the traditions of due process and independence of a judiciary of high integrity and credibility still prevail. However, physical facilities and equipment inherited from the British have deteriorated from lack of maintenance, while worsening conditions and declining compensation in real terms are adversely affecting the attractiveness of service at the lower and middle entry levels for qualified professionals.

The primary beneficiaries of the "UWI component" (so called because administered by the University of the West Indies) share some additional problematical characteristics. They are all microstates, with relatively low per capita income, suffering from extreme diseconomies of scale in supporting law revision, case reports and physical infrastructure for the justice system. Consequently, they should not be encouraged to persist in parochial attitudes and institutional arrangements which aggravate this problem.

### B. Project Purpose

The project aims to preserve and enhance the image and credibility of the justice systems, and, ultimately, democratic institutions, by helping them to catch up from having fallen substantially behind. Thus caught up, these countries should be able to sustain their justice systems with affordably modest increases in appropriations combined with savings realized through consolidation of facilities and systems and technological innovations in record keeping, reporting and publishing.

### C. Project Design

The project designers had the courage to include types of activities usually unpopular with international donors. To help these justice systems catch up on deferred maintenance, leaving a year to year maintenance level they could hope to sustain, it has been necessary to help them finance much capital maintenance. This has included such basic items as paint and polish for buildings, missing case reports for law libraries, and missing decades for law revisions. Relatively modest investment in such restoration is having significant impact in restoring the image of the justice system.

Beyond facilities renovation, project design targeted the critical need to improve access to the law through updated law

libraries, law revisions, and legal aid. Centralized law libraries are to be "caught up" so that they may be sustained with modest support from appropriations plus user fee income from private lawyers. Similarly law revision has required a substantial investment to help the system catch up to a point, and acquire the technology, whereby it may be sustained on a current basis at affordably modest cost.

Otherwise, however, the project has suffered from design overload, trying to do too many things with limited resources and implementation capability.

While court registries are in generally poor shape, the bulk of their activities in vital statistics, company and land records do not bear so directly on administration of justice as to warrant high priority within the program. While we do not suggest reneging on existing commitments, we otherwise recommend against emphasis on registry modernisation for this or any other administration of justice project.

Nor do we recommend subsidy of separate case reporting for individual microstates. Any subsidies or other encouragement should go to research and analysis at a regional level and rely on commercially viable regional reporters for reporting of selected cases.

Training and technical assistance were properly included but not sufficiently focussed. We suggest that they should be tightly programmed for the remainder of the project to ensure necessary support of project priorities.

We commend the project design for use of an existing indigenous regional institution to implement the project, thereby building its capacity to support regional approaches in the law and other areas in the future.

#### D. Project Implementation

In general those responsible for project implementation are to be commended for the significant accomplishments achieved thus far. Because of the aforementioned design overload, however, project implementation has fallen substantially behind schedule, so much so that in some countries there is genuine doubt whether planned activities can be completed within the five year project term. Slowness of implementation can be attributed largely to the novelty of this type of project, the inexperience of UWI and AID in implementing justice sector projects, UWI inexperience in the management of construction activities and inexperience of the national justice systems in dealing with foreign aid donors. National advisory committees have had to be formed, working relationships between government and private agencies established, and leadership and staff appointed and shaken out.

Project approvals and disbursements have been a problem, especially relative to construction. The use of an intermediary institution such as UWI for project implementation introduces an extra layer in the line of communication, calling for special efforts to keep consequent delays to a minimum. For construction activities, since UWI is not contributing expertise, nor is there continuing need for UWI to build such expertise, we recommend that UWI delegate approval and disbursement authority back to USAID. Further, in view of extended delays in disbursement of EC and Belizean 2currency, we recommend that UWI and USAID financial offices work out a more expeditious system for making such disbursements.

With the exception of Antigua, library development has been delayed by lack of appropriate space for the new centralized libraries. In all countries additional steps remain to be taken, such as enacting appropriate statutes and regulations governing library use and management; establishing regimes for materials security and user fees, and putting project trained paraprofessional law librarians in place.

We found considerable variation among the participating countries in implementation of the law revision component. Dominica is on the verge of completing the revision stage (as distinct from CJIP-financed printing stage), while St. Lucia and St. Kitts have yet to identify a source of funding for the necessary technical assistance. For those behind at this stage of the project, AID must consider now how it will deal with requests for extensions of PACD to permit completion of revision. Also some countries, such as St. Kitts and St. Vincent, will likely request use of CJIP funds to finance the cost of the revision itself, instead of, or as well as, for printing. In this connection the Dominica desktop publishing innovation offers potential for substantial savings, as well as improved response to need, by facilitating year to year revision through use of in-country capability in lieu of costly catch up exercises every 15 to 20 years.

In the court registries we found too much expected from additional space and "computerization". Also we found several instances in which computers had been delivered without accompanying software or necessary training for computer application. Registries were cramped for space largely because of inadequate disposal practices and policies, and failure to have other archives for older material primarily of historical rather than legal utility. Except in St. Vincent and St. Lucia, ~~there was scant evidence of response to the report and recommendations for registry improvement prepared by the National Center for State Courts.~~

With the exception of Belize, St. Lucia and Grenada, where such programs had been established under other auspices, no legal aid

facilities had been established. In all such cases blame was attributed to the Organization of Commonwealth Caribbean Bar Associations ("OCCBA"), which had been identified as the primary source of required technical assistance. OCCBA's omission in this regard was due to inadequate administrative and technical capabilities, a situation UWI and USAID are seeking to correct.

In training the most significant advance was with paralegals. With the exception of Belize, Dominica and Grenada, all beneficiaries had heavily subsidized paralegal training programmes in place. Belize and Grenada were to start their programmes in September 1989. In Dominica progress was retarded by perceptions that paralegals would pirate the clients of legal practitioners. Except for Belize, whose programme was based on the more practical-oriented Jamaica model, all other operating programmes were based on the more academic Barbados programme and did not appear to be based on any national needs assessment.

We found commendable progress in extending technical assistance to beneficiary countries, especially in the areas of evaluating and identifying law library needs and in conducting various training programmes for judicial and court personnel. Virtually nothing has been done, however, in project support for work with bar associations on continuing legal education for lawyers and on law-related education to inform the public about the nature of the legal system and their rights thereunder.

Although benefits under the CJIP were expressly made subject to implementation of various specified policy reforms, far too often these reforms remained unimplemented with impunity. For example, very few countries had established law reform committees, established management and materials security regimes for libraries, or made bona fide attempts to enlarge appropriations for the justice sector and improve terms of employment for court officials.

#### E. Principal Recommendations

1. USAID should employ the leverage of its total economic assistance programs to influence beneficiary countries to accord higher priority to the justice sector and to increase budgetary appropriations accordingly.
2. UWI/USAID should withhold relevant assistance to beneficiary countries whose commitments are not carried out in good faith.
3. UWI should delegate to USAID responsibility for CJIP ~~construction activities including approval and disbursement authority.~~
4. If they have not already done so, countries experiencing substantial delay in construction should consider employment of a private sector architect/engineer advisor/supervisor for their project.

5. USAID/UWI should see that no substantial investment is made in likely redundant facilities.
6. UWI/USAID should hold firm to their policy of not financing purchase of legal materials for beneficiary countries unless satisfied that suitable accommodations are in place for them.
7. USAID/UWI should recommend for adoption by other beneficiary countries the Dominica proposal for desktop publishing in law revision.
8. UWI/USAID should consider sympathetically requests for project funding to revise the laws of beneficiary countries where law revision commissioners have not yet been appointed, subject to those Governments undertaking to finance the printing of such laws and subject further to their agreeing to comply with relevant time schedules for various stages of revision as determined by UWI/USAID.
9. AID/UWI should negotiate with primary beneficiaries to provide for use of local currency proceeds from sale of law revisions.
10. USAID should consider extending the PACD now for up to one year for completion of code revision only.
11. Beneficiary countries should use the NCSC Report in reorganising their court registries to make best use of available storage, vaults, equipment, security methods, staff, training opportunities and systems to upgrade and expedite the work of the registries.
12. UWI/USAID should provide financial assistance to OCCBA to strengthen its capacity to support the establishment of legal aid programs in beneficiary countries.
13. UWI/USAID should require that paralegal training programmes be tailored to the specific needs of each beneficiary country and be so structured as to be self sustaining after the PACD. They should also require a self-evaluating element to facilitate their future direction and development in a manner responsive to perceived needs.
14. AID/UWI should reconsider design of case report/textbook revolving fund. AID/UWI should give higher priority, including higher levels of compensation as appropriate and sharper definition of responsibilities, to the role of primary coordinator.
15. UWI/USAID financial officers should work out a more expeditious system for making disbursements.
16. UWI/USAID should take appropriate measures to ensure that facilities and equipment are properly maintained. This may require technical assistance to develop adequate maintenance systems, in addition to budget increases for maintenance.
17. For the remaining life of the project UWI/USAID should program tightly the technical assistance to ensure necessary support for project priorities.
18. AID/UWI should provide for long range planning for justice systems from TA funds available under project amendment.

19. Such long range planning should include analysis of potential cash savings from consolidation of facilities and use of appropriate technologies.

## INTRODUCTION

### A. Background

United States support for administration of justice projects derives from concern for protection of human rights, promotion of democratic institutions, and particularly, towards that end, strengthening the credibility of democratic governments. In the early 1980s the problems of the democratic government of El Salvador in protecting human rights led to substantial AID support for improvement of administration of justice in that country. Having been sensitized to the importance of justice administration in El Salvador, and pursuant to the strong recommendation of the Bipartisan Commission on U.S. policy towards Central America and the Caribbean ("The Kissinger Commission"), the United States extended support for administration of justice throughout Central America and the Caribbean.

In the English-speaking Caribbean, as distinct from the Latin American countries, there had already existed relatively strong systems for administration of justice, but they had suffered substantial deterioration, principally because of the economic stress currently experienced by the countries in the region. As a consequence of declining budgets in real terms, certain symptoms of deterioration are readily apparent. For lack of maintenance funds, physical facilities were becoming dingy and worn. Users of the justice system suffered increasing delays as a consequence of shortage of judges and other skilled personnel needed to make the system work. These included court reporters, clerks of court, their deputies and public prosecutors. Demands on courtroom and registry facilities substantially exceeded their original capacity. Another troublesome symptom was deteriorating access to code and case law, publications of which had not been kept current because of lack of funds.

### B. Project Description

The Caribbean Justice Improvement Project was authorized on July 15, 1986 pursuant to Sections 531 and 534 of the U.S. Foreign Assistance Act of 1961. The Project comprises two basic components: one for the Eastern Caribbean and Belize, and the other for Jamaica. AID authorized an initial sum of \$10 million in grant funds to strengthen the legal systems in the English-speaking Caribbean. To this end a five year Grant Agreement was signed between the University of the West Indies and USAID/Barbados on August 26, 1986 under which USAID undertook to provide \$7.8 million in grant funds for the Eastern Caribbean component and a separate three-year Agreement was executed on September 15, 1986 between the Government of Jamaica and USAID/Jamaica for \$2.2 million to cover the Jamaican segment.

The Jamaican component was subsequently increased in July, 1988 by \$600,000 and the Eastern Caribbean component in June 1989 by \$2.6 million, bringing the total of the planned obligation under the project to \$13.2 million.

The Project consists of assistance to the participating Caribbean governments in their efforts to improve and maintain the administration of justice and legal systems in their countries. It aims to rehabilitate delapidated court buildings, provide technical assistance and training to various sections of the legal system, provide legal materials for Court libraries, improve court and law reporting, assist in legal publications and stimulate the rationalisation and reform of the legal systems of the region.

The Project was designed to commence about January, 1987. This mid-term evaluation assesses project progress in meeting its objectives, the extent to which the primary beneficiary countries are meeting their commitments to effect policy reforms in the justice system and to ascertain what are the requirements for maintaining the system and ensuring that the benefits of the programme are preserved and enhanced.

#### C. Social, Economic and Political Context

The primary as well as subsidiary beneficiaries are located in what is termed the Caribbean Basin. The countries involved in the Project are members of the British Commonwealth of Nations, having a common colonial history and democratic parliamentary traditions, and they adhere to the rule of law and enjoy similar cultural development. They participate in the Caribbean Community and Common Market in the University of the West Indies, and the Council of Legal Education which administers regional law schools.

These economies have been dependent and tenuous. They are largely growers of primary agricultural products. Adverse trading factors, natural disasters, low world market prices and insufficient technological development have imposed strict budgetary constraints, created balance of payments crises and severely curtailed their socio-economic advance. In the face of rising populations and severe unemployment, the Governments have been unable to devote adequate funds to their legal systems. Accordingly, relatively low salaries are paid to judicial and legal officers, inadequate equipment and accommodation provided for courts and legal offices, and the legal aid services are minimal or unsatisfactory.

## **D. Outline of Justice and Legal System**

### **1. OECS Countries**

#### **a. Structure**

The court structure consists of:

- (i) The Organisation of Eastern Caribbean States (OECS) Supreme Court for the five sovereign states of Antigua and Barbuda, the Commonwealth of Dominica, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines, and the three United Kingdom dependent territories of Anguilla, Montserrat and the British Virgin Islands in a unified system established under the Courts Order which is imperial legislation of the United Kingdom incorporated into the constitutions of those five sovereign states and three dependent territories.
- (ii) The Grenada Supreme Court which was established by the revolutionary Government of Grenada in 1979 when it abolished the OECS Supreme Court in its applications to Grenada.
- (iii) The several Magistrates Courts established by statute in each of the five sovereign states, three dependent territories and Grenada in accordance with their constitutions.

#### **(1) Supreme Court**

The Courts Order established the Supreme Court in two tiers, namely, the Court of Appeal and the High Court, as a superior court of record; made provision for the appointment of a Chief Justice by Her Majesty the Queen of England on the advice of the United Kingdom's head of judiciary, the Lord Chancellor, who acts on the unanimous recommendation of the Prime Ministers and Chief Ministers of the states and territories observing the Courts Order; established an independent Judicial and Legal Services Commission comprised of the Chief Justice as chairman, a senior judge of the Court of Appeal, a retired Supreme Court judge, and two chairmen of Public Service Commissions of the states and territories observing the Courts Order in rotation, for the appointment of judges of the Court of Appeal and the High Court; made provision for the security of tenure, payment and retirement of judges, and also for their discipline and freedom from unlawful political interference.

The Court of Appeal consists of the Chief Justice as its President, and at least two other Judges of Appeal, and exercises appellate jurisdiction in matters appealed direct from the High Court or the Magistrate Court; and, except in certain constitutionally defined cases like election petitions where its

decisions are final, all its judgments are generally subject to appeal to the Judicial Committee of the Privy Council in England.

The High Court consists of at least eight judges who are assigned to and transferable within the states and territories observing the Courts Order in the absolute descretion of the Chief Justice. The Chief Justice, unlike other appeal court judges, is entitled to sit as a High Court judge of first instance in any High Court at his descretion. The High Court has unlimited original jurisdiction in civil and criminal matters of all kinds, including applications by persons who allege infringement or threat of infringement of their fundamental constitutional rights; exercises supervisory jurisdiction in habeas corpus, bail, mandamus, certiorari and prohibition proceedings; and is a court of admiralty.

The Chief Justice and all judges must be professional lawyers or former judges of the experience and standing required by the Courts Order. The writs and orders of the High Court, and the Orders of the Court of Appeal, run throughout the jurisdiction of the OECS.

### (2) Grenada Supreme Court

The Grenada Supreme Court consists of an ad hoc Court of Appeal comprised of non-resident itinerant Caribbean lawyers and/or ex-judges and the resident Chief Justice up to a maximum of five judges (three of whom usually constitute the Court of Appeal) one of whom acts as President, and a High Court comprised of the resident Chief Justice and two resident judges, all appointed by the Governor-General. The Court of Appeal hears and determines appeals from the High Court and the magistrate courts, and its decisions are final.

### (3) Magistrate Courts

Magistrate courts and magistrates are creatures of the particular statutes of the states or territories which established them. Their summons and orders do not run beyond their territorial limits. A magistrate is appointed and disciplined by his head of state (Governor-General, President, or Governor as the case may be) in accordance with the constitutional and statutory provisions of his state or territory, that is to say, generally on the advice or recommendation of, or after consultation with, the Judicial and Legal Services Commission for that state or territory. The Commission usually comprises the Chief Justice of the OECS Supreme Court as Chairman, with the resident High Court Judge and the Chairman of the local Public Service Commission as members. It is very unusual for a magistrate not to be a professional lawyer.

Magistrate courts are not courts of record; they exercise wide-ranging but limited jurisdiction in civil, criminal and family matters in the cities, towns and rural areas at fixed places and times, and deal with almost all of the smaller causes of and affecting the average citizen. They are in essence the traffic courts where there is no traffic ticketing system; and they also serve as statutory juvenile courts comprising a professional magistrate as chairman and at least two lay-assessors of special experience.

#### (4) Jury System

The jury system is entrenched and established in the constitutions and laws throughout the OECS. The right to jury trial in civil cases is limited to very few types of civil cases e.g. libel and slander, but is a fundamental and treasured right in all cases of serious crime ranging from housebreaking to murder.

#### b. Substantive Law

The OECS system of law is based on the English common law, imperial statutes of the United Kingdom made applicable to the OECS or any part thereof, statute law of the OECS states and territories, precedent judgments of the OECS Supreme Court, judgments of persuasive authority of superior courts of record throughout the United Kingdom and the British Commonwealth and in rare cases of the United States Supreme Court and federal courts, and the Judicial Committee of the Privy Council whose judgments are absolutely binding. The Quebec Civil Code relating to property is administered in St. Lucia.

#### 2. Belize

The structure and substantive law of the Belize justice and legal system is generally similar to that of the OECS countries. One variation is that the Belize Court of Appeal is empanelled from judges of other Caribbean Commonwealth countries, with two of the current three members from the Bahamas.

Another variation derives from Belize's ties to Central America. For Belize's substantial indigenous Maya indian population, the first recourse in the legal system may be to a village elder known as "The Alcalde", the Spanish work for mayor. The Alcalde is elected by the members of the community and serves as mediator in community disputes as well as a judge with limited criminal and civil jurisdiction. Further details of the Belizean legal and justice system are set forth at Annex 2.01.

## I. FACILITIES RENOVATION

### A. High Priority

Renovation of existing court facilities has high priority in every country-specific action plan. Indeed the major portion of all funds in that category was directed at rehabilitation of, and additions to, existing facilities.

We concur in such emphasis because of the severely deteriorated condition of the facilities, and the importance of outward appearance of physical facilities in representing to the public the society's regard for the system of justice. In addition, especially where heat and noise were oppressive, improved working conditions for judges, prosecutors, registrars and other public servants in the system of justice are a significant factor in attracting and keeping appropriately high quality of personnel.

### B. Nature of Construction

Typically the funds programmed for refurbishing of, and additions to, facilities are divided between the rural magistrate courts and the central courthouse/registry complex, the latter of which usually absorbs most of the funds. Some of the magistrates courts are scheduled for little more than a good cleaning and new coat of paint, the impact of which should not be underestimated. Other facilities are receiving major additions which may increase available space by as much as a third.

### C. Delays

#### 1. Scope

Construction, like other project activities, has experienced substantial delays from a wide variety of causes, some avoidable, some not. At this point, only Belize has come close to completion of work on its principal facility, and that project did not involve major reconstruction. While still well short of completion, Dominica's major construction project in reconstructing an existing building for use as the central court/registry facility is well advanced and proceeding well. Other countries such as St. Vincent and St. Lucia, and, for major works, Antigua and Grenada, have barely decided what to do, and do not even have final plans and specifications yet, let alone construction under way.

#### 2. Causes

##### a. Ministry Overload

Specific causes of delay as they may vary from country to country are discussed in the Country Annexes. Some general observations

are in order, however. Employment of a single private sector architect/engineering advisor/construction supervisor appears to have been helpful for those countries who have adopted that course. Other countries who have relied on their own public works ministries have had to suffer delays from their effort to save cost. A public works ministry is typically subject to many competing priorities handled by overloaded and often underpaid staffs, who do not receive any additional compensation for the added work sent their way under the CJIP.

#### **b. Bureaucratic Procedures**

The bureaucratic requirements for approval of contracts, and amendments under the CJIP have caused some costly delays. Such actions require concurrence not only of the Government, as represented on the National Advisory Council, and AID, but UWI as an intermediary. In Grenada one extreme case required four months from the time of receipt of bids to the time of approval of the contract.

### **3. Consequences**

Such delays are intolerable in construction contracting because bids are often limited in their validity to a period of thirty to forty-five days. If the contract is not executed within such period, the contract may have to be renegotiated or the bidding process may have to be reinitiated from the beginning. In either case, the delay often produces substantial increases in cost because of price increases for materials, labour and other factors in construction.

Further, work originally planned for the dry season or a period when the courts are not in session may be delayed until a period when construction will be more complicated or more disruptive to court operations.

Similarly delays in disbursement to contractors can be particularly harmful in construction contracts. As major works get under way and progress payments become bigger, it can be expected that significant delays in disbursement might result in suspension of work, contract disputes and even litigation. Since delays in approvals and disbursements are of a nature affecting all elements of the project, not just construction, they are discussed elsewhere in this report and solutions suggested. See Section VIII.13.2 infra.

#### **D. Issues Concerning Shared Facilities**

We have noted elsewhere at Section IX.B how sharing of facilities with police can affect the image and credibility of the justice system. From our examination of the project, we note two other

areas where the sharing of facilities imposes special requirements for project implementation and monitoring.

1. External Appearance

CJIP funds may be used only for those portions of the facilities to be used by the justice system. Therefore, in the usual case the Government should provide from its own funds for at least external refurbishing of the remainder of the facilities not occupied by the justice system. In view of the state of severe disrepair of many of the facilities, the alternative would be a ludicrous contrast between adjacent sections of the same building.

2. Space Swaps

In some shared facility situations the best way of expanding space available for the justice system is to take over space currently in use by another government agency and compensate that agency by constructing alternative space for that agency. Such approach must be monitored closely to assure that the space to be constructed for the companion agency does not significantly exceed the space given up by that agency for the justice system. In St. Vincent, for example, we found that plans under active consideration would have had AID financing additional space for the police which was from three to six times larger than the space given up by the police for the use of the courts.

E. Feasibility Analysis

1. Need for Basic Engineering Analysis

UWI/AID must also be watchful that the CJIP restriction against financing new building construction does not distort decision making by the beneficiary countries. In Grenada and elsewhere we have seen facilities proposed for refurbishing that had deteriorated to such extent that they might not be worth even the modest investment of refurbishment. We recommend that an AID engineer should check any facilities in which a substantial amount is to be invested, even for refurbishing, in order to ensure that the building is worth it. Beyond that, some buildings may be proposed for refurbishing which are in need of basic structural work. If AID is to invest any substantial amount in refurbishing a building, it should be assured that the total work includes any necessary structural work to assure that the premises will be safe.

2. Renovation v. New Construction

Among the factors arguing for CJIP exclusion of new construction was the accompanying need for time consuming feasibility

analysis, which would have slowed project authorization and implementation.

After examining the extensive additions proposed for the Antigua and St. Lucia central court/registry complexes, we suggest that AID and UWI reach agreement on where the line is to be drawn between new construction which is prohibited under the project and building additions which are eligible. We suggest that among appropriate criteria would be cost/space ratio and addition v. continuity of function.

### 3. Long Range Planning and Redundancy

Further relative to the potential for harmful distortion of host country decision making, it must be remembered that the advantage of this project in facilitating prompt refurbishing of capital plant was gained through omission of the sort of long range capital planning which might otherwise have been in order. In no country visited during the course of the evaluation did we determine the existence of any long range plan for the justice system. Such plan would include the identification of needs and determination of priorities as indicators of what facilities should be kept and improved and what facilities should be discontinued. As new roads are built and public transportation systems improved consolidation of court facilities should be in order such that the system of justice could still be reasonably accessible to the public with fewer facilities. For example, in both Grenada and St. Vincent we found court houses within four miles of each other.

One of the costs of expediency for this project may be that some investments are made in buildings which might better have been discontinued. Where the investment is relatively slight for a coat of paint or minor refurbishing, such risk is acceptable. AID and UWI should be watchful however, lest any major investments be made in facilities of likely redundancy within a good long range plan.

We suggest that before any future investments are made in court facilities in any of the recipient countries, long range planning would be appropriate. Such long range planning should be comprehensive and investigate other means of promoting greater efficiency within the system of justice. Certainly where major capital investment is involved, the planners should look hard at facilities requirements in determining how savings might be realized and improved maintenance be facilitated, by the use of fewer facilities.

## **F. Summary of Findings and Recommendation**

### **1. Findings**

- (a) Renovation of existing court facilities has high priority in all countries.**
- (b) Such high priority is justified by the generally poor condition of the facilities and the importance of good condition to the image of the justice system and the system's ability to attract and keep qualified personnel.**
- (c) In general, construction activities are substantially behind schedule.**
- (d) Bureaucratic approval and disbursement procedures are major factors in costly delays.**
- (e) Improvement of justice system facilities in buildings shared by other agencies present potential problems of incongruous external appearance and disproportion in "space swap" arrangements.**
- (f) Restriction of CJIP financing to renovation of existing facilities raises risk that buildings which are redundant or otherwise not worth further investment will be proposed for the program.**

### **2. Recommendations**

- (a) To expedite construction activities, each country experiencing substantial delay should consider employment of one private sector architect/engineer advisor/construction supervisor for this program.**
- (b) To expedite construction activities, USAID and UWI, as well as participating countries, should simplify approval/disbursement procedures to maximum extent consistent with proper management. See more specific recommendation at VIII.B.**
- (c) For buildings occupied by other government agencies as well as the justice system, each government should provide from its own funds for at least external refurbishing of the portion not provided for under the CJIP.**
- (d) In improving space under "swap" arrangements with non-justice agencies, USAID/UWI should be watchful that such space is not disproportionate to the space transferred to the justice system.**

- (e) A USAID engineer should verify that:
  - 1. Any facility proposed for substantial expenditure is worth the investment, and
  - 2. Such proposal include any structural work needed to assure safety.
  
- (f) USAID/UWI should be watchful that no substantial investment is made in likely redundant facilities.
  
- (g) USAID/UWI should establish criteria for distinguishing building additions, eligible for CJIP financing, from "new construction", which is not.

## II. ACCESS TO LAW AND JURISPRUDENCE

### A. Law Library Development

#### 1. Problem

Notwithstanding the fact that the Caribbean Justice Improvement Project (CJIP) had run more than half of its course at the time of arrival of the evaluating team in the primary beneficiary countries, the condition of the law library services in all of these countries appeared to be a microcosm of the prevailing condition of the justice sector in relation to the management of national affairs. A very low priority appeared to have been accorded by competent authorities to the organization and management of these services, despite unqualified acknowledgement of their cardinal importance for the efficient administration of justice.

#### 2. Project Response

With a view to enhancing the delivery of the law library services, the UWI had extended technical assistance to every primary beneficiary country in the form of an expert law librarian to assess the needs of the law library services and had extracted from the Government of every such country an undertaking to act on the recommendation of the expert. In addition, the UWI and USAID had secured from every primary beneficiary country, as a condition of access to benefits from this component of the CJIP, an undertaking to perform the following actions:

- (a) Within thirty days of the signing of a Memorandum of Understanding formalising the law library activity, to nominate two candidates for training as part-time paraprofessional law librarians and undertake to budget annually for these positions;
- (b) Designate an adequate facility to locate the law library and, with technical assistance from the UWI:
  - (1) Establish a national budget line item for library upkeep and maintenance; and
  - (2) Establish and enforce a reasonable user fee system for the practising bar, the revenue from which was to be dedicated solely to the maintenance of the library facility;
- (c) Work with the UWI on a timely basis to design and develop a collection of law library reference materials, materials security system, and a regime governing library use;

- (d) Establish a national budget line item for maintaining the currentness of the printed materials in the law library.

### 3. Findings

With the outstanding exception of Antigua, whose Government had rented one floor of a building to accommodate the legal materials and facilities of the Supreme Court Library pending extension of the Supreme Court building for the purpose, the supreme court libraries of all primary beneficiary countries were housed in cramped quarters at the time of arrival of the evaluating team. And despite the undertakings mentioned above, no primary beneficiary country, with the exception of Dominica had made adequate budgetary provisions for maintaining the law library services and the currentness of legal materials. Further, no primary beneficiary countries had:

- (a) Elaborated a regime governing library use;
- (b) Established a materials security system;
- (c) Established a system of reasonable user fees for the practising bar, nor
- (d) Established a national budget line item for the services of two paraprofessional law librarians.

The evaluation team discerned several deficiencies in the delivery of the law library services and these appeared to have been existing for some considerable time. Some of the more depressing deficiencies suggesting themselves for comment were the physical deterioration of stocks of various legal materials, most of which could be fumigated and restored at relatively low cost; absence of a suitable environment for legal materials which, more often than not, were kept in a warm, humid atmosphere; poor utilisation of space, all too often occupied by legal materials, which, though possibly valuable as rare books, were of little or no use to the legal practitioner.

In extenuation of the situation described above, it must be observed that desired improvements in the delivery of the law library services were constrained in every case by decisions to accommodate these services in the Supreme Court buildings, all of which had to be refurbished and/or extended for the purpose. And in every such case progress in this area had been impeded by various factors addressed in the relevant section of this report. In the result, acquisition of new current legal materials for the central law library services had to be delayed until renovation and extension of Supreme Court buildings had been completed.

The evaluators have determined, however, that no similar extenuating circumstances may be adduced for omission to

discharge other commitments relating to elaboration of regimes for the use and security of legal materials, and for the establishment of national budget line items for the services of part-time para-professional law librarians and maintaining the currentness of legal materials.

#### 4. Recommendations

In the light of the foregoing the evaluators recommend that the Governments of the primary beneficiary countries should:

- (a) Accord a high priority to the efficient delivery of law library services and discharge the relevant commitments given to the UWI; in this connection consideration should be given to enacting the draft law library bill circulated by the UWI Project Office;
- (b) Pending the acquisition of new current legal materials under the Project, dispose of existing legal materials perceived to be of little or no value to legal practitioners, and fumigate and restore those legal materials identified for retention in the central law library;
- (c) Refrain from acquiring legal materials other than those most urgently needed, until adequate and suitable accommodation has been secured for them (we understand that UWI already enforces this policy with respect to CJIP financed materials);
- (d) Employ their best endeavours to make available as expeditiously as possible the space designated for the central law library;
- (e) Address the possibility of engaging and retaining the services of professional law librarians for their library services, in order to ensure their efficient delivery on a continuing basis.

#### B. Law Revision/Reform:

##### 1. Background

The Governments of the primary beneficiary countries recognised the seminal importance of reforming and revising their laws on a timely basis in order to:

- (a) ~~Satisfy the ordinary requirements of accessibility,~~ expeditiousness and certainty in determining their status;
- (b) Make them responsive to the demands of modern democratic institutions; and

- (c) Provide such a legal infrastructure as was perceived to be required for the establishment of a favourable investment climate.

The urgency for law revision in the primary beneficiary countries had been underscored by the fact that the laws of St. Lucia were last revised in 1957, those of Grenada in 1958, St. Kitts in 1961, Antigua in 1962, Dominica in 1961, St. Vincent in 1968 and in the case of Belize subordinate legislation was revised in 1963 and statutes just before this country achieved independence in 1981.

## 2. Project Response

By way of involving other regional aid donors in the CJIP, USAID undertook to finance the printing of the revised laws of the primary beneficiary countries on condition that these countries secured the required technical assistance from one or another aid donor to revise such laws. The UWI had also required the following commitments from the primary beneficiary countries, - namely, to:

- (a) Provide sufficient budget and other resources to ensure that an effective law revision and/or reform process took place;
- (b) Make available suitable workspace and logistic support for the expert appointed to carry out the law revision and reform activities;
- (c) Appoint a law reform committee of local experts to review and make recommendations on any law reform proposals submitted by the law revision expert mentioned above prior to the presentation of relevant revisions to Parliament for approval; and
- (d) Conduct periodic revisions in order to maintain the currentness of laws and subsidiary legislation.

## 3. Findings

### a. Country Situations

By the time the evaluating team arrived in the primary beneficiary countries, the progress of the law revision exercise varied greatly from country to country. Dominica, which had secured funding for the law revision exercise from the UNDP was the most advanced and contemplated to begin going to press in January 1990, well before the PACD. Antigua was also very far advanced and comprehensive draft legislation for the purpose was being examined by the office of the Attorney General. At the other extreme were St. Lucia and St. Vincent, neither of which

had made significant headway in engaging the services of law revision commissioners. In both cases, the Government of these countries had identified law revision commissioners of their choice but the British Development Division, which had agreed to finance the exercise, was not prepared to do so on terms which went contrary to applicable policy guidelines.

Progress in Belize on the revision of its subordinate legislation had been retarded by that Government's insistence on the designation of the UWI Faculty of Law for the purpose and the insistence of the aid donor, CFTC, that an individual rather than a corporate entity be designated for the purpose. The evaluators understand, however, that the corporate veil of the UWI had since been lifted allowing for the attribution to a specific UWI professor of direct responsibility for the law revision exercise thereby facilitating a mutually acceptable solution to the issue.

The Government of Belize had also approached the UWI and USAID for financial assistance to engage the services of Professor Carnegie of the UWI law faculty to produce a revised supplement of the Laws of 1980 while the Government of St. Kitts had requested the UWI and USAID to apply to law revision the funds allocated for printing the revised laws, subject to the Government undertaking the printing of the laws as revised.

In Dominica, where the law revision process was fairly well advanced, the evaluators were favourably impressed with the efforts of that Government to reduce the overall cost of printing the revised laws. This it proposed to do by composing and typesetting the revised laws, acquiring a computer and training the required secretarial staff to input the revised laws so as to be make them ready for offset printing. Adoption of this approach was estimated to result in a saving in excess of US \$20,000. The evaluators believe that further savings might be achieved by having the offset printing done in the CARICOM region.

Despite the appointment of law revision commissioners by the British Development Division to revise the laws of St. Vincent and Grenada, progress in these countries had been compromised by: the decision of the commissioners to operate from the United Kingdom; the lethargy of the Governments concerned in responding to relevant queries of the law revision commissioners; and the chronic shortage of professionally qualified counterpart staff to work in tandem with the commissioners. In St. Vincent, progress had been further constrained by changes of attorneys general at the critical times. The upshot of these developments was that, given that the time-frame for the law revision exercise was normally three years, there was every likelihood that the revision would not be completed in the overriding majority of primary beneficiary countries before the PACD.

#### **b. Unresolved Issues**

In view of the foregoing, the issues falling to be resolved were whether:

- (a) USAID/UWI would modify the applicable policy guidelines to accommodate the requests of the Governments of Belize and St. Kitts to provide funds for the law revision exercise; and
- (b) The Project Agreement Completion Date of 31 July 1991 would be extended in order to allow interested primary beneficiary countries to complete the revision of their laws and benefit from the allocation for the printing of the laws as revised.

The evaluators recognise the operation of various constraints on the timely implementation of the law revision exercises among the more important of which are: the design of this subcomponent of the CJIP which divided the law revision and printing exercise between different aid donors whose compliance requirements were not necessarily compatible; the chronic shortage of experienced staff in the primary beneficiary countries to work along with the law revision commissioners, and the vigour of bureaucratic lethargy which, in some cases, frustrated timely responses to queries required by the law revision commissioners to get on with their work.

#### **c. Status of Law Reform**

Despite formal undertakings to this effect, only one or two primary beneficiary countries had established law reform committees to consider and make recommendations to Parliament on proposals submitted by law revision commissioners for reform of the laws. Consequently, the situation sought to be preempted by this requirement, namely, the introduction into Parliament of revised laws incorporating reforms perceived to be repugnant to one or another legal system in primary beneficiary countries, was unlikely to be avoided. Most primary beneficiary countries, however, had taken measures to increase the salaries or otherwise enhance the conditions of employment of judicial personnel in order to attract or retain, as the case may be, their services. Some primary beneficiary countries had also enlarged the jurisdiction of magistrates while a few had effected desirable changes in the law relating to the admissibility of photocopied documents in court proceedings.

In far too many instances, however, judicial personnel were still subjected to the laborious requirement of taking trial notes in long hand. In other cases, professionally qualified or experienced clerks were still required to attend judges in open court despite the irresistible inducement to slumber occasioned by officially sanctioned inactivity, and notwithstanding the critical shortage of experienced clerks to work in court

registries. In this connection the evaluators affirm that the dead hand of tradition must yield to the ordinary requirements of a modern, efficiently administered court system.

Where improvements had been made in the conditions of service of judicial personnel, the evaluators were not always persuaded of their adequacy as a solution to the intractable problem of attracting or retaining the services of this class. The evaluators were not unreceptive to the submission, however, that the perceived requirement to maintain relevant correlation among different professional categories in the Government services as a whole did impose an arguable constraint on the leverage available to the competent authorities. On a balance of endeavours, however, the evaluators were not persuaded that most primary beneficiary countries had employed their best efforts to effect desirable or agreed reforms in their national legislation.

#### 4. Recommendations

Given the foregoing, the evaluators recommend:

- (a) As a matter of policy, contributions of other aid donors to the CJIP should be confined to autonomous sub-components of the Project so as to avoid the application of incompatible aid donor requirements to one or another sub-component;
- (b) Consideration should be given to accommodating the requests of Belize and St. Kitts for project funding to revise their laws, subject to the Governments of these primary beneficiary countries undertaking to finance the printing of such laws;
- (c) Consideration be given to extending the PACD by at least a year in order to allow those primary beneficiary countries which have not made the required progress in the revision of their laws to have the revised laws completed and printed before the PACD, subject to those countries agreeing to comply with relevant time schedules for various stages of the exercise as determined by the UWI and USAID;<sup>1</sup>
- (d) UWI/USAID should examine the feasibility of the approach contemplated by Dominica for the printing of the revised laws with a view to having it applied, as appropriate, in other primary beneficiary countries. In this connection, consideration should be given to having the offset printing done in the CARICOM region.

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<sup>1</sup> Apart from the printing, for which at least a half year should be allowed for the contracting and publication process, the revision process is estimated to require at least two years from date of contracting, and some countries have yet to identify a contractor and arrange financing thereof.

(e) Defaulting primary beneficiary countries should take the steps deemed necessary to effect desirable/agreed reforms of their national laws and court procedures and the UWI/USAID should employ such leverage as is available to them to secure compliance with relevant commitments.

### III. COURT REGISTRIES

#### A. Findings:

- (a) The Report dated December 31, 1987 containing the findings and recommendations by the National Centre for State Courts regarding the management and administration of the Supreme Court registries and Magistrate's courts for 12 Caribbean islands and states ("the NCSC Report") did not appear to have gained the attention of most registrars and their staff. Only a few registrars and virtually none of other registry staff showed any substantial grasp of the Report, its findings and recommendations.
- (b) The findings and recommendations of the NCSC Report were not yet implemented to any significant extent.
- (c) Registry space was inadequate for staff, equipment and records, thereby seriously hampering zeal and efficiency. Vault space required substantial expansion and greater security.
- (d) There was some measure of relief by the receipt and use of additional and modernised equipment under the Quick Impact Activity provisions of the CJIP.
- (e) Work production was slow, thereby resulting in substantial delay in the process of court actions and related proceedings, and in the issue to the public of requested vital statistics of births, marriages and deaths. Long queues of people awaiting handwritten or typed copies of vital statistics, deeds and other records were the order of the day, and significant improvement in this respect did not appear to be imminent.
- (f) Judges, attorneys general, registrars, magistrates, bar association spokesmen and national advisory committee members were unanimous in their view that the time was long overdue for (i) the complete abandonment of the existing old-fashioned, burdensome and slow method of recording witnesses' testimony and lawyers' submissions in court by handwriting of the judge or magistrate, and also of the unreliable method of recording a judge's summation to a jury in a criminal trial by tape recorder managed by a registrar or his substitute, and (ii) the installation in every courtroom of a proper amplification system to enable the public to hear and follow trial proceedings, and (iii) the appointment of competent secretarial staff with appropriate electronic and word processing equipment to assist judges in the recording, preparation and expedition of oral and written judgments. Trials were unduly lengthened as the result of

slow recording of evidence, and the judge or magistrate was handicapped in his observation of the testifying witness. No full and accurate record was kept of what was said from the Bench or Bar or dock in matters of sentencing of offenders even where long terms of imprisonment were involved. Transcript of trial proceedings took long periods beyond the time fixed by statutory Rules of Court to be produced for purposes of appeals, because the judge's or magistrate's handwritten notes of evidence had first to be typed out and checked back with the busy judge or magistrate. The evaluation team was informed that in a recent criminal trial the judge's summation to a jury had not been recorded on the tape recorder due to apparent negligence by the registrar's substitute, and the stenographer in court had not taken down the summation. The appeal record could not therefore be accurately or faithfully reproduced. In many long civil cases, judgments after trial were not produced in writing or delivered for long periods up to a year and sometimes beyond.

- (g) The statutory fees of court and for copies of deeds and other records had not been revised upwards in many primary beneficiary countries for at least ten years, and the current fees appeared to be insufficient to cover the cost of the services rendered.
- (h) Registry staff was not kept in place long enough to gain adequate experience as a team or individually to carry out the required functions of the registry with maximum efficiency. There was too great a turnover in registrars. The deputy registrar was too often either not qualified or not given sufficient training to discharge his duties. There was a waste of professional or senior staff expertise where a registrar or his deputy was required to sit daily in trial court attending upon the judge, when an intelligent clerk with reasonable training could adequately perform the necessary statutory and other duties as the judge's attendant in court. Staff training was generally given low or no priority.
- (i) The growth of public demand for information and documents, coupled with the growth in litigation and commercial business, compelled several registrars to suggest to the evaluation team the establishment of at least two registries where only one existed, namely, a registry to deal with court actions and related matters, and another to deal with titles, deeds, companies, trade marks, patents and other commercial affairs, with the matters of vital statistics of births, marriages and deaths allocated to one of the two registries.
- (j) There was the usual gradual general increase in budgetary provision for the justice sector; but it was inadequate to maintain proper standards of facilities, work and production

in the registries, or to meet the urgent need to modernise the registries with automative technology.

- (k) The Attorneys General were all aware of the urgent need to effect immediate improvements in this branch of the administration of justice as a vital step towards improvement in the quality of justice as a whole.

#### **B. Conclusions**

- (a) The affairs of the registry were not accorded sufficient priority in the administration of justice as a whole; but there was a general awareness, as never before, that such priority was essential in the whole scheme of justice and development throughout every part of the region.
- (b) There must be an acceleration of the process for the repair, extension or reconstruction of court houses and registries, and the provision of modern equipment with the commencement of adequate staff training, within the term of the CJIP which expires July 31, 1991.
- (c) The courts system was suffering from the use of outdated methods for recording trial proceedings, producing and making judgments available within reasonable time after trial, and providing full and accurate appeal records within the time fixed by statutory Rules of Court, thereby resulting in considerable delay in justice.
- (d) The personnel employed in all aspects and levels of the justice system were faithful to their tasks, and felt committed to give of their best efforts to bring about substantial improvements in the system once they were provided with the necessary facilities, equipment and training.

#### **C. Recommendations**

##### **1. Short Term**

For justice to attain the quality which is right and desirable, the following steps are recommended for immediate implementation:

- (a) The NCSC Report should be reproduced and placed in the hands of all judges, attorneys general, registrars, magistrates, bar associations and National Advisory Committees; there should be quarterly National Advisory Committee conferences to review steps taken for the implementation of its general and specific recommendations; and a record of progress should be prepared and signed by the Chairman after every such conference to be made available for evaluation at the ending of the CJIP.

- (b) The repair, extension and reconstruction work on court houses and registries must be expedited; and all available modern equipment in place at the registries must be put to effective use, with constant repair of damaged or defective modern equipment where possible.
- (c) Systematic staff training should be undertaken with a view to career or long service in the registry.
- (d) Modern technology and competent secretarial assistance should be provided for judges and the courts for recording testimony and all proceedings, for producing and making available their judgments within reasonable time, and for providing full and accurate appeal records within the time fixed by statutory rules of court.
- (e) Registrars and the relevant authorities should reorganise their registries within the scope of the NCSC Report and of these evaluation findings, conclusions and recommendations to make the best use of the available storage, vaults, equipment, security methods, staff, training opportunities and systems to upgrade and expedite the work and production of the registry.

## 2. Long Term

For justice to maintain the highest possible quality over the long term, the following steps are recommended for implementation:

- (a) Observe and apply the recommendations of the NCSC Report, and this evaluation; and cure the defects mentioned in the findings and conclusions of this evaluation.
- (b) Carry out periodic quarterly self evaluation by providing an agreed regional form for such purpose within the scope of the findings, conclusions and recommendations in the NCSC Report and this Evaluation. Such a form may be drafted by any one attorney general for the consideration and approval of all other attorneys general within a suitable time of, say, three months.

#### IV. LEGAL AID

##### A. Background

##### 1. Rationale

The expressed rationale for the involvement of the Caribbean Justice Improvement Project in assisting to establish legal aid facilities in the primary beneficiary countries was that:

- (a) Effective legal services to the poor were among the elements of a just and equitable society; and
- (b) a legal services programme would assist in improving the legal profession, in maintaining the sense of obligation to the community and in maintaining high standards of ethical conduct.

##### 2. Variation in Perceptions of Appropriate Response

In the course of its activities the evaluation team consulted with many government lawyers, private legal practitioners and officials about the value of legal aid services for the needy. Although the emerging consensus from these consultations was that these services were desirable and necessary, there appeared to be sharp divisions about their desirable scope, institutional profile and management structure.

Some legal practitioners indicated preference for a charitable corporation limited by guarantee and in which the private bar would have a majority interest; other practitioners envisaged a statutory instrumentally operating along lines similar to those in the United Kingdom. In terms of the scope of services to be offered, the weight of opinion appeared to favour a wide range encompassing both criminal and civil matters. Some relevant submissions supported the inference that the executive head of a legal aid facility should be a professionally qualified attorney, while the practice of Belize and St. Lucia appeared to argue in favour of an experienced paralegal professional to perform this role. There was support for the view in some quarters that private legal practitioners should make their contribution to the services by way of gratuitous legal representation and advice, but the prevailing sentiment in other quarters was that legal practitioners should receive a reduced fee for their services.

On the basis of relevant consultations, the evaluators were persuaded of the undesirability of applying a uniform model of legal aid services throughout the primary beneficiary countries where mores and cultural patterns could differ sharply in important particulars. By way of example, the evaluators were informed that the legal aid facility in Belize offered assistance in undeferred petitions for divorce. On the other hand, any such assistance in St. Vincent was seen to be politically

unacceptable. The evaluators believed, however, that, in the final analysis, the nature and scope of legal aid services should be determined by their ability to be self-sustaining over the long term. For this reason, the Belizean model, which was designed to be cost efficient, commended itself for serious consideration and adoption, mutatis mutandis in the primary beneficiary countries. A general description of this model is to be found at Annex 2.4.

### B. Findings

At the time of the visit of the evaluating team, only three primary beneficiary countries had established legal aid facilities. The formation of the facility in Belize was spearheaded by the Bar Association of Belize; the one in St. Lucia had been established by the Roman Catholic Church; the one in Grenada had been set up by a private charitable organization known as GRENODA. The range of services offered by the Belize facility was restricted to civil matters of a non-litigious nature; the range of services contemplated by the St. Lucian facility, which had only recently been established, encompassed both criminal and civil matters. The evaluators were unable to determine the scope of services offered by the Grenada facility due to the lack of time to meet with its management personnel. Both the St. Lucian and Belizean facilities were deficient in equipment and funds.

Where legal aid services were unavailable in primary beneficiary countries, this omission was, more often than not, attributed to OCCBA which had been identified as the institutional catalyst for the purpose. It does appear on examination of the issue that OCCBA's omission to deliver on its engagement with the UWI defined the hiatus between aspiration and available capabilities. The evaluators understood that OCCBA was deficient in administrative personnel and that the burden of management devolved on one or two enterprising legal practitioners otherwise engaged in voluntary activities of one kind or another.

### C. Recommendations

The evaluators believe that, given the potential of OCCBA to influence the perception of the common man about the rule of law and the balanced administration of justice in primary beneficiary countries, the UWI and USAID should:

- (a) Make available to OCCBA financial assistance in order to strengthen its administrative machinery.
- (b) Engage the services of consultants to examine and assess the legal aid requirements of primary beneficiary countries and to assist in the establishment of relevant facilities.

- (c) Seek to ensure that legal aid facilities established in primary beneficiary countries are designed to be self-sustaining over the longer term.
- (d) Employ their best endeavours to expedite establishment of legal aid facilities in primary beneficiary countries which have not yet done so.

## V. POLICY REFORM

### A. Nature of Policy Commitments

Included in the CJIP design as an essential element were various policy commitments to gain and sustain momentum for improved conditions. In practice, the primary beneficiary countries gave to UWI undertakings to take certain steps as consideration for their participation in the Caribbean Justice Improvement Project. Those steps were all designed to effect desirable substantial improvement in the entire justice system, which had so run down as to risk damaging the reputation of the primary beneficiary countries as areas where the rule of law prevailed and where visitors and foreign investors felt secure.

Those steps included: law reform and law revision to update the laws and make them more readily accessible to judges, lawyers, visitors, foreigners and the general public; the provision of a larger percentage of the annual budget for the justice sector, with particular reference to the repair and upkeep of court houses; maintaining current the legal materials in central law libraries and the upgrading of court and registry facilities; the study of salary structures with a view to beneficial changes in salary and terms of engagement necessary to attract and retain available talented and experienced individuals of the highest quality into the judiciary and legal service.

### B. Country Performance on Policy Commitments

Thus far progress in these undertakings has been meager. Relative to level of appropriations for the justice sectors, among the countries visited we found some level of increase in absolute terms, but barely sufficient to keep pace with inflation, and not substantial in real terms.

Relative to studies of compensation for judicial system employees, Grenada had advanced the farthest, but such analysis was incorporated into a general detailed review of all public sector compensation. Also in those other countries which had made some progress in this area, the subject of justice sector employee compensation was considered part of a larger picture of overall public sector compensation. No such reviews had reached the action stage in the form of specific proposals.

As to judicial retirement reviews, here again we found that retirement tends to be considered as part of the overall compensation system for public sector officials, with provision for judicial retirement not separated from provision for retirement of other public sector employees. There is a notable general reluctance on the part of the governments of the primary beneficiary states, as in the United States, to single out the

justice sector, even judges, for special treatment within the public sector.

Relative to other measures to enhance the attractiveness of judicial service, we found that the traditional restriction of judges from trial practice is taken quite seriously, and that any change in such restriction must result from an evolution in attitudes among the bar generally that will take considerable time.

Otherwise, however, in most primary beneficiary countries no law reform committees had been set up; no new regimes for the operation and management of law library services nor for the security of legal materials had been elaborated; no improvements in the organization and management of court registries had been made; no national budget line items had been established for the remuneration of paraprofessional law librarians; no increases of registry filing and search fees to economically realistic levels had been made. Few primary beneficiary countries had significantly enlarged the civil and criminal jurisdictions of magistrates. The present state of affairs cries out for acceleration of the agreed steps necessary for the fulfillment of the undertakings given by the primary beneficiary countries, so that the image of justice and the reality of a universally respected justice system founded on the rule of law may undergird the whole structure of development throughout the region.

The evaluators conclude that the primary beneficiary countries have been complacent about effecting desirable reforms in the justice sector and USAID/UWI should seek to enforce compliance with commitments undertaken on its behalf.

### C. Problematical Factors

#### 1. Manner of Negotiations

The Project design contemplated that such policy commitments would be negotiated in the course of country action plans with the primary beneficiary countries. We found that the appropriate policy commitments were included in the country action plans, but with such notable similitude in language as to suggest that the commitments were accepted as part of a prescribed form rather than the subject of serious negotiation. Certainly the level of performance in fulfillment of such commitments was not such as to suggest that such commitments were taken as seriously as intended within the Project design.

#### 2. Parties to Commitments

Further, the commitments were not given to AID or the U.S. Government, but rather to UWI. As a regional education institution, dependent on the beneficiary countries for support

and cooperation with its educational programs, UWI is in an awkward position to take hard positions in enforcement of major policy commitments.

### 3. Lack of Leverage

Apart from the manner in which, and with whom, the policy commitments were negotiated, we find a real leverage problem standing in the way of any substantial change requiring participation of actors outside the judicial system. Traditionally the justice sector has suffered from the low priority given by governments in the region. Among the more glaring examples of the priority problem was St. Vincent where a most impressive new finance ministry building was rising high into the sky within view of the magistrate's court which had to share space with the National Assembly and could only hold court when that body was not in session. In order to change priority perceptions it will be essential to employ both persuasion and economic leverage with national leadership at the highest levels of the government and private sector.

The resources made available under the CJIP are of a magnitude sufficient to gain attention of leadership within the justice system and provide significant support for change as motivation for reform within that system. But for government as a whole, where reform requires action from those outside the justice system, these resources alone are not of sufficient magnitude to lever significant policy reform.

#### D. Alternatives for Addressing Problem

##### 1. Joinder With Other Donors

One approach in such situations is to team up with other donors in the given sector in the hope that the resources of all donors are of a sufficient magnitude to gain attention in the government as a whole. Unfortunately in the justice sector, this approach does not offer much prospect of success since there are not that many resources coming into the sector from other donors.

##### 2. Joinder with AID Total Program

Rather, it appears that to gain leverage and support of justice sector reform from other areas of the government, particularly the legislative and executive branch leadership, discussion of such policy change must be joined with discussion of policy reform in other areas of government, and tied into the overall assistance program for the country involved. Thus the overall assistance levels can be used as leverage for reform affecting the justice system.

### E. Importance of Maintenance

Special attention must be given to maintenance of physical plant and equipment. The facility refurbishing component of the project would be a complete failure if its only result were to postpone for a few years the eventual demise of facilities which receive no maintenance. The project has enabled the participating countries to "catch up" in meeting deferred maintenance needs. It is now vital that there be follow-up to assure that the facilities and equipment are properly maintained. In addition to maintenance budget increases this may call for technical assistance for development of adequate maintenance systems . As with justice system compensation, such maintenance may well fall within a more general program for maintenance of all public facilities.

## VI. TECHNICAL ASSISTANCE AND TRAINING

### A. Technical Assistance:

#### 1. Project Response

The project includes \$840,000 which the project paper and grant agreement states with candor "will cover a variety of national and regional training and technical assistance activities not covered by other project components. Essentially, it is a residual category to cover other worthwhile activities to support the rule of law and legal systems in the region for which financing under the AID grant might otherwise have been in doubt."

Among the activities characterized as technical assistance are the following:

- (a) Funding for the office of a full-time deputy project director, including salaries of support staff, furniture and equipment, assigned to the OECS for the dual role of assisting the UWI project director in managing the project and performing such tasks as assigned by the leadership of the OECS.
- (b) A subgrant to the National Center for State Courts for its study of the registries in the member states, such study to include recommendation for improvement.
- (c) Studies by various law librarians of the law libraries in the beneficiary states, such studies to include recommendations for improvement.
- (d) A contract for the services of certain UWI faculty members to complete the indexing of various Commonwealth Caribbean unreported cases.

#### 2. Observations

It is not clear why the cost of the deputy project director was not included within the amount allocated to the UWI for administration of the project, or why the library studies were not financed within the allocation for law library development. In any event, the funds appear to have been generally well used and for purposes of justifiable importance to the project. We do note however, that a further \$1.2 million has had to be added to the project to cover remaining technical assistance and training requirements.

We can understand the need for some flexibility in the programming of funds at the outset of the project. Now however,

after three years of project implementation with only two years to go, we suggest that it would be appropriate to plan with greater specificity for the use of the remaining funds to insure that essential needs are met.

### 3. Recommendation

We recommend that a plan of technical assistance and training for the remaining two years of the project be prepared by UWI in consultation with AID looking to needs for support of the various project components in assuring that they are adequately provided for.<sup>2</sup>

#### B. Training

Consistent with similar perceptions in other sectors of national administrations, training in the justice sector was seen as the primary vehicle for developing and transmitting relevant skills for the efficient and timely administration of justice according to the rule of law. In the premises, the design of the CJIP was structured to make available training at the regional and national levels. In most of the primary beneficiary countries visited by the evaluating team, commendable progress had been achieved in implementing this component of the CJIP. And in the two cases where national training programming for paralegal professionals had not yet been operational, namely, Grenada and Belize, their establishment was due to commence in September 1989.

#### 1. Paralegal Training

At the national level, training programmes were conducted either by one or another government instrumentality or by UWI Extra Mural Department. The first category was concerned with training paralegal professionals for employment in the Government or private legal sectors. With the notable exception of Belize whose paralegal training programme had been patterned on the more practical-oriented Jamaican model, the programmes in all primary beneficiary countries had been patterned on and accredited by the Barbados Community College. This latter programme appeared to be more academic than its Jamaican counterpart. All programmes were designed to be conducted on a part-time basis and targeted personnel engaged in the performance of legal tasks of one kind or another - marshalls, policemen, bailiffs, court registry clerks, legal secretaries, etc. Successful candidates for the

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<sup>2</sup> We note that as of December, 1988, a good start toward such plan was included in Project Paper Amendment No. 2. It only remains to update such plan on a periodic basis, at least semi-annually, for the remaining two years of the project.

programme were required to do five designated courses, three of which were offered in the first year and two in the second.

The paralegal training programme was managed in every case by a coordinator under the direction of the executive head of the national institution where the programmes were offered. Tutors were drawn from Government attorneys or the private bar and received stipends varying from EC\$35 to EC\$50 per lecture hour, and, in one case, any part thereof. The UWI offered technical assistance for these programmes in the form of an allocation for books, capital equipment and modest funding for preparation of teaching materials. Similar assistance was given to the Barbados Community College and the Kingston Legal Aid Clinic both of which conducted paralegal training programmes. The programmes all benefited from hidden subsidies in the form of classrooms, furniture, office equipment and remuneration for tutors. The requirement to pay fees for the programme varied from one primary beneficiary country to the next, ranging from free tuition to a modest fee in some cases. In only one case, however, was the fee paid a credible indication of the value of the services offered. Courses were offered three or four times each week, sometimes commencing at 3:30 p.m. and terminating at 5:30 p.m. with an average weekly aggregate of 12 teaching hours. Most private legal practitioners acknowledged the value of the programme for enhancing the quality of legal services offered to the public. In one case, however, practising members of the private bar recorded their apprehension about the pirating of their clients by trained paralegal professionals.

Despite generally expressed satisfaction about the organization of and response to the paralegal training programme, the evaluators have determined that modifications could be effected in several particulars. These relate to the desirable requirement for beneficiaries to pay a fee for the courses offered in order to establish their financial interest therein; modification of the times/hours of instruction to reduce stress and accommodate the working requirements of targeted candidates; establishment of acceptable relativities between fees and stipends in this programme and similar programmes; reasonable and timely remuneration for coordinators of the programme; and the incorporation of a self-evaluating component in the programme in order to measure its impact on participants and provide plausible guidelines for its future direction and development.

The evaluators found that in nearly all of the primary beneficiary countries the paralegal training programmes in place were carbon copies of the Barbadian model. Only in Belize was the programme based on the Jamaican model. There was no indication that any of these programmes constituted an informed response to the special needs of any territory visited. The evaluators appreciate that the experiences of Barbados and Jamaica in this context are not without considerable value for

the primary beneficiary countries. Nevertheless, since the social and economic realities are not uniform throughout the English speaking Caribbean, prudence would advise a measure of flexibility in structuring the course content of each programme as the case may be in order to reflect the special needs of one or another primary beneficiary country.

## 2. The "Challenge" Program and other UWIDITE Law Training at National Level

The programmes conducted by the UWI Department of Extra Mural Studies were the Challenge Programme which prepared candidates for the part one of the LL.B. examinations, the UWI Distance Teaching Experimental (UWIDITE) and the programme leading to the Certificate in Introductory Legal Studies. On the basis of consultations with the various directors of Departments of Extra Mural studies, the evaluators were unable to entertain any sanguine expectations of significant positive contributions of these programmes to enhancing the efficient administration of justice in primary beneficiary countries. With the exception of St. Lucia, the number of candidates for the Challenge Programme was normally below expectations. The poor response to the programme was probably due to the absence of any plausible guarantee that its successful completion would lead to admission to the second part of the LL.B. examination in view of restricted national quota allocations. The Certificate in Introductory Legal Studies, unlike the Certificate in Public Administration, appeared to be viewed in several quarters as a dead end qualifying successful candidates for no professional advancement. UWIDITE was not designed to cater to students of law even though consideration was being given to employing it in some measure for this purpose. In Belize, however, the UWI Department of Extra Mural studies had conducted some training courses for Justices of the Peace and Alcaldes, and these had been well received.

## 3. Regional Level Training

At the regional level primary and non-primary beneficiary countries accepted invitations to send participants to various regional training workshops/seminars designed to enhance the administration of justice in their respective jurisdictions. These programmes related to Committals by Statement, Negotiation of International Contracts, Stability and Change in Constitutions: the U.S.A. and the Caribbean, the Draft Inter American Convention to Prevent Torture and the UWIDITE Tele-conference on the Legal Aspects of Nursing in the Caribbean. The evaluators were afforded the opportunity to meet with participants in the workshop on the Negotiation of International Contracts and elicited reactions to the course. All participants welcomed the course, which was seen to be relevant for the performance of their duties, but sought assurances about participation in similar and related courses so as to enhance

their expertise in this area, given the short duration of the course.

#### 4. Conclusions and Recommendations

The evaluators concluded that the paralegal training programme offered some potential for enhancement of the quality of legal services delivered to the public and for improvements in the administration of justice. On the basis of the foregoing, the evaluators recommend that:

- (a) The UWI should continue to extend technical assistance to the paralegal training programme.
- (b) Primary beneficiary countries which have not yet done so should endeavor to ensure that paralegal training programmes come on stream as contemplated, namely, in September 1989.
- (c) UWI should ask implementing institutions to consider requiring participants in the programme to pay a reasonable fee for the courses offered in order to establish their financial interest in the programme and to enable it to continue on a self-sustaining basis after the PACD.
- (d) UWI should ask institutions implementing to incorporate a self-evaluating element in the programme to measure participants' reactions and its overall impact on the delivery of the services of the legal community in order to determine its future direction and development in a manner responsive to perceived needs.
- (e) Where fees are charged for participation in the programme, Governments of interested countries should grant scholarships to deserving candidates in order to stimulate interest in professional advancement and promote loyalty to the Government service.

## VII. CASE REPORT/TEXTBOOK REVOLVING FUND

### A. Concept

The CJIP includes \$250,000 allocated to a revolving fund to be administered by UWI to help finance publication of case reports and text books. UWI has established a committee chaired by the Dean of the Law faculty to review applications and authorize expenditures for publications. Further, it has established a formula for division of royalties between the revolving fund and the author. It is contemplated that some books will be losers, but that there should be enough winners to keep the fund going. The selection committee includes one non-UWI member, namely the Chairman of the Council of Legal Education, who happens to be a private lawyer living in Barbados.

In June 1988, sensing the need for clarification of objectives of the fund, the committee adopted criteria for selection including the following among other factors: likely market for the publication, desirability of the publication relative to others proposed, regional significance, and relevance to administration of justice.

### B. Findings

#### 1. Delay

This project component has moved particularly slowly. Among the reasons are difficulties in obtaining response from the assessors of proposed publications, particularly assessors from outside the UWI community. Contributing to delay between approval and publication has been the practice of approving proposed publications in principle on the basis of outlines or otherwise incomplete work. Further, it appears that until recently there was lack of clear understanding as to responsibility to arrange publication.

In the view of the evaluation team, the delay in implementation of this component of the CJIP may be fortuitous. We are not convinced of the utility of the component as presently designed and suggest that it needs reconsideration and modification.

#### 2. Issues To Be Resolved

##### a. Case Report Subsidy

Concerning case reporting, for example, we find general consensus among those interviewed during the course of the evaluation that publication of case reports on other than a regional basis should not be subsidized. There already exists a commercially viable West Indian regional reporter published by Butterworths, a United Kingdom firm. The "West Indian Reports" includes selected cases

from throughout the English speaking Caribbean. One volume is published each year, the most recent volume costing about US\$140. This relatively high cost for a case reporter reflects the limited market for the publication. Any reporter of more limited coverage for an individual state, or even for the OECS, would likely have even less market and therefore either cost more or require significant subsidy.

Further publication of such reports of more limited coverage would tend to compete with West Indian Reports, impairing the market for that publication and possibly affecting its commercial viability. In this connection it is notable that Jamaica reports are no longer published commercially, the Supreme Court of Jamaica adopting the alternative of compiling mimeographed reports of its decisions in an annual volume made available to the profession at cost. Barbados Reports covers only the years through 1981 with the cost of the most recent volume about US\$35.00. The editorial work has been contributed by the Chief Justice and the UWI Librarian. That reporter has not been otherwise subsidized, but the market for it includes a Barbadian bar numbering close to 250.

A reporting service of the regional scope of West Indian Reports helps to encourage a regional perspective among lawyers within the region. Publication of national reports for such jurisdictions as Grenada, or even the OECS, would encourage a more parochial viewpoint tending to perpetuate microstate mentality in the legal profession. We conclude that, if supreme courts or others choose to follow the Jamaica example of publishing national reports in less elegant form for use by local lawyers, well and good; but in no event should case reports of coverage narrower than the West Indies region be considered for subsidy.

#### b. Publishing Alternatives

Concerning texts and casebooks, the evaluation team is of the view that even within the Caribbean, good works by good authors in the area of the law seem to be sufficiently viable commercially to gain the support of commercial publishers without need for subsidy. We can appreciate however, that casebooks and other works of West Indian orientation primarily for students may present a special case. We suggest that, as an alternative to the revolving fund for addressing this need, AID/UWI consider a university press concept, taking advantage of the possibilities of desktop publishing to produce works of limited circulation at reduced cost. We suggest that such alternative might be pursued on a pilot basis during the remaining implementation period of the project and still permit a substantial reduction in the amount of project resources allocated to this component.

### c. Selection Committee and Criteria

If the component is to be continued, we strongly endorse firm application of the criterion requiring significance of the proposed work to the region as distinct from an individual country within the region. Further we suggest that the selection committee be broadened to include at least one or two additional non-UWI members. We appreciate that such members should be readily accessible for meetings of the selection committee at the University in Barbados. It does appear to us, however, that a representative of the private bar should be included even though it might have to be a Barbadian. Also the OECS headquarters is sufficiently near that an OECS representative might be considered. Further both the British Development Division and Caribbean Development Bank have legal advisors with regional responsibilities that might help broaden the collective perspective of the selection committee in considering regional significance of a proposed work.

### C. Conclusions

- (a) The concept of the case report/textbook revolving fund has not proven satisfactory.
- (b) In general, worthy publications do not require subsidy.
- (c) Case reporting, in particular, should pay its own way.

### D. Recommendations

- (a) UWI/USAID reexamine component design.
- (b) In such reexamination include university press/desktop publishing as alternative for consideration.
- (c) Broaden representation on selection committee.
- (d) Among publication selection criteria, emphasize regional significance.
- (e) Limit subsidy to educational materials and work of particular regional significance, and
- (f) Avoid subsidy of case reports.

## VIII. OVERALL PROJECT DESIGN AND IMPLEMENTATION

Certain component specific design and implementation issues have been dealt with in the relevant sections. This section contains more general observations concerning project design and implementation.

### A. Design:

#### 1. Needs Assessment

Inspections and interviews during the evaluation provided convincing evidence that, in general, the project identification document had identified accurately the needs of justice systems in the English-speaking Caribbean.

#### 2. Priority Determination

##### a. Overload

With the benefit of hindsight, we are inclined to believe that the project attempts to respond to too many of the identified needs with consequent overloading of implementing agencies of limited capability, dilution of impact of limited project resources, and distraction of project management. Again with the benefit of hindsight, we suggest that the project might have gained effectiveness with more selectivity of project activities according to relative priority.

##### b. Higher Priority Project Elements

Among the project activities we find most worthy of priority are those related to facilities refurbishing, access to the law, and policy reform. Refurbishing of courthouses responded to a definite need and achieved much impact from limited resources in improving the image of justice, significantly enhancing the working conditions for those who toil in the system and thereby enhancing their morale and performance. Of comparably broad and much appreciated impact for those working within the system is the prospect of improved access to existing law through law library development and updating of statutory law through law revision.

Access to the law is vital to preservation of the rule of law as distinct from the "rule of permit," which, in the absence of ready access to the law, makes the individual citizen subject to the unbridled discretion of individual officials. The "rule of permit" invites arbitrariness and corruption and undermines the credibility of the system.

Also important in providing access to the justice system for the public as a whole, and thereby reinforcing the credibility of the system, is the provision of legal aid.

The essential policy commitments concern maintenance of the system, with adequate provision for maintenance of physical facilities and adequate compensation and working conditions to attract and keep in the system an adequately high quality of judges, prosecutors, registrars, clerks etc. Indeed only on the basis of a strong commitment to maintain and sustain the system, could we justify the substantial investment therein under the project.

#### c. Lower Priority Project Components

Among project components of lower priority which, again with the benefit of hindsight, we suggest were probably not worth the distraction and dilution, is work with the court registries. Court registries in the Caribbean do include certain filing and record keeping functions affecting performance of the courts. - However, only in the exceptional country could we find that problems in this area significantly affected performance of the courts. Otherwise Caribbean registries are typically responsible for a wide variety of records that have remote if any bearing on the administration of justice. These records include births and deaths, marriages and divorces, land titles, corporate charters, trade names, copyrights, etc.

In the training area, it remains to be seen whether the paralegal training program as currently implemented or the Challenge program for preparing students for UWI law school offers significant impact on the administration of justices. Paralegal training is desirable in responding to needs of private firms as well as public service. However, the Barbados Community College model adopted by most participating countries was more academically than practically oriented. Even the more practically oriented Jamaica model favoured in Belize was of such a nature that we suspect the specific needs of the justice system might have been better served by short term training programs, more specifically directed at those needs rather than the broad curriculums of the paralegal programs. The same observation pertains with even more force to the Challenge program which is even more academically oriented towards the needs of first year students at the UWI law school. Elsewhere under Section VI, we suggest ways in which the paralegal program might be adapted to make it more relevant to the needs of justice systems in different countries.

#### d. No Priority Components

There are certain project components we believe should be omitted in any administration of justice project. We disagree with the

project identification document on subsidization of case reporting. As noted elsewhere in Section VIII, we believe that case reporting needs can be met by commercially viable reporting systems. We are concerned that case reports with narrower coverage than the existing commercial regional report might undermine the viability of that report as well as promote parochial tendencies within the region.

Further, while endorsing the use of training funds to foster participation of non-primary beneficiary states in regional conferences and organizations, we are not convinced of the utility of small country-specific activity funds for non-primary beneficiaries. The allocations were not of an amount to have significant impact, and they have produced distraction of project management substantially disproportionate to their impact.

e. Omissions

1. Long Range Planning

One notable omission in the project design is support for long range planning directed at improving efficiency of the various justice systems in the region. As we understand the CJIP a primary purpose was to get the justice systems of the region into a self-sustaining mode. Included in the project are important policy commitments toward higher levels of financial support for the justice systems. Such additional increments may be difficult for some of the less well off countries in the region. Money saved through increased efficiency is just as useful as money added to appropriations. We have seen various potential opportunities for increased efficiency through reduction of cost. These include consolidation of facilities as well as improved efficiencies in registries, and we suspect there are more

2. Use of Counterpart Funds

Also, omitted from the design of the law revision component is any provision concerning use of the proceeds of sale of the product. Proceeds of such revision sets, usually from US\$500 to US\$1000 equivalent each, will be substantial. It is still not too late to provide that such counterpart funds be used to maintain the system.

3. Component Definition

~~Training and advisory services were central components of the project. We believe, however, that the limited resources available could have been more useful if programmed in sharper focus relative to clearly identified needs and priorities. We find various documents in the files which candidly admit looseness in defining the training and technical assistance component, and suggest desirability of fund availability to~~

respond to "targets of opportunity". We disagree. Without specific criteria for acceptance and rejection of training and technical assistance proposals in relation to previously identified objectives, funds become subject to a variety of competing and often distracting requests and demands which, apart from dilution of accomplishment, substantially complicate management of the funds.

### 3. Conclusions

- (a) The PID was generally accurate in identifying needs.
- (b) The Project included too many activities, thereby overloading the implementation agencies.
- (c) Highest priority needs were related to facilities renovation, access to the law and policy reform.
- (d) Lower priority needs for this administration of justice project related to court registries and academic training of law students and paralegals.
- (e) Not to be recommended are case reporter subsidies and slush funds for non-primary beneficiary countries.
- (f) Long range planning and provision for use of counterpart funds should have been included.
- (g) Project design was overly vague in defining the technical assistance component.

### 4. Recommendations

- (a) AID project designers be more sensitive to overload of implementing agencies.
- (b) AID project designers designate uses of technical assistance funds by stating specific criteria which relate to the project objectives.
- (c) AID/UWI provide for use of local currency proceeds from sale of law revisions.
- (d) AID/UWI provide for long range planning from TA funds available under project amendment.

### B. Project Implementation

The project has experienced substantial delay in implementation. No country is even close to original schedule; and in some countries implementation is so far behind as to raise serious

doubts whether planned activities can be completed within the five year implementation period.

Relative slowness of implementation should have been anticipated, since this type of project is novel for all concerned. This includes A.I.D., for which prior to the mid '80s initiative there had been no law projects since the late 1960s. UWI had some experience in project implementation, but had none in the justice area nor in management of construction activities. For the recipient governments, the justice systems had essentially no experience in dealing with foreign donors. In the recipient countries, national advisory commissions had to be formed, working relationships among government and private agencies established, and leadership and staff appointed and shaken out.

In view of these problematical factors, some of the countries, Dominica and Belize for example, have performed remarkably well. Others particularly St. Lucia, St. Vincent and Grenada are still struggling.

#### 1. UWI-USAID Organization and Relationships

UWI has employed a distinguished former judge and law professor as director of the project based in an office at the UWI Cave Hill Campus in Barbados. There his support includes not only his office staff but also various other members of the faculty and staff at the UWI. The UWI Project Committee includes as Chairman, the UWI Principal, the Dean of the Law School, the University Finance Officer, and the University Registrar in addition to the Project Director and Deputy Project Director. In implementation of the project, UWI consults closely with AID's CJIP Project Manager at the Eastern Caribbean Regional USAID office in Bridgetown, Barbados.

Except for the construction activities and certain problems with approval and disbursements as discussed below, the evaluation team considers that in general the UWI/USAID organizational relationship has served reasonably well in project implementation.

##### a. Deputy Director Role

We do note however one problem pertaining to the position of Deputy Project Director. Under a compromise worked out among USAID, UWI and the OECS, the Deputy Director of the project is based at OECS headquarters in Castries, St. Lucia. There, in addition to his duties as Deputy Project Director, which include responsibility for supervising project implementation in St. Lucia, St. Vincent and Grenada, he is also specifically responsible "to perform such duties as assigned by the Director General of the OECS".

This is an awkward relationship which subjects that officer to the direction of two masters. It may be more than coincidence that St Lucia, St. Vincent and Grenada are among the countries which have progressed least in project implementation. In an attempt to relieve the ambiguity of this situation the UWI, AID and OECS have recently negotiated a specific agreement that the Deputy Director may be away from St. Lucia for up to one week each month in performing his duties as supervisor of project activities in St. Vincent and Grenada.

b. Primary Coordinators

Included within the project concept was the role of primary coordinator for each country action plan. Employed by UWI with project funds to work with the National Advisory Committee, the responsibility of the primary coordinator was described at Page 21 of the Project Paper as follows: "To coordinate the activities of the National Commission with UWI".

The variable performance of the primary coordinators reflects the vagueness of the term "coordination" in defining a job to be performed. In practice, the primary coordinators were hired on a part-time basis at relatively low wages which principally attract either very young, inexperienced professionals or rather old civil service pensioners. Their performance, as might be expected, was quite variable. In some countries, eg. Dominica and Belize, the primary coordinator has done much in filling administrative voids and seeing that the job gets done. Others have done little more than serve as gofers for the National Advisory Commissions. One was notable by his complete non-participation in our evaluation.

We found a significant parallelism between performance of the primary coordinator and progress of country action programs. Therefore we recommend strongly that more attention be given to recruiting and keeping well qualified, strongly motivated, energetic primary coordinators and that toward that end UWI/AID consider offering more pay to appropriately qualified personnel and to purchase more time, rather than continue on a mandatory part-time basis. In this connection we note that the size of Belize, and correspondingly greater travel requirements add substantially to the demands on the Belize PC.

c. Recommendations

- (a) UWI/USAID watch that Deputy Project Director's utility to project not be impaired by "two master" predicament.
- (b) UWI sharpen definition of responsibilities for primary coordinators, and that such definition include a prescribed periodic reporting format clearly specifying type and quality of information required.

(c) USAID authorize and encourage UWI to hire full time primary coordinators at higher compensation levels as appropriate to accord to nature of their responsibilities.

## 2. Construction approval/disbursement procedures

In all countries visited the team sensed generally high regard for USAID/UWI policies, procedures and personnel involved in management of the Project. Especially appreciated was general UWI/AID flexibility in permitting adjustment of the Project as the Project evolved.

There was, however, universal criticism of the amount of time consumed in disbursement and approval procedures, particularly for construction. We heard of instances of delays of up to four months in obtaining approvals of contracts following submission to UWI for UWI and AID approval. We heard of examples of up to six months delay in obtaining first disbursement under an MOU after it had been executed and forwarded by the participating country Government.

Among those suffering from nonpayment were contractors, including primary coordinators employed by UWI with Project funds. Such delays not only cause embarrassment to all parties involved but can contribute significantly to increased project cost and thereby reduction of accomplishment within the limited financing available under the Project.

When contracts are not approved until after expiration of the bid, it forces renegotiation, often with considerable justification for increased cost because of escalation of labour, material costs and relevant taxes. When the work was contracted to be done during the dry season, extension thereof into the rainy season complicates the work, with consequently increased cost, and causes inconvenience to the users of the facilities.

Of necessity, delay in completion causes corresponding delay in realising the benefits of the Project for the beneficiaries. Perhaps most important, such delays convey the wrong signal to the participating governments concerning the urgency and importance which UWI and AID attach to the Project.

Some causes of such bureaucratic delays are avoidable. For example it appears that until recently UWI and AID had not agreed on special accounts and procedures for handling of foreign exchange disbursements under the Project.

There are many CJIP components in which the UWI performs an important substantive role and will continue to play such a role for the foreseeable future in serving the various countries and institutions among the project beneficiaries. Such activities

include regional training and technical assistance, law library support, legal and paralegal education, law revision etc. It is not UWI's fault that, with respect to construction, UWI is a fifth wheel in project implementation. UWI does not pretend to provide expertise in construction nor does it contemplate a continuing role in providing construction finance services as a development agency.

We see construction as the one area where the UWI role as intermediary has proven more disadvantageous than advantageous to the Project.

a. Conclusion

For construction projects, delays in approval and disbursements resulting from the relatively non-substantive intermediation of UWI, are costly.

b. Recommendation

With respect to construction, UWI delegate to AID authority for approvals and disbursements in order to shorten the chain of communication in expediting such actions.

3. Neglected Components

Finally, with respect to project implementation we have to note that there are certain programs, particularly those with bar associations, which we consider highly worthwhile but have not yet been initiated. These include continuing legal education for lawyers, for which there is keen interest among private sector lawyers, and law related education to inform the public of the nature of the legal system and their rights thereunder. We urge that UWI and USAID make a special effort to get these important programs underway during the remaining years of the project.

4. Co-ordination with USAID Missions in Grenada and Belize.

Of the primary beneficiary countries participating in the so called "UWI component" of the Caribbean Justice Improvement Project, two, Grenada and Belize, have AID representatives. The Grenada AID representative may be leaving shortly, but in Belize the representative heads a fair sized AID mission, and is expected to supervise a substantial AID bilateral programme in Belize for the foreseeable future.

The evaluation team met with the Belize/USAID Representative along with a member of her staff. The USAID Representative has a legal background and showed keen personal interest in the project. While respecting the predominant responsibility of UWI and the Regional AID Office in implementation of the project, she asked to be

informed on progress of the project and offered whatever help she might provide in her role as principal USAID representative in the country.

Similarly in Grenada the evaluation team met with the acting USAID Representative and the US Embassy Charge d'affaires. Again, both exhibited a keen interest in the project, asked to be kept informed, and offered to be of whatever help they could in advancing progress of the project. While the AID Representative's tenure in Grenada may be limited, the presence and interest of an Embassy Charge d'affaires can be anticipated for the foreseeable future.

We suggest that the AID Representative or Charge d'affaires as the case might be, could be especially useful in addressing any outstanding policy issues with the Government of Belize or Grenada. Most of the economic leverage in each of those countries lies in the bilateral assistance program rather than the CJIP. Also, of course, those representatives would better know, and be known to, the government leaders determining budgetary and other policies in their respective countries.

a. Recommendation

The AID Regional Office should seek closer coordination with USAID/Belize and either the USAID representative or Charge d'affaires in Grenada. This would include a request for a designated contact person in each mission, copying such person for project correspondence and including an appointment with the mission contact during any visits.

## IX. SPECIAL ISSUES

### A. Appropriate Technology - Keeping Capital and Maintenance Costs Affordable.

#### 1. Realistically Sustainable Systems

A principal object of the CJIP is to help the participating countries, particularly the primary beneficiary countries, catch up on the long neglected capital maintenance of their justice systems. The CJIP should thus help restore their system of justice to an image and performance level which it had achieved earlier. The CJIP should also help the beneficiary countries gain some efficiencies through certain modern innovations in systems and technology. Those innovations, need be of such nature that they may be sustained in the future within budget levels reasonably to be anticipated for their justice systems within their overall national priorities.

#### 2. Heat and Noise Control

We are impressed that in general, the participating countries have not relied excessively on airconditioning to address noise and heat problems. Airconditioning systems involve high capital outlay at the outset, high energy operating costs, and, following the initial warranty periods, increasingly high service and maintenance costs (if maintained, otherwise complete loss of the systems). In general, beneficiary countries seem to have limited their airconditioning to a practical minimum, relying more on air circulation and fans to control heat, and using the alternative of closing off adjacent streets as a means for controlling noise.

##### a. Recommendation

That participating court systems be encouraged to look to means other than air conditioning for control of heat and noise.

#### 3. "Computerization"

We have heard much ill-informed talk, especially in registries, about all the problems that will be resolved by "computerization". Among most with whom we talked there was remarkably little knowledge of computers, their capital and maintenance costs, and the investment in training and programming to establish applications within a registry. In our travels we have seen too much hardware without software or any knowledge as to their specific applications.

In this connection we note that the study of registries by the National Centre for State Courts recommended a conservative approach in the use of computers and microfilming in registries.

As noted at Part III, we found that report notable by the number of registry people who had not read it.

a. Recommendation

- (a) That there be no further CJIP investment in computers and software without the submission of specific implementation plans for their use consistent with NCSC recommendations.
- (b) That, to assist with such plans, further technical assistance be made available from NCSC or other court administration/registry experts with knowledge of computer applications.

4. Code Revision and Desktop Publishing

The subject of code revision is discussed in more detail elsewhere in this report. As a technology issue, however, we have to note the risk that the CJIP might tend to perpetuate the system whereby every 15 to 20 years or so an external source financed the revision and publication of an extensive code revision (always by leading and expensive law publishers) with notably little done during the interim.

Accordingly we were much impressed by an innovation being adopted in Dominica. The Dominica Law Revision Commission, having almost completed the substance of their work, proposes to use desktop publishing technology to put their revision pages in camera-ready final format ready for printing by any firm or government printing office with photo-offset capability. We understand that even in a country as small as Dominica the government printing office and perhaps other private firms already have such capability. Such approach should not only reduce substantially the printing cost of the current revision efforts, but also greatly facilitate continuous updating. This would eliminate the costly major "catchup" exercises, and most important, at the same time greatly improve access to the current laws and regulations.

a. Recommendation

- (a) That the Dominican desk-top publishing model be considered for emulation by all countries participating in the law revision element of this project.

B. Joint Courthouse/Police Headquarters Facilities - Should the CJIP Be Supporting Continuance of the Practice.

Among the concerns more frequently expressed to the evaluation team by Caribbean lawyers and jurists was the effect on the image of criminal justice for court and police facilities to be in the same building. From our examination it appeared that a substantial majority of the Courts included in the project are such joint

facilities. We saw such facilities in Parham, Antigua and Choiseul, St. Lucia which had a single sign saying "Police Station" but nothing concerning the courthouse. Another joint facility in Les Plaines, Dominica was proposed for a new magistrate's chamber constructed so as to require the magistrate to enter the courtroom through the police charging room. The Choiseul facility already has such an arrangement.

We recognise that for practical reasons it would be difficult to support general refurbishment of magistrate courts without including joint facilities. An isolated court facility which is infrequently used and not continually staffed may derive substantial security benefit from proximity to the police station. However, the project limitation to refurbishing existing facilities rather than building new facilities, tended to perpetuate the current joint facilities in some situations where it would have been appropriate and cost little more, perhaps even less, to build a separate courthouse.

With most construction funds already committed under the CJIP, it is too late to even consider corrective action at this point. This is an area, however, where we believe the project design did not give full weight to the adverse implications of the selected strategy.

#### 1. Recommendation

- (a) If AID were to extend this project or consider a similar project elsewhere, that AID consider carefully the adverse implications before providing financing for joint court/police facilities.

#### C. Court Consolidation - Is CJIP Refurbishing Redundant Buildings?

In the course of our visits to rural courthouses we were impressed by their number, lack of maintenance and frequent proximity to each other. We recognise and respect the policy to make court facilities accessible to the public which they serve. However, most of the court facilities and their locations date back to a period before motor vehicles and bus service increased the distances which the general public might conveniently travel for employment, marketing or other purposes. Although some courts have been discontinued since the advent of the motor vehicle, we are impressed by the need for further rationalisation of the system to use fewer, better maintained courthouses, while still providing reasonable access to the justice system for the public.

The CJIP project as designed does not appear to have taken into account the need for such rationalisation. We suspect that, as a consequence, the CJIP has financed refurbishing of some courthouses which might better have been discontinued.

## 1. Recommendation

- (a) That, were AID to consider similar projects in the future, any refurbishing or reconstruction, except in the more obvious cases, should be preceded by study and analysis, followed of course by endorsement of the political authorities, for rationalisation of the system, looking toward fewer and better facilities adequately maintained.
- (b) That such study be considered by UWI/AID for technical assistance funding under this project.

### D. St. Kitts Courthouse - Self-Help and Redundancy

#### 1. Self-Help

We became aware of the recent \$2.6 million project amendment to provide additional funds for technical assistance and training, but principally to provide \$1.4 million dollars for the construction of a new courthouse in St. Kitts. We recognize that the relatively recent destruction of the St. Kitts courthouse in 1982 presents a special case. Nevertheless, there are parallels between the situation in St. Kitts and those in Antigua and Dominica where provisional facilities have been in use since destruction of courthouses within the last ten years. Also in St. Lucia major modifications of the existing courthouse are proposed to provide much needed additional space. In Dominica and St. Lucia it appears that each Government will have to come up with at least as much counterpart contribution to the courthouse project as is being contributed from the CJIP. Both Governments noted the special provision for St. Kitts, and would sense unfairness if it should appear that the counterpart contribution required of St. Kitts were substantially less than their own for a comparably major courthouse project.

#### 2. Redundancy

Also we note that the new St. Kitts courthouse as currently proposed includes a magistrate court for Basseterre to take the place of an existing magistrate court facility which is one of the finest in the region. The Government of St. Kitts proposes to transfer the existing magistrate court space to the police. Although the St. Kitts project amendment has already been authorised, we suggest that if there were need to compress the project to conform to available financing, deletion of the new magistrate court would be appropriate.

ANNEXES

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## ANNEX ONE - ANTIGUA

### 1.1 FACILITIES RENOVATION

In programming its country specific funds, Antigua has programmed some for magistrates courts around Antigua and one on the island of Barbuda. For the latter refurbishing effort, Antigua's Government has expended substantial amounts in anticipation of reimbursement from AID, which funds have been slow in coming. This reflects a general disbursement delay problem discussed at VIII.B.2.

The bulk of Antigua's funds have been programmed for the project considered to be of highest priority; a major addition to the building converted for courthouse and registry use after the 1973 earthquake. The building now lacks jury room and is considered to need substantially more space for its registry and library functions. Construction has not yet started; the architect was just contracted.

The spokesman for the Antigua justice system expressed hopes for a new High Court Building eventually. For the present, however, especially in view of the limitation OF AID project funds for modification of existing buildings, the GOA has decided to settle for modification of the existing structure.

Antigua, like other countries, presents a problem of Magistrates Courts that are shared with the police so closely that the independence of one from the other may be clouded in public perception. Indeed one rural Magistrate's Court that we visited in Parham, Antigua had only one sign on the building and that said "Police Station" without any indication that it was also a courthouse. The general problem of association between police and Court functions is the subject of more extended discussion at IX B supra.

#### 1.2.1 LAW LIBRARY

##### A. The Problem

When the evaluation team arrived in Antigua, the library services there were much better organised than they were two years ago. The former Supreme Court library was temporarily housed in spacious rented quarters which were not intended for a library. As a result the books had to be stored on shelves along the perimeter of the area and a professional law librarian (VSO) was in charge. She was due to demit office in two weeks and to be replaced by another VSO who is also a professionally qualified law librarian. A para-professional law librarian was acting as an assistant to the VSO. The Government of Antigua had given a

commitment to make space available for the Central Law Library in the Supreme Court building which is to be extended. The Attorney General's Chambers also housed a law library which was split between the Attorney General's private office and an adjacent room, where several volumes of law reports and other texts were shelved. It did not appear that the legal materials in this library were classified and catalogued. The judges, magistrates and the Director of Public Prosecutions and legal draftsmen also had various volumes of legal materials to assist them in their day-to-day functions.

#### B. Project Design

The Government of Antigua made various commitments in order to facilitate the modernisation and up-dating of its library facilities so as to enhance the administration of justice. In particular, the Government undertook to provide assistance and logistical support to any consultants appointed to assess the community's law library service needs as well as the usual commitments relating to: training of two paralegal professional librarians; designation of an appropriate facility for the law library; establishment of a budget line item for upkeep and maintenance of the library; establishment of a regime governing library use, including payment of reasonable user fees by members of the Bar; development of a collection of law library reference materials; a materials security system; a regime governing library use; and establishment of a line item in the national budget for keeping up to date the legal materials in the Central Law Library.

#### C. Implementation

The Government of Antigua seemed anxious to organise and complete the stocking of their library facilities. Construction had not yet begun on the extension of the Supreme Court building but the contract with the architect was signed the day after the evaluators arrived in St Johns. In the meantime, the Government of Antigua had placed an order for the books identified for the library services some four months ago, but the finance officer at the UWI had refused to release the funds against a pro forma invoice for books and equipment until some queries on outstanding accounts had been settled. The Government of Antigua assured the evaluating team that arrangements had been made to accommodate the legal materials in a secure place, and had rented premises to accommodate the books from the Supreme Court Library. Several volumes have been bound and arrangements had been made to engage the services of a professional VSO law librarian to replace the existing one who was due to separate shortly. The old regulations governing use of the law library were elaborated in 1926, but the Attorney General's office was now studying the comments of the VSO professional law librarian on the draft statutes prepared and circulated by the UWI Faculty

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of Law. A user fee system was being actively considered and a provision of US \$50,000 had been made for the upkeep of the library annually for the past four years. One paraprofessional law librarian had been trained and assisted the VSO professional law librarian.

## RECOMMENDATIONS

1. The Government of Antigua should expedite the enactment of regulations governing the use of the Central Law Library, including the imposition of a user fee for private practitioners at the Bar.
2. To enhance its materials security system, the Government of Antigua should consider converting the Central Law Library into a reference facility. In this connection, a heavy duty photocopier should be acquired for the Central Library and a fee charged for photocopying legal materials adequate to cover operating costs, maintenance and eventual replacement of the photocopier.
3. The UWI should accede to the request of the Government of Antigua for the supply of legal materials only if it is satisfied that adequate arrangements have been made for their accommodation, use and security as well as for maintaining the currentness of such materials.

### 1.2.2 LAW REVISION AND REFORM

The Government of Antigua recognised the need to revise its subordinate legislation and statutes which were last revised in 1962. The Government also recognised the need for certain reforms in the administration of justice in order to make legislation more responsive to the needs of the society and to attract and retain professionally qualified personnel in the legal services of the Government. With a view to achieving these objectives the Government had established a Law Reform Commission which, however, was not very active. Consideration had also been given to the future of the Court of Summary jurisdiction which falls midway between the Resident Magistrates' Court and the High Court. This Court dealt largely with matters relating to land compensation. The civil and criminal jurisdiction of the Resident Magistrates' Court had recently been extended and active consideration was being given to enlarging their Civil jurisdiction further to deal with cases involving amounts up to EC\$3,000.

The Government of Antigua was not enamoured with the idea of allowing retired judges to practice in their jurisdictions, but was prepared to go along with relevant developments in the Caricom region. Conditions of service for personnel serving in the legal services of the Government had been improved about two

years ago and another salary review was due to be undertaken in 1990. The competent authorities were in contact with the law revision commissioner who was made aware of desirable changes in the law.

Antigua appeared to have made considerable progress in the area of law revision. A law revision commissioner had been appointed some time ago to revise the statutes and subordinate legislation of the country. Revision of the statutes had been completed by the law revision commissioner who was the incumbent Governor General. The evaluators were informed that the commissioner had submitted to the Government for consideration and action comprehensive draft legislation for the revision of the country's laws. Similar progress has also been registered in the area of subordinate legislation. The Attorney General's office was at present studying the draft legislation submitted by the commissioner.

## RECOMMENDATIONS

1. The Government of Antigua should expedite consideration of the draft legislation submitted by the commissioner so as to facilitate preparation, printing and publishing of the revised laws.
2. The Government of Antigua should employ its best endeavours to ensure that the cost of printing the revised laws was kept well within the allocation identified for the purpose.
3. The UWI should request the Government of Antigua to provide a realistic estimate of revenue to be derived from sales of the revised laws and agree with the Government the manner of disposing of the proceeds consistent with the stated objectives of the CJIP.

### 1.3 COURT REGISTRIES

The facilities and staffing had generally remained in the state outlined in the NCSC Report of December 31, 1987, and the Registrar was not acquainted with that Report.

There was urgent need to save the registry from falling below a tolerable standard. Its security was threatened by unsafe doors and lack of a proper vault. The registry space was wholly inadequate, but the existing space was not properly or fully utilized. Deterioration of records was likely in the absence of prevention efforts from simple orderly stacking to binding and other restoration methods. Long queues waited to receive certificates of births, deaths and marriages produced by the old slow typed method. The registrar had an accurate sense of the crisis, but was pessimistic. He feared that sufficient priority

had not been given to the modernisation of the registry which he considered to be the hub of the commercial legal life of the nation.

Quite apart from the expectancy of additional space for the registry in the extended temporary High Court building and in the proposed new High Court complex, it is recommended that priority be given to implementation of the NCSC Report of December 31, 1987 applicable to Antigua and Barbuda; further, that consideration should be given at this stage to the creation of a separate registry for companies, trade marks, patents and other commercial matters and further that the births, deaths and marriages segment of the registry be automated.

The Attorney General was aware of the whole problem; he had made significant strides to improve the justice system in other areas according to the priority determined by the Government including expedition of the High Court Complex and increased budgetary provision for the justice sector, and appeared to be ready to apply his dynamism to the cause of the registry.

#### 1.4 LEGAL AID

The evaluators learned from consultations with the competent authorities that no progress had been made in establishing a legal aid facility in Antigua. The evaluators were informed that the local Bar Association had not shown any enthusiasm for such a facility in Antigua. One reason adduced for this apparent lack of interest was fear that any such facility would provide unwelcome competition for local practitioners. The Government of Antigua had long since recognised the need for legal aid services in the country and had established a public defender system for persons charged with capital offences, like murder and treason. The Government had also provided a sum of EC\$5,000 in its annual budget for legal aid, but this allocation was never utilised due to the absence of legal aid services in Antigua.

The evaluators believe that the lack of progress in this area was due in large measure to the general perception that OCCBA had been designated to play a catalytic role in the establishment of the facility. OCCBA's lack of inhouse capability to perform the role expected of it has occasioned inaction in this area. The president of the Bar Association did not admit to any diffidence on the part of private practitioners and informed us that the Bar Association would need financial and other technical assistance to get the facility on stream. He expressed surprise at the availability of budgetary provisions to assist in the establishment of a legal aid facility in Antigua.

## RECOMMENDATIONS

1. The UWI should offer to engage the services of consultants to assess under the direction of OCCBA the needs of Antigua in the area of legal aid and to assist in the establishment of a suitable facility.
2. The consultants to be engaged for the purpose should bear in mind the need to establish a facility which can be sustained beyond the PACD of the CJIP.
3. The consultants mentioned above should work in close collaboration with the ECS Secretariat.

### 1.6.2 TRAINING

Antigua recognised the important role of training in enhancing the administration of justice in the country. For this reason, the country had sent participants to the various training programmes sponsored by the UWI and had initiated the training programme for paralegal professionals. Reaction to the programme by prospective students and tutors had been very enthusiastic. Eighty-one persons had applied to be enrolled in the programme and fifteen had just completed the first year examinations. Courses were conducted from Monday to Thursday of each week and lasted for three hours per session. Sessions began at 5:30 p.m. and ended at 8:30 p.m. The programme was based on one offered by Barbados Community College which set the examinations and awarded certificates on successful completion of the programme which lasted for one year. Tutors were drawn from private practitioners and were paid per hour for preparation of materials and travelling. Participants in the programme were not required to pay fees.

## RECOMMENDATIONS

1. Participants in the paralegal training programme should be required to pay a fee so as to enable it to continue after the PACD of the CJIP.
  2. Organizers of the programme should examine the courses offered at the Legal Aid Centre in Jamaica to determine whether the orientation of the Jamaican model could impart insights appropriate for the Antiguan experience.
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## ANNEX TWO - BELIZE

### 2.0 INTRODUCTION

Relative to the other primary beneficiary countries included within the "Eastern Caribbean" part of the Caribbean Justice Improvement Project, Belize has certain distinctive features. Of primary significance, Belize is of such area, 8600 square miles, that it can hardly be characterized as a "microstate". On the other hand, Belize's population of about 160,000 is not significantly larger than the more heavily populated microstates of the OECS. Belize's ratio of population to area, however, is of course much smaller.

Another factor setting off Belize from the OECS members is distance. The OECS states are grouped together in the Windward Island archipelago at a distance of nearly two thousand miles and a full day's travel by air. While Belize is not a member of the Central American Common Market, nor otherwise has close trading or other relationships with its Central American neighbors and Mexico, Belize is still an integral part of Central America.

Belize has a substantial Spanish-speaking population, which during the past decade has been increased substantially by a steady flow of immigrants from the stressed populations of Guatemala, El Salvador and Nicaragua. Also Belize's commercial relations with its Spanish-speaking neighbors are growing. Right now, for example, Belize's international commercial air service is provided by Salvadoran, Honduran and Guatemalan carriers.

Otherwise, however, even more than for other Caribbean and Central American countries, Belize's predominant trade relationship is with its superpower neighbor to the north, the United States. Belize may be the only country outside the United States in which US-made motor vehicles still substantially outnumber those manufactured in other nations. Indeed, there are proportionately fewer non-US vehicles on the road in Belize than in the United States.

Otherwise Belize's ethnic, and cultural ties are still closest to the English-speaking countries of the Caribbean. Particularly is this so in the area of the law, where still prevails the common law tradition, drawing most heavily on U.K precedents, but also to some degree on other common law jurisprudence. The ultimate court of appeal for Belize is still the Privy Council in England. The intermediate Court of Appeal, the highest court in Belize, is empanelled from judges of other common law states of the region. At present, two of the three judges come from the Bahamas.

Even for the legal system, however, there is a distinctive element originating from Central America. Belize has a

substantial indigenous Maya indian population, whose first recourse in the legal system is to a village elder known as "The Alcalde", the Spanish word for mayor. The Alcalde is elected by the members of the community and serves as mediator in community disputes as well as a judge with limited criminal and civil jurisdiction.

## 2.01 OUTLINE OF JUSTICE AND LEGAL SYSTEM

Belize is a constitutional monarchy where executive powers vest in the Queen who acts through her duly appointed representative, the Governor General. Like the other primary beneficiary countries, the administration of justice in Belize is effected through a system of courts based on the rule of law and independence of the judiciary. The constitution of Belize established the superior courts of record, namely the Supreme Court and the Court of Appeal. The Supreme Court enjoys unlimited jurisdiction (original) in both civil and criminal matters. Appeals lie from the Supreme Court to the Court of Appeal. The final court of appeal in both civil and criminal matters is Her Majesty's Judicial Committee of the Privy Council. Appeals lie as a matter of right from the Court of Appeal to the Privy Council in all civil and criminal matters involving the interpretation of the constitution and in respect of any matters prescribed by the Parliament. In other cases leave of the Court of Appeal is required for appeals to the Privy Council.

Independence of the judiciary is secured both by the manner of appointing judges of superior courts and by the method of their remuneration. Salaries of judges are a charge on the consolidated fund. The Chief Justice is appointed by the Governor General on the advice of the Prime Minister and in consultation with the leader of the Opposition. Other judges are appointed by the Governor General on the advice of the Judicial and Legal Services section of the Public Service Commission, established by the constitution, with the concurrence of the Prime Minister and in consultation with the leader of the Opposition.

Magistrates' courts or courts of inferior jurisdiction, are creatures of statute. There is one magistrate court for each of the six judicial districts into which Belize is divided. Belize is unique among the primary beneficiary countries in having a system of justice administered by alcaldes or locally elected officials who hear and determine private disputes on the basis of traditional/customary law.

### 2.1 COURTHOUSE/COURTROOM RENOVATION COMPONENT:

For Belize, as for Jamaica and most other participants in the

Caribbean Justice Improvement Project, the bulk of project resources has been concentrated on improving working conditions in the system. This is accomplished by refurbishing the courthouses and particularly the courtrooms, where the judges and lawyers, the parties and witnesses, among other participants in the justice system must play their parts.

In Belize of a total of \$416,045 initially programmed for country specific activities, \$341,500 or 82% was budgeted for courtroom/courthouse renovation and rehabilitation. Of that amount, the bulk has been directed at renovation of the Supreme Court Building in Belize City. That building, one of Belize's most handsome and historic structures, is in serious need of major repairs in various respects. The project resources, however, are focussed only on the needs of highest priority for the justice system.

The worst problem had been intrusion of sound from the surrounding center city, causing frequent interruption of court proceeding, generally making difficult the taking of oral testimony and argument, and constantly disrupting the concentration of the judges, lawyers, witnesses and jurors among other key participants in the proceedings. During the summer, heat also was a problem. To deal with these problems an airconditioning system has been installed and the sound proofing qualities thereof reenforced by addition of a second layer of windows, which help heat as well as sound insulation. Airconditioning and soundproofing are also being extended to the judges chambers and the library.

Elsewhere in Belize City the magistrates courts and offices are also located in one of Belize's most handsome and historic structures, similarly in need of major repairs. Here again however, the limited resources available under the project had to be focussed on the needs of most importance to administration of justice. For the magistrate's court, which sits three floors above the street level, sound was not as serious a problem as heat. Although, some airconditioning was provided for the judges chambers, the heat problem is addressed principally by use of fans and other means to enhance the flow of air through the courtroom. For the magistrates court as well as for the supreme court building, the most visible improvement will be complete repainting over many years' accumulation of dirt and wear.

Work on the outlying courthouses is of a much lesser magnitude, consisting largely of painting, shelving, etc. There is, however, some construction to provide additional space for the clerks of court and their files, and the regional magistrates and judges. In Orange Walk for example, on premises which are shared with the Treasury Department, the courtroom will be refurbished and two new offices will be constructed to take the place of space currently on loan from Treasury. This should relieve the

court from the current borrower-lender relationship which tends to create undue dependence on another agency of government as well as an irritant in their relations.

In Corozal, in addition to refurbishing, additional office space will be provided for the supreme court judge on circuit and the regional magistrate, as well as filing and other work space for the clerk of court. On the outlying courthouses, the work, all relatively small in scale, seems to us appropriate and consistent with the priorities of the project.

A. Implementation:

In our visits to the various construction sites we were favourably impressed with the type and quality of work which has been done. We were, however, sorry to note that so much had been done relatively recently, and there still remains substantial construction, particularly on the outlying courthouses, which has not even been started. Such delay in construction does not yet present a problem relative to the terminal date of the project. There is still ample time for finishing these relatively minor construction projects, and the plans and specifications were being completed as we were there. The delay does, however, mean that Belize has not gained the benefit of the work as soon as it would have otherwise.

The construction delays are to some degree symptomatic of delay factors elsewhere in the Belize program as discussed below under general observations. For construction, however, there are some additional factors tending to induce delay. In Belize, as in Jamaica, the project is heavily dependent upon the services of one able but overloaded architect. Although slow in coming, so far as we were able to determine the plans and specifications and supervision provided by the architect are of good quality.

In our interview with the architect, he explained that he and his office are severely stretched, with Belize experiencing an unprecedented building boom following independence. We could see the evidence of such boom all around us, especially in Belize City where most of the construction work in the project is being performed. The building boom in Belize, like the intensive construction activity in Jamaica following Hurricane Gilbert, has placed heavy demands on the available supply of materials, and particularly the limited supply of skilled workmen. ~~The architect said that, although he must assume responsibility for~~ part of the delay, the principal factor was the problems of contractors in obtaining the materials, and especially the skilled workmen, needed to perform the work.

**B. Impact:**

In Belize as in Jamaica, there was no question among those who toiled in the administration of justice that renovation of facilities had highest priority. The prevailing heat, noise and crowding in the court and registry facilities, together with the years of accumulated grime and wear and tear, had produced working conditions which substantially impaired the quality as well as the image of justice. From our own personal examination of facilities, some before renovation, we can appreciate the importance of the renovations. We commend those involved in project design in AID, UWI and the participating countries in recognizing the priority to be attached to this aspect of the program.

**2.2.1 LAW LIBRARY DEVELOPMENT**

**A. The Problem:**

Centralization of the law library services of Belize was more likely than not to disadvantage one or another important actor in the legal profession since the seat of the High Court was located in Belize City, the old capital, while the offices of the Attorney General and the Director of Public Prosecutions were located in Belmopan, the administrative capital. This circumstance operated to impose the need for duplication of some relevant legal materials required for the timely and efficient administration of justice in Belize. Such law library services as existed were inadequate for the day-to-day requirements of the principal actors called upon to administer justice in the country both in terms of the availability or accessibility of current, relevant legal materials and efficient management. Improvement in the library services was generally perceived by judges and legal practitioners to be required for the efficient and timely administration of justice and for generating public confidence in the rule of law.

Several deficiencies were evident in the delivery of the library services: absence of budgetary provision for the acquisition of legal materials; poor utilization of the space in the Supreme Court Library; physical deterioration of stocks of legal materials; retention of various out dated legal materials, which, although valuable as rare books or as secondary sources of academic legal research, were of little use to sitting members of the bench, government lawyers and practitioners at the bar; absence of a person trained in the management of a law library and the statutory requirement to confer responsibility for the Supreme Court Library on the Chief Justice and Registrar; the absence of current regulations governing the use and management of the library services; the absence of an adequate security

system to protect the stocks of legal materials from abuse; the absence of a user fee system to generate revenue for the acquisition of current legal materials, and lack of a proper environment in the library to prevent the physical deterioration of legal materials.

Deficiencies in the availability of relevant current legal materials also impacted adversely on the administration of justice in the magisterial districts. There were six magisterial districts in Belize as follows: Belize district administering justice in five courts; Corozal district administering justice in one court; Orange Walk District administering justice in one court; Stann Creek District administering justice in one court; Toledo District administering justice in one court and Cayo District administering justice in three courts. Each of these districts, including the Belize District where the Chief Magistrate presides, suffered from a lack of current legal materials of the most basic kind and which were perceived to be required for the efficient administration of justice. Several of these districts also overlapped with judicial districts where the circuit court of the Supreme Court sat at various times of the year. This meant that justices of the Supreme Court on circuit duties are also disadvantaged by the unavailability of basic, relevant, current legal materials.

With a view to arresting the continual deteriorating condition of the Supreme Court Library, the members of the Supreme Court determined to keep under lock and key in the Chief Justice's chambers such relevant, current legal materials as were in regular demand for the performance of their duties. The Attorney General's office had also recently acquired some stocks of current legal materials which were kept in Belmopan and out of easy access by the judges of the Supreme Court.

#### B. Project Design:

In order to satisfy the peculiar demands of the Belizean situation, the relevant Country Action Plan contemplated a decentralised library service for the legal profession. The Supreme Court Library would be located in Belize city, the seat of the High Court of Justice and two smaller specialist libraries would be located in the offices of the Attorney General and the Director of Public Prosecutions which also accommodate the legal draftsmen. ~~Suitable air-conditioned space would also be made~~ available to accommodate adequate stocks of relevant, current legal materials, while outdated legal materials of little immediate use to judges and practitioners would be disposed of in a order to make room for current legal materials. New up-to-date regulations were to be adopted for the management and use of the library services and a credible security system put in place for the protection of the library stocks. The regime for the Supreme

Court Library was to be managed by a person trained in paraprofessional librarianship while a similar trainee would be made available for the library services in Belmopan. An adequate user fee would be charged for persons having access to the library services and a photocopier acquired to provide interested users with copies of required legal materials at a reasonable charge. It did not appear that there was any intention to provide the magistrates' courts with basic current legal materials nor to make suitable arrangements for their accommodation. An allocation of US\$120,000 had been made for the acquisition of current legal materials and equipment for the library.

C. Implementation:

Through technical assistance provided by the UWI, the Belizean government obtained the services of a professionally trained law librarian from Jamaica to assess the needs of the legal library services and to make recommendations for the acquisition of legal materials for a centralised law library. The relevant report was submitted to the competent authorities. In the meantime, the competent authorities canvassed and examined various options for accommodating the facilities of the Supreme Court Library before agreeing that the needs of the judicial system in this particular could be best satisfied by a small practitioners' library to be accommodated in the existing premises of the Supreme Court and which would be refurbished and enlarged for the purpose.

In order to optimize the use of the available space, the Chief Justice and the president of the Belize Bar Association had arranged to consult on the identification and disposal of outdated legal materials. Two persons had been identified for training as paraprofessional law librarians, one of whom was unable to participate in the relevant training programme. The other trainee had since separated from the service of the government. The area of the Supreme Court identified for the Supreme Court Library has been air-conditioned. An order had been placed for metal shelves to accommodate the legal materials to be retained and acquired but there was some uncertainty whether the existing wooden shelves should not be modified and used. The floor of the area identified for housing the Supreme Court Library was to be repaired but the extension to this area had not yet commenced. Given that the terms of reference of the specialist librarian from Jamaica contemplated a much larger, centralised Supreme Court Library, there was need to review the list of recommended legal materials to be acquired in order to tailor it to the requirements of a smaller practitioners' library. The Attorney General's office was examining the draft statutes for law libraries prepared and distributed by the UWI Project Office.

The evaluators appreciated that in view of the decision to accommodate the facilities of the Supreme Court Library in the premises of the existing Supreme Court, progress in adapting the area identified to the needs of these library services was constrained by the same factors which impeded renovation of other parts of the building. The foregoing notwithstanding, however, it is submitted that greater headway could have been made in terms of: identifying the legal materials to be disposed of; determining the new stocks of legal materials to be acquired; adopting new regulations for the management and use of the library services of the Supreme Court; establishing a security regime for the library, and submitting a formal request to the UWI for funds to acquire the legal materials required.

#### RECOMMENDATIONS:

1. The expressed intention by the competent authorities to convert the Supreme Court library from a lending to a reference facility in order to reinforce the security regime to be established should be incorporated into the regulations for the management and use of the library services;
2. The statutes governing the use of law libraries circulated by the UWI Project Office should be implemented into law, mutatis mutandis, as expeditiously as possible;
3. The security regime for the law library services should be established as early as practicable;
4. The regime established for the management use and security of the Supreme Court Library should apply mutatis mutandis to the specialist law libraries to be established in Belmopan;
5. Suitable arrangements should be made for the accommodation and security of the basic legal materials recommended to be provided for the magistrates' courts.
6. The competent authorities, in consultation with the specialist librarian, should identify as soon as practicable the list of books for the Supreme Court Library and the specialist libraries to be established in Belmopan;
7. The UWI should make available, by way of technical assistance, the services of the specialist law librarian for a short-period to assist the Belizean authorities in identifying a revised list of legal materials adequate for the needs of the legal services;
8. The revised list of legal materials mentioned above should be settled by the competent authorities as soon as possible and should provide for basic legal materials for the magistrates' courts bearing in mind the possible requirements of those courts where sessions of the circuit court of the Supreme Court are held;

9. The repairs and extension of the area identified for accommodating the Supreme Court Library should be completed as expeditiously as possible;
10. Subject to incurring no legal liability, the order for the metal shelves should be cancelled and the existing wooden shelves be modified to accommodate the legal materials identified for the Supreme Court Library;
11. The Government of Belize should give a formal undertaking to make available to the legal library services the services of the trained librarian at present in its employment pending training of two more paraprofessional law librarians for the Supreme Court Library and the specialist libraries in Belmopan.
12. The primary coordinator should monitor and report on the progress of activities identified above;
13. The UWI should not accommodate requests from the Government of Belize for supply of legal materials unless it is satisfied that adequate arrangements are in place to accommodate them, including the adaptation and extension of the area identified for the Supreme Court Library and the establishment of a regime for the management, use and security of the legal library services in Belize.

#### 2.2.2 LAW REVISION/REFORM

##### A. Law Revision:

##### 1. The Problem:

Principal statutes were revised in Belize in 1980 and subordinate legislation or statutory instruments in 1963. In the absence of a relatively up-to-date compilation of legislation, important actors in the legal system are hard-pressed to determine the exact status of the law on any given issue at any given time. For Belize, a partly Spanish-speaking country troubled with an influx of illegal immigrants from Central America and striving to attract foreign investment, accurate knowledge about the law assumes a great measure of significance. Although opinions differ in relevant legal circles about the relative importance of revising the statutes or the subordinate legislation, it was determined to revise the subordinate legislation and to produce a revised supplement to the statutes.

##### 2. Project Design:

The design of this country-specific activity was constrained by policy guidelines applicable to the Caribbean Justice Improvement Project. According to these guidelines USAID was prepared to fund only the cost of preparing materials, and printing and

publishing of revised legislation. It was envisaged that other aid donors would bear the cost of actually revising the legislation. In this scenario the Government of Belize had requested US\$130,000 for printing and publishing the revised subordinate legislation. CFTC had agreed to bear the cost of their revision. The Government of Belize had also requested US\$6,000 from UWI to print and publish a revised supplement to the statutes. Recently, a request had also been made for funds to produce the revised supplement at an undisclosed cost.

### 3. Implementation:

Despite the agreement of CFTC to provide funding for the revision of subordinate legislation some time ago, the revision exercise was yet to commence and the evaluators do not entertain any sanguine expectations that the work will be completed in time. This conviction is supported by the submission appearing at page 8 of the UWI Draft Report on the Caribbean Justice Improvement Project after two years of activities, and which read as follows: "The importance of entering into early contractual arrangements with Law Revision Commissioners was stressed. It was also pointed out that law revision is an exercise which takes at least three years to complete, and since the project funds for printing must be committed before the Project completion date, the process should get underway in each territory as soon after the project commenced as possible."

The inordinate delay had been occasioned by the difficulty of identifying a law revision commissioner satisfactory to the Government of Belize to undertake the assignment. Several candidates proposed by CFTC had been rejected by the Government which eventually approached the faculty of law at the UWI to do the work. CFTC was reluctant to sanction an institution for the purpose on the ground that intrusion of the corporate veil would compromise the attribution of personal responsibility for the quality of the final product. By the time CFTC was persuaded to accept the UWI as a contractor more than a year had elapsed. It is understood that the UWI has determined that the revision of the subordinate legislation would take no more than eighteen months and this should allow for the printing and publishing within the PACD.

Similar delays had retarded progress on the production of the supplement to the statutes. Work on the supplement was actually completed, but the independence of Belize in 1981 interposed itself between its commencement and publication date, 1984. In the result the work was out of date before its publication in 1984, since the written constitution of an independent Belize necessitated numerous consequential changes in the text of the supplement. The Law Revision Unit which had been established to produce the supplement attempted to complete the work, but the

product was expressed to be far from satisfactory. The Government of Belize once again invited the Faculty of Law at the UWI to undertake the assignment and negotiations were still in progress. It is understood that the Faculty of Law at the UWI had established a time-frame of one year for the completion of the supplement. The Government of Belize had requested funding from the CJIP for this revision exercise.

The evaluators realize the implications of accommodating the request by the Government of Belize for funding of the preparation of the supplement. Accommodation of this request would not conform to the previously agreed policy guidelines for the CJIP, which envisage that funding for the revision exercise would come from other donor countries. The evaluators take some solace from the fact, however, that the competent authorities designated to oversee and manage the CJIP are very well placed to safeguard the integrity of the project by any determination arrived at in this context.

#### B. Law Reform:

As a guid pro quo for benefiting from the CJIP, the Government of Belize had agreed, among other things, to establish a Law Reform Commission to examine and make recommendations about desirable reforms in the laws of the country. Consultations have confirmed that to date no such Commission has been established. It is understood, however, that an informal committee on law reform was in existence and that this committee tendered informal advice on desirable reform of the laws. The evaluators are persuaded, however, that the arrangements expressed to be in place do not constitute an adequate fulfilment of the relevant obligation mentioned above. Consultations with members of the Judiciary appeared to suggest that there was a crying need for reform in some areas of the criminal law. By way of example, the evaluators' attention was drawn to the need to extend the reach of the public defender system to such crimes as rape, abduction and kidnapping.

Concern was also expressed about changes in the criminal law relating to the mandatory imposition of sentences for certain offenses. It was averred that these changes were implemented without inviting the judiciary to make an input. As a result, the discretion of the judges in relevant cases was removed and juries tended to return perverse verdicts.

#### RECOMMENDATIONS:

1. The Government of Belize should employ its best endeavors to ensure that the revision of the statutes and subordinate legislation is completed in good time in order to take

advantage of the allocations for their printing and publishing before the PACD.

2. In arriving at a determination on the request by the Government of Belize for funds to revise the statutes, the competent authorities should address fully the policy implications of accommodating the request.
3. The Government of Belize should address, as a matter of urgency the establishment of the Law Reform Commission to identify and advise on desirable reform of the laws.

### 2.3 REGISTRY MODERNIZATION:

The Registry of the Supreme Court Building in Belize City includes not only the court records, but also the registry for companies and corporations, births and deaths, marriages and divorces, and the registry of deeds for land. Although, modernization of the registry was included as an item within the Belize Country Action Plan, little has been done on the registry portion of the Plan thus far.

A team from the National Center for State Courts came to Belize to examine the functions and operation of the registries and make recommendations for their improvement. Their report generally commended the functioning of the system under highly adverse conditions. While noting certain areas in which computer technology might be applied, their report did not urge that such applications be adopted immediately; indeed they urged caution in moving ahead a step at a time.

The Registry is afflicted with several problems, most prominent of which is extreme shortage of space. Also there are some aspects of the operation which are relatively inefficient, including continued use of hand copying and hand typing of records either for recording or providing evidence of recording, or for replacing worn indices. We strongly urge that, as a first step in seeking greater efficiency, there be increased use of photocopying in substitution for retyping and handcopying.

The Government of Belize is now planning to expand the space available to the Registry within the Supreme Court Building. Also they propose to move at least some of the Registry functions elsewhere. Among most likely targets for early removal would be the corporate and company records. Also some equipment will be sought for increased efficiency; and, as noted above, we strongly endorse increased use of photocopiers to substitute for the manual processes now prevailing.

Otherwise we do not recommend emphasis on the Registry within the Country Action Program. No one indicated to us that the court

record keeping system is a significant constraint on the functioning of the court system. Beyond the court records, this particular project should not concern itself with the registries of companies, vital statistics and deeds, since, however worthy of attention otherwise, they are not a significant factor in administration of justice.

#### RECOMMENDATIONS:

1. Increase use of photocopiers in substitution for manual processes.
2. Do not emphasize registry within Country Action Program.

#### 2.4 LEGAL AID:

The concept of legal aid for the abjectly indigent in society defines the response of humanitarian groups to the predicament of the disadvantaged in establishing and vindicating their legal entitlements. In Belize, the need for legal aid to disadvantaged groups in society was underscored by the co-existence of Spanish and Anglo-Saxon cultural influences in a common law system. In a society where a significant portion of the population is far more comfortable speaking and understanding Spanish, determination of their rights under the laws, which are written in English, the official language, is not easily achieved.

The Legal Aid Centre in Belize was established around 1979 and has continued in existence since then. For the greater part of its existence it was managed by a lawyer, but for the past eighteen months management devolved on a paralegal professional, who, by all reports was doing a commendable job. Funding for the Centre came from the Government (which recently increased its annual grant from B\$8,7000 - \$10,000), retainer and other nominal fees paid by beneficiaries of its services, private businesses and voluntary organizations. The Bar Association did not feel constrained to make a monetary contribution since legal practitioners extend their services at no cost. Like the Centre in Jamaica, the Belize Legal Aid Centre is a private company limited by guarantee and the Bar Association of Belize is the largest single guarantor. The Centre is located in Belize City but there is a proposal to use the offices of the Social Development Department in outlying districts as part of an outreach programme.

Beneficiaries of the Centre's activities are required to pay a small retainer fee of \$5.00 to establish their financial interest. In order to qualify for legal aid, prospective beneficiaries must pass a means test which solicits information on income, rent, water rates, energy bill, number of dependants and the like. Persons seeking legal aid would not be required to

pay more than about \$100 for the assistance extended and more often than not the money is not collected. The Centre deals with persons referred to it by attorneys, churches and various Government Departments and in turn would refer persons to attorneys where the amounts sought to be recovered in any case appears to be capable of accommodating a reasonable contingency fee to be charged by the attorney. Cases normally falling to be considered by the Centre relate to probate, administration and divorce. Where petitions for divorce are involved one or another attorney would appear in court on behalf of the petitioner, but the Centre looks after the setting down of dates for hearing and enlisting the services of attorneys at the material time.

The center has benefited from technical assistance from the UWI in the form of office equipment. At present the Centre is plagued with budgetary problems and had to borrow \$2,500 from the Belize Bar Association. A request for assistance has been submitted to the CJIP, which has agreed to extend technical assistance for one year in an amount of \$22,000 to defray personnel costs. For the future, it is proposed to approach the GOB Social Development Dept. for financial assistance. It is understood that this institution has a fund for charitable purposes, which has grown considerably over the years. The evaluators endorse the decision of the CJIP to accommodate the Centre's request for funding.

#### **RECOMMENDATION:**

USAID and UWI should give careful consideration to the organization of legal aid services in Belize with a view to suggesting this model for adaptation in other participating countries. The attractiveness of this model is to be found in its restricted scope, cost-effectiveness and likely sustainability.

#### **2.5 POLICY COMMITMENT:**

The principal policy commitments including in the Belize Country Action Plan were: (1) To raise compensation schedules for judges and other lawyers in the public service to a level sufficient to attract people with the necessary qualifications. (2) To raise the annual appropriation for the court system to allow the system to maintain and sustain the improvements made under the Justice Improvement Project. and (3) To establish library policy and user fees of a nature to sustain the library as expanded with project resources.

Pursuant to its commitment, the Government of Belize had revised the salary scales of legal personnel in its service in an amount approximating to a 50% increase. Income tax on gratuities of

contract officers had been abolished resulting in an additional increment of emoluments for this category of public servants. Despite the recent increases in compensation of lawyers in public service, there continues to be an extreme shortage of lawyers in Belize. The expanding economy has increased the demand for legal services at a rate faster than new lawyers are coming into the system. Lawyers are in such a demand that private firms are offering to buy out the public service obligation of returning scholarship graduates of the UWI Law school.

Current practice for such scholarships is to bond the student such that he agrees to serve in a public position for a period of time corresponding to the period of the scholarship. Alternatively he must reimburse the government for all costs incurred by the government in providing scholarship assistance. When private firms recruiting such graduates "buy off the bond", they are in effect converting the scholarship/public service arrangement into an interest free loan of the cost of attending law school. The existing bond arrangement thus provides insufficient motivation to hold the law graduate to the public service undertaking and fails to recognize the opportunity cost to the public service when there is no lawyer available to take the place of the returning graduate who has been lured into private practice. To deal with this situation we suggested that to provide further motivation for the scholarship beneficiary to honor his or her public service obligation, and in recognition of the opportunity cost, a substantial penalty should be applied over and above the reimbursement of government expenditures. The Belize Solicitor General welcomed the suggestion and said that it would be given full consideration.

Facing such a shortage of Belizean lawyers, the Solicitor General is actively recruiting lawyers for public service from other countries in the Caribbean and elsewhere where the supply of lawyers is more ample relative to demand, such as Guyana and Sri Lanka. The Solicitor General expressed some optimism that compensation levels had been raised sufficiently to attract candidates, but noted that there may be need for further increase in order to obtain people with the necessary qualifications.

In view of the current scarcity of professionally trained candidates, and the fully adequate performance of some incumbents who are not professionally trained, the Government of Belize is disposed to continue a practice of employing otherwise qualified people as resident magistrates and clerks of court. To provide an essential level of professional training for such people, the Government of Belize, as described elsewhere in this report, proposes to provide paralegal training for clerks of courts and lay magistrates. There is general recognition within the legal profession that while the ideal would include professional qualification for clerks of court as well as resident magistrates, the present situation does not permit such optimum

solution. They sense that a more realistic approach, over the next ten years at least, is to build up the competence of available lay personnel for such positions through supplementary legal training. We recommend acceptance of such an approach.

To maintain the facilities and equipment of the justice system at the level to which they have been raised under the project, those responsible for administration of justice must seek and obtain the necessary appropriations on a year-to-year basis. Fee structures for legal services can be adjusted somewhat especially in the library area as discussed below; but the bulk of financing for a higher level of maintenance must come from the public treasury.

We note that in Belize, because of a setoff arrangement between the electric utility and the Government arising from the Government's amortization of utility debt over past years, there has been no billing of the Government for energy costs. That will change almost immediately; and, especially because of the airconditioning costs arising from this project, the energy component within the justice budget can be expected to be substantial. Otherwise the maintenance of the airconditioning systems is included within the procurement contracts for periods up to six years. Eventually, however, there must be provision for maintenance of the airconditioning systems within the annual budget of the justice system. Further as noted above, there still remains substantial work to be done on the courthouses to insure the usefulness of these structures over the long term. This will involve a certain amount of money for capital maintenance which should not be deferred longer.

We recommend that, before AID/UWI disburses much more under the Country Action Program, the Belize justice system should come up with some relatively firm estimates of cost for maintaining and sustaining the justice system over the next several years and indicate how the GOB expects to cover these expenditures within its budgets.

Relative to user fees, registry and court filing fees can be increased somewhat without being excessively burdensome on the users of the system. The library should look largely to user fees for sustaining its currency through annual purchases of additional case reports and cumulative supplements plus new texts and treatises as appropriate. Private lawyers have indicated their willingness to contribute substantially to such costs. The Belizean legal fraternity is relatively small, however, and, even among that small number, not all lawyers use the library to the same degree and would be sufficiently motivated to pay the full costs involved.

We recommend that before further disbursements for library acquisitions the Belizean justice system should provide a firm

estimate of the annual cost of maintaining the library at the level now planned and indicate how those costs will be borne by user fees and public funds.

#### RECOMMENDATIONS:

1. GOB should add substantial penalty to reimbursement requirement for scholarship law graduates who default on government service obligation.
2. GOB should continue to increase compensation for lawyers in public service.
3. AID/UWI support GOB efforts to train lay personnel as appropriate for paraprofessional service in Belize justice system.
4. As a condition to further disbursement, AID/UWI require GOB estimate extent of cost increases for justice system, and determine sources of funding thereof.

#### 2.6.2 TRAINING

##### A. The Problem:

An acute recurring problem in the administration of justice in Belize was the inability of the government to attract and retain professionally qualified personnel in the various departments of the legal services. The number of professionally trained legal personnel in Belize, approximately 36 lawyers, had always been inadequate to satisfy the demand for their services, especially in the private sector where more lucrative opportunities for employment were perceived to exist. More often than not lawyers trained at public expense declined to honour their contractual obligation to serve in the Government for an agreed period. In the result, trained judges and lawyers engaged to serve with the Government on the bench and in the offices of the Attorney General and the Director of Public Prosecutions have traditionally been contracted from outside of the country. Two vacancies existed for judges and three for magistrates. The Chief Justice, one puisne judge, the Attorney General, the legal draftsman and several lawyers in the Director of Public Prosecutions' office are non-Belizean contract officers. The magistracy was staffed by one chief magistrate, a Belizean trained professional, and five lay magistrates who have had varying degrees of exposure to the administration of justice. The shortage of magistrates resulted in the tardy submission of depositions to judges of the Supreme Court and this in turn impedes the expedition of trials. The Registrar of the Supreme Court was not professionally trained nor were the persons performing duties as clerks of the Court. There was no legal requirement for persons serving in either capacity to be professionally qualified lawyers. Several paralegals in the

court system mechanistically performed services employing relevant skills acquired on the job without appreciating the law validating the activities in which they were engaged.

Despite the profusion of professionally unqualified personnel in the legal services of the Government, however, it would be unwise to conclude that the administration of justice in Belize was in danger of collapse. Many of those persons had given long years of devoted service in their respective offices and have acquired relevant practical experience which allowed them to function at surprisingly high levels of competence. This was particularly true of some of the lay magistrates and employees of the civil registry. Despite this, however, it was generally conceded that exposure of these professionally unqualified persons to appropriate training in the law would enhance the quality of their performance with probable beneficial effects on public confidence in the administration of justice and respect for the rule of law.

#### B. Project Design:

With a view to attracting and retaining professionally qualified personnel in its judicial and legal services, the Government of Belize undertook to appoint a committee to review and make recommendations to revise the salary scales concerned. The Government also undertook to provide a larger budget allocation for the justice sector. It was proposed that Belize would participate in the regional training courses for police prosecutors and establish a paralegal training course primarily for persons in the public sector but open to participants from the private sector on appropriate terms and conditions. Local seminars and workshops would be organised for the training of justices of the peace and alcaldes in the exercise of their powers and discharge of their duties. The Government of Belize would take advantage, as appropriate, of regional training courses organised by the UWI for law librarians, the judiciary, court stenographers, court and registry management personnel, legal aid personnel, law revision, reporting and editing personnel. In addition, the Extra Mural Department of the UWI would participate in the Challenge Programme under which persons could proceed to the first year LL.B. examinations and qualify for the Certificate in Introductory Legal Studies after successfully completing two years of course work. Belize would also participate in the University of the West Indies Distance Teaching Experiment (UWIDITE).

#### C. Implementation:

The Chief magistrate and the Dean of the University College of Belize undertook a study tour of the paralegal training

institutions in Jamaica and Barbados with a view to establishing a similar training programme in Belize. It was thought that the Jamaican programme was more appropriate for Belizean conditions and could be adapted to meet the perceived requirements of paralegals in the country. The programme will target lay magistrates, clerks of the court, bailiffs, marshalls and other court personnel but would be open to a limited number of paralegals from the private sector. It was envisaged that the course would be accredited through the Council of Legal Education in Jamaica and Certificates issued by the Norman Manley Law School there. Eventually, the University College of Belize would issue the certificates.

Otherwise, one lay magistrate attended a training course for family court personnel and the services of a Jamaican family court expert were engaged to train prospective family court personnel in Belize. The UWIDITE programme could not be established in Belize on account of technical problems involved. The UWI Challenge Programme had attracted only one participant since its inception. The unenthusiastic response to this programme had been partly attributed to the fact that no certificates were intended to be issued to persons successfully completing the programme which consisted of five courses to be completed largely through self-study. Students completing the part one of the LL.B degree successfully had the option to do three more courses so as to qualify for the two year Certificate in Introductory Legal Studies. Funding had been requested from UWI under the Caribbean Justice Improvement Project to acquire books and remunerate tutors for the programme. No participants were at present benefiting from this course and the poor response had been attributed to lack of advertising and aggressive recruitment. A regional course in legal reporting had been scheduled for Belize in August, 1989. The Extra Mural Department of the UWI had conducted one training course for alcaldes and another was being planned for justices of the peace. Staff shortages prevented various paralegal personnel from being allowed to benefit from relevant courses sponsored by the UWI under the Caribbean Justice Improvement Project.

The evaluators consider that the system of lay magistrates operating de facto in Belize appeared to have been a timely and pragmatic response to the problem of recruiting and retaining professionally qualified lawyers to serve as judges of the inferior courts. Discussions with members of the bar and the judiciary confirmed that the system was working satisfactorily, and, given that professionally qualified magistrates are more often than not enticed away from the Government service, it might very well be that the most realistic approach to the solution of the problem of retaining qualified personnel was to institutionalise the system of lay magistrates, enhance the quality of their performance by appropriate paralegal training courses, and to incorporate into the system adequate safeguards

against the miscarriage of justice. In practice, lay magistrates uncertain about various points of law in issue before them adjourned the proceedings in order to seek advice from the Chief Magistrate, one or another judge of the Supreme Court or from the Attorney General's office.

#### **RECOMMENDATIONS:**

1. The paralegal training program should be structured to accommodate the need of paralegals for relevant courses in law and the constraints inhibiting attendance at these courses. In the absence of such an accommodation, the incidence of absenteeism is likely to be high. In this connection much can be learned from the organization of magistrates' courses in Jamaica where instruction was conducted over the weekends.
2. Given the critically important role performed by paralegals in the administration of justice in Belize and the constraints inhibiting participation of Belizean paralegal personnel in relevant regional training courses, the UWI should respond in a timely manner to the request from the Government of Belize for technical assistance in funding the proposed para legal training programme.
3. The Government of Belize should undertake a cost-benefit analysis of having professional trainee attorneys attend courses for the part one of the LL.B at either Cave Hill or to Mona or enrolling for these courses at the extra mural Challenge Programme through Government sponsorship.
4. Subject to budgetary constraints and applicable policy guidelines, the UWI should consider accommodating the request from the Government of Belize for technical assistance to undertake the training of JPs and Alcaldes.
5. The Education Sub-Committee of the National Advisory Committee should be kept fully informed about opportunities for training available or contemplated under the Caribbean Justice Improvement Project in order to enable it to make relevant inputs on a timely basis.

#### **2.7 CASE-REPORT/TEXTBOOK REVOLVING FUND:**

In our interviews in Belize we did not learn of any books proposed for publication through the facilities of the UWI Revolving Fund, nor did we become aware of any need for such books at this time.

We did discuss at some length with various judges and lawyers the reporting of decisions by the Belize Court of Appeals. The Belize Court of Appeals now hears and writes decisions for an average of about a dozen cases per year. One of the Belize Supreme Court judges screens the decided cases each year weeding out the more repetitive criminal cases, before forwarding the remainder to Butterworths, a U.K. law publishing firm, for final selection for publication. Of that number, one of more may be selected for the annual volume of West Indies Reports. Otherwise all decisions of the Belize Court of Appeals are published for the use of judges and interested lawyers by mimeographing without headnotes.

During our discussions in Belize among interested lawyers and judges, a general consensus evolved on an approach which would take the mimeographed decisions a step further by having the decisions headnoted. Then they would be either mimeographed or multilithed in a format for insertion in binders if the subscriber so chose. This service could be provided either by the Belize Bar Association or by the Supreme Court Librarian for a subscription fee set at a sufficiently high level to cover the modest cost. In view of the limited size of the Belizean clientele for such a service, probably not exceeding 50 lawyers and judges, and not all of which lawyers would necessarily subscribe to the service, this appears to be an eminently practical approach.

We would not recommend subsidizing a more elaborate publication of Belizean Law Reports in competition with Butterworth's West Indies Reports. That private firm appears to be doing an adequate job of publishing selected cases contributing to Caribbean jurisprudence. Further such format tends to encourage lawyers and judges in the Caribbean microstates to look to a larger body of jurisprudence as reflective of the common law of the region rather than investing precious resources in subsidized publication of local cases in a more elaborate format.

**RECOMMENDATION:**

1. Avoid subsidy of case reports.

## **ANNEX THREE - DOMINICA**

### **3.1 FACILITIES RENOVATION**

Refurbishing of courthouses is relatively well advanced in Dominica. Extensive renovations have already been completed in conversion of the old Treasury Building to the principal Courthouse and Registry. The original Courthouse and Registry had been destroyed by fire about ten years ago.

Work is about to begin on several rural magistrates courts. There has been some delay in Dominica because of the building boom which the country is enjoying, producing shortages of some materials and skilled workmen. Despite this obstacle we are impressed that Dominica has achieved good progress on its own initiative. Indeed the Government of Dominica is sufficiently concerned with rapid progress in courthouse refurbishing to move ahead with its own funds in advance of disbursement of CJIP funds. Further, Dominica has undertaken to extend its programme beyond the portion which can be financed by CJIP funds.

We were further impressed that in Dominica investment in air-conditioning equipment with its heavy capital, operating and maintenance costs has been kept to a minimum. Dominica continues extensive use of the alternative of fans and cross ventilation through open windows with closing of nearby streets during court sessions as principal means to control heat and noise.

In Dominica, as elsewhere, several of the rural magistrates' courts are located in buildings shared with other agencies of the Government, particularly the police. The complications arising from such joint facilities are discussed at IX.B above.

#### **3.2.1 LAW LIBRARY DEVELOPMENT**

##### **A. The Problem:**

The law library services of the Commonwealth of Dominica were inadequate to serve the legal community. The Central Law Library was, at the time of the evaluator's visit, located in a small room adjacent to the civil registry which also housed the Government bindery. This facility was not adequately stocked with case reports and other legal reference materials and several of the texts in stock were in need of fumigation and binding. The judge's chambers also contained some case reports and basic texts but required updating to make them current. The Attorney General's Chambers were blessed with several sets of case reports and up-to-date basic text books. The legal materials mentioned above were not classified and catalogued, and there was no regime governing library use and materials security. The magistrate's

courts were not adequately supplied with legal materials and even the Laws of Dominica were conspicuous by their absence in the magistrate's court at La Fleine.

B. Project Design:

The Government of Dominica, with technical assistance from the UWI provided under the CJIP, had made an assessment of its library services required to satisfy the demands of an efficient administration of justice. In the light of this assessment, the Government had proposed to identify and allocate a suitable area in the Supreme Court to accommodate legal materials for a central library to serve the legal community. The Government also proposed to acquire legal materials for specialist libraries for the Attorney General's Office, the judge's chambers and the magistrates' courts. By way of establishing its commitment to establish modern and adequate law library services, the Government had undertaken to: establish a national budget line item for library maintenance and upkeep; establish and enforce a reasonable user fee system for the practising Bar and a regime for library use and materials security; design and develop a collection of law reference materials; designate two persons for training as paraprofessional law librarians and budget annually for these positions; and establish a national budget line item for maintaining the currentness of the legal materials in the library.

C. Implementation:

Establishment of the library to serve the legal community had been dictated by the pace of refurbishing the Supreme Court where this facility is to be housed. In the absence of suitable accommodation to store legal materials, no order had been placed for them even though the materials to be acquired have been identified. Recently, the Government had doubled its budget allocation for the library from EC\$5,000 to EC\$10,000 and had trained two paraprofessional law librarians, one of whom managed the books in the Supreme Court library. The other trainee was still in the employment of the Government. The Attorney General's office was examining the draft library bill circulated by the faculty of law of UWI and consideration was being given to establishing a user fee system for private practitioners benefiting from the library facilities. A materials security regime had not yet been elaborated.

**RECOMMENDATIONS**

1. The Government should expedite refurbishing the Supreme Court and provide facilities in the magistrate's court

- adequate for the accommodation and security of the legal materials to be acquired for them.
2. The Government should employ its best endeavours to discharge as soon as practicable its commitments relating to the establishment of a regime for the use and security of the legal materials to be acquired for the library.
  3. The UWI should not accede to a request from the Government for the supply of legal materials until it is satisfied that adequate arrangements are in place for the accommodation, security and use of such materials.

### 3.2.2 LAW REVISION AND REFORM

The laws of the Commonwealth of Dominica were last revised in 1961 and the attainment of independence by that country in 1978 coupled with the legislative programme which followed had operated to underscore the need to have the laws revised. The Government had secured from UNDP the services of a law revision commissioner to revise the laws and had appointed a local counterpart to understudy and work with the commissioner. The Government also established a Law Revision Commission to advise the law revision commissioner on appropriate changes to the laws. The law revision exercise commenced in 1985, and at the time the evaluating team visited Dominica the commissioner had almost completed the revision exercise. Revision of the laws was at such an advanced stage that the laws would be ready to begin going to the printers in January, 1990. In the meantime, the Government of Dominica had invited bids for the printing of the laws, including composition and typesetting, from four companies; three in the United Kingdom and one in the United States as follows: Grosvenor - (Eyre and Spottiswoods), Eastern Press, Municipal Code Corporation (U.S.A.) and Linneys. The quotations submitted by the above companies were £205,146, £191,059; £176,360 and £254,290 respectively.

With a view to restricting the printing costs within the allocation estimated for the purpose, to wit, US\$270,000 and to build up a local capability in the relevant area, the law revision committee determined that the composition and typesetting of the revised laws should be undertaken in Dominica and dispatched to the selected printer for printing. The quotations submitted by the above firms for producing the revised laws consisting of 500 sets of 12 volumes each are as follows: £122,146 (Grosvenor), £104,659 (Eastern Press), £167,000 (Municipal Code Corporation). Linneys was not prepared to undertake the printing on this basis. Should the Government of Dominica undertake the composition and typesetting of the laws, an amount of US\$144,757 would be required for the purchase of a computer (desktop publishing system) - Apple McIntosh (\$46,137), payment for the services of a local secretarial agency (\$29,120) and additional funds to cover computer accessories,

freight and insurance for the computer, training, furniture, anti-magnetic safes, stationery and travel (\$69,000). The total cost of printing the revised laws using this approach would be US\$249,266 thereby resulting in a saving of US\$20,734.

The Government of Dominica submitted that adoption of the approach envisaged would allow that country to build up expertise in desk top publishing which could be passed on to other PBCs in order to reduce the cost of printing their own revised laws. The evaluators were encouraged by the efforts of the Government of Dominica to effect savings in the printing of their revised laws, but would wish to be assured that: the quotations for the various heads of expenditure for the composition and typesetting of the revised laws were the best to be secured for the activities identified; the secretarial services to be engaged could deliver on their contract; and the printing of the revised laws (absent composition and typesetting) could not be done locally or within the Caricom region at a considerably reduced cost.

### RECOMMENDATIONS

1. USAID/UWI should carefully examine the Dominica proposal to determine its feasibility.
2. USAID/UWI should seek to ensure that the quotations submitted for commodities and services were the best to be achieved.
3. USAID/UWI should seek to determine whether there existed in the Caricom region the relevant capability for printing the revised laws of Dominica at a competitive price.
4. On the basis of the findings above, USAID/UWI should determine whether or not to endorse the approach of Dominica for application to other PBCs.
5. UWI/USAID should request the Government of Dominica to make a realistic estimate of revenues to be derived from the sale of the revised laws and agree with that Government on the manner of disposition of the proceeds of sale consistent with the stated objectives of the CJIP.

### 3.3. COURT REGISTRY:

The registrar was recently appointed to that office, after serving as a crown counsel in the Attorney General's office. He had not seen the NCSC Report of December 31, 1987.

There was still inadequate space for staff and equipment, and an urgent need for more storage facilities when space becomes available. There was no back-up storage area.

The vault was adequate for the security of title documents and vital statistics for the foreseeable future if the large number

of files relating to completed civil and criminal court actions were removed to other storage facilities. In all the circumstances, there was good management and arrangement of the affairs of the vault by the staff under the guidance of a junior clerk whose 12 years experience at the registry gave her the poise and balance of an executive officer.

The registrar gave the evaluation team a detailed analysis of the steps required and taken for the reconstruction of title documents and vital statistics after the disastrous fire of 1979, and the average time in which such reconstruction was accomplished in ordinary cases. It appeared that this delicate and vital work will engage the prime attention of the registrar for some years to come. A good job was being done in this respect, according to the Chairman of the National Advisory Committee.

The Deputy Registrar should be relieved of the duty of sitting in court daily as an assistant to the trial judge, and should instead devote his/her energies to the task of assisting the registrar in the management of affairs relating to title documents, vital statistics, companies and other commercial matters.

From all the facts and circumstances disclosed, it appeared that the time was fast approaching when serious consideration must be given to the creation of two registries, one dealing with matters of civil, criminal, probate and other court actions and vital statistics, and the other dealing with matters of titles, deeds, companies and other commercial activities.

There was increased budgetary provision in 1989 for the justice sector, and there was an ongoing study of the structure of salaries for professionals in this sector, in relation to the general structure of salaries for the public service as a whole, with a view to the recruitment and retention of the services of qualified personnel.

### 3.4 LEGAL AID

The Government of Dominica included in its country action plan establishment of a legal aid facility to provide assistance to persons unable to afford the payment of legal fees in both criminal and civil matters. The Government proposed to support the facility after its establishment and requested technical assistance from the UWI to set up the system. It was understood that such assistance would be channelled through the Organisation of Commonwealth Caribbean Bar Associations (OCCBA). Up to the time the evaluators visited Dominica no headway had been made in establishing a system of legal aid. OCCBA had done nothing in terms of identifying relevant needs and assisting in establishing

the system and the local Bar appeared to be somewhat diffident in getting involved in this exercise.

#### RECOMMENDATIONS

1. The UWI/USAID should engage the services of consultants to work under the direction of OCCBA to assess Dominica's needs in the area of legal aid and to assist in establishing the system.
2. Any legal aid system to be established should address the most urgent needs of prospective beneficiaries and should be self-sustaining after the PACD.
3. The consultants mentioned above should work in close collaboration with the OECS Secretariat.

#### 3.6.2 TRAINING

The Government of Dominica recognised the importance of training personnel to enhance the administration of justice in the country. Two persons had already been trained at Cave Hill in legal drafting and two more were currently undergoing training. CFTC had provided technical assistance for persons to participate in the programme offered by WIPO in the protection of intellectual property. The Government of Dominica had sent two participants to the training programme for paraprofessional law librarians and participated in the UWIDITE programme.

Some difficulty was encountered in the paralegal training programme, however, as private practitioners entertained reservations about paralegal professionals pirating their clients in the absence of appropriate legislation to protect the public and the integrity of the profession. As a result, private practitioners were reluctant to volunteer their services as tutors for courses in the programme and were unlikely to do so in the absence of plausible assurances to protect their professional interests.

#### RECOMMENDATIONS

1. The Government of Dominica should seek to address the expressed concerns of the private Bar regarding the pirating of clients by paralegal professionals.
2. Subject to the immediately foregoing recommendation, the Government of Dominica should take the steps necessary to institute the paralegal training programme.
3. In determining the structure of the programme to be established, the competent authorities should examine the Barbados and Jamaica models to see which one, if any, was most appropriate to the perceived needs of Dominica.

## ANNEX FOUR - GRENADA

### 4.1 FACILITIES RENOVATION

Courthouse renovation is off to a slow start in Grenada. Indeed, no construction has even started.

The contracts for refurbishing of four rural magistrates courts had been approved by USAID shortly before the arrival of the evaluation team. The contractors had submitted their bids in February, however, so it is not clear that the bids are still valid. Because of an increase in tax on building materials and likely increase in other material and labour costs, it appears probable that the bids will have to be renegotiated with possible further significant delay in construction.

We were informed that this delay was longer than usual. After the Government of Grenada request for contract approval had been submitted in February 1989 through UWI to AID, the GOD had to respond through channels to an AID request for more information justifying contract award to other than the low bidder.

The evaluation team was able to visit three of the four rural magistrate courts to be refurbished and was satisfied that the proposed work was appropriate and should have significant impact in improving appearance of the facilities.

With but one exception, the facilities were jointly used by the court system and the police and/or other agencies of the Government of Grenada. This raises the prospect of a portion of a building still in dilapidated condition after the portion used by the Courts has been refurbished. The National Advisory Commission during our attendance agreed that at least the external appearance of the portion of the building used by another agency should match the external appearance of the court facility. Further, the GOD Controller General said that the Government would come up with matching resources accordingly.

Originally the registry and library facilities at the Courthouse/Parliament complex were to be reconstructed with financing from the British Development Division without AID involvement. On further consideration, however, the National Advisory Committee sees need for substantial additional work on the High Court/Parliament Building. This includes expanding the space available for judicial chambers and jury room, and addressing water seepage problems around the judicial chambers, serious deterioration around windows, doors and other areas of possible structural significance.

During the team's attendance at the National Advisory Committee

meeting, the representatives of AID and UWI indicated their concurrence in the use of CJIP regional technical assistance funds to finance the services of an architect to examine these needs and determine the cost of addressing them. In Grenada an architect had not been previously retained to oversee the courtroom refurbishing activity; the Ministry of Works undertaking to provide such services. The representative of that Ministry endorsed retention of an architect to assess the condition of the Courthouse/Parliament building. The Ministry of Works is already carrying a heavy load, and its personnel receive no additional compensation for work done under the CJIP. We suggest that work might be significantly expedited by retaining an architect for supervision of construction during the remainder of the project.

Further we suggest that the architect retained to examine the Supreme Court/Parliament Building should also examine the rural magistrate court facilities to determine whether these facilities have structural problems which should be addressed within the programme. In view of the seeming precarious condition of certain of these facilities, we suggest that the architect be asked to certify that the facilities are worth the investment proposed for refurbishing them.

Also, by assuming the role of construction supervisor, such architect/engineering consultant could help relieve the managerial burden on the current Chairman of the National Advisory Commission. The Chairman, a leading lawyer with a busy private practice, seemed dedicated and energetic in his work on the Project. It seemed, however, that particularly in view of his busy law practice, he might be trying to do too much of the NAC work himself. Work on the Project might proceed more rapidly if he were able to delegate more, and particularly delegate to an architect/engineering consultant to supervise the construction programme.

Further, relative to project management, we were not impressed that the Primary Coordinator in Grenada was the right person for the job. He was only slightly involved in the visit of the evaluation team and had little to say or report when he was present.

#### RECOMMENDATIONS:

1. NAC consider retention of architect/engineer consultant for construction component.
2. NAC request such consultant to certify that facilities are worth cost of renovation.

#### 4.2.1. LAW LIBRARY DEVELOPMENT

##### A. The Problem

In Grenada there exists no Central Library with an adequate stock of current legal material and other facilities to accommodate the needs of the legal community. Attached to the Supreme Court building is another building which houses the vestiges of the Supreme Court Library. These consist of a motley aggregation of outdated texts and several incomplete sets of law reports, many of which have deteriorated through use and an unsuitable environment for their storage. The missing volumes from the library attest to a high incidence of pilferage by authorised users, allegedly the private practitioners - a circumstance attributed to the absence of a trained librarian to manage the library on a full-time basis and the absence of a credible security system and a photocopier. At present, there is no catalogue of the books in stock. In addition there are no user fees to generate income to be employed for the purchase of new legal materials. The judges have been constrained to remove from the library those legal materials required for the performance of their duties. Some of these legal materials consist of law reports, several volumes of which need to be replaced, and which also require other volumes to make them current. In order to ensure the availability of materials adequate for the judges' needs, the Chief Justice has adamantly refused to share law library facilities provided by the Government with private practitioners. In 1981 the Court of Appeal received a gift of complete sets of the British Law Reports and West Indian Reports but these were not kept up to date.

##### B. Project Design:

In order to re-establish library services adequate for the needs of the legal community, the Government of Grenada undertook to:

1. Designate an adequate facility for the location of a central law library;
2. Establish a national budget line item for the physical upkeep and maintenance of the law library;
3. Identify two persons for training as part-time paraprofessional law librarians;
4. Establish and enforce a reasonable user fee system for the private practitioners, design and develop a collection of law library reference materials, a materials security system and a regime to govern library use; and
5. Establish a national budget line item to maintain the currentness of legal materials in the Central Law Library.

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##### A. The Problem

In Grenada there exists no Central Library with an adequate stock of current legal material and other facilities to accommodate the needs of the legal community. Attached to the Supreme Court building is another building which houses the vestiges of the Supreme Court Library. These consist of a motley aggregation of outdated texts and several incomplete sets of law reports, many of which have deteriorated through use and an unsuitable environment for their storage. The missing volumes from the library attest to a high incidence of pilferage by authorised users, allegedly the private practitioners - a circumstance attributed to the absence of a trained librarian to manage the library on a full-time basis and the absence of a credible security system and a photocopier. At present, there is no catalogue of the books in stock. In addition there are no user fees to generate income to be employed for the purchase of new legal materials. The judges have been constrained to remove from the library those legal materials required for the performance of their duties. Some of these legal materials consist of law reports, several volumes of which need to be replaced, and which also require other volumes to make them current. In order to ensure the availability of materials adequate for the judges' needs, the Chief Justice has adamantly refused to share law library facilities provided by the Government with private practitioners. In 1981 the Court of Appeal received a gift of complete sets of the British Law Reports and West Indian Reports but these were not kept up to date.

##### B. Project Design:

In order to re-establish library services adequate for the needs of the legal community, the Government of Grenada undertook to:

1. Designate an adequate facility for the location of a central law library;
2. Establish a national budget line item for the physical upkeep and maintenance of the law library;
3. Identify two persons for training as part-time paraprofessional law librarians;
4. Establish and enforce a reasonable user fee system for the private practitioners, design and develop a collection of law library reference materials, a materials security system and a regime to govern library use; and
5. Establish a national budget line item to maintain the currentness of legal materials in the Central Law Library.

#### 4.2.2 LAW REVISION AND REFORM

The problem of law revision and reform, which is common to all primary beneficiary countries participating in the CJIP, is particularly acute in Grenada. Here, a revision was last conducted in 1958 and the revolutionary interregnum has operated to aggravate the problem of determining the status of the law on any given issue. A successful approach to the British Development Division resulted in the appointment of a law revision commissioner whose locus operandi is in the United Kingdom. The Government of Grenada has not passed any legislation, however, authorising the revision of its laws nor establishing the terms of reference of the law revision commission. There was established recently a law revision committee to advise the commissioner on law reform, but there are no institutionalised channels of communication between the committee and the commissioner thereby increasing the likelihood that obsolete laws will remain on the statute books. The law revision commissioner made two visits to Grenada, one of which was immediately after his appointment, when he visited Grenada to obtain a complete set of that country's laws.

#### RECOMMENDATIONS

1. The Government of Grenada should take steps to ensure that the law revision committee which was set up, include the Chief Justice to advise on the revision/reform of that country's laws;
2. The Government of Grenada should seek to secure that the law revision commissioner appointed for the purpose operate from Grenada where he could be in constant communication with the law revision committee.
3. The Government of Grenada should seek to determine as soon as practicable, the cost of preparing the materials, proof reading, printing and publishing the revised laws and inform the UWI accordingly.
4. The UWI should request the Government of Grenada to provide a realistic estimate of the revenue to be derived from the sale of the revised laws and agree on the manner of their employment to further the objectives of the CJIP.

#### 4.4 LEGAL AID

Efforts by private groups in Grenada to establish a legal aid facility in Grenada date from as early as 1978/9 but the experiment collapsed. At present, a legal aid facility is run by a private group in Grenada know as GRENCODA and financed with funds provided by CIDA. Time constraints prevented the evaluators from having discussions with persons managing this

facility. The evaluators inferred from some comments made at a meeting of the National Advisory Committee that consideration should be given to setting up another such facility whose range of services might include legal aid for criminal offenders.

#### RECOMMENDATIONS

1. USAID and UWI should engage the services of consultants to work under the director on OCCBA to determine the scope of the services which should be offered by any legal aid facility to be established and to establish such a facility on a sustainable basis.
2. USAID and UWI should avoid duplicating legal aid facilities in Grenada and should seek to determine how the existing facility might be adapted to satisfy the requirements of the needy in Grenada.
3. The Government of Grenada should be persuaded to make a modest financial contribution on an annual basis to the operation of any legal aid facility to be established in that country.
4. The consultants mentioned above should work in close collaboration with the OECS Secretariat.

#### 4.6.2 TRAINING

Not unlike the other primary beneficiary countries, Grenada is short of trained personnel at every level of the court system. Grenada had benefited from the regional training courses sponsored by the UWI but there is need for training of personnel in national programmes. To satisfy the need for paralegal professionals the Government of Grenada has enlisted the facilities and staff of the Grenada National College to establish and manage a training programme for paralegal professionals. The programme is being organised along the lines of the programme now offered by the Barbados Community College which will issue the certificates to successful candidates. Courses are due to commence in September 1989. The groups targeted are persons in subordinate clerical positions of the legal services of the Government and similar personnel from the private sector. Required qualifications for admission to the programme will depend on the work experience of applicants in legal services. Thus, academic requirements for entry will stand in inverse proportion to the work experience of applicants. Tutors are to be drawn mainly from the practising bar and will be paid for travelling and the preparation of teaching materials only. It is not proposed at this time to charge participants a fee for courses in the programme. Consideration will be given to charging a fee, however, so as to allow the programme to be self-sustaining after termination of the CJIP.

The evaluators believe that more progress could have been made in establishing the paralegal training programme in Grenada. It does not appear that in determining the structure of the programme any consideration was given to comparing the programmes offered in Jamaica and Barbados to determine which one, if any, was more adaptable to Grenadian conditions. The evaluators also encountered a breakdown in communication to a successor programme manager concerning relevant information on the source and scope of financing for the programme. Lack of adequate information on the availability of funding for the programme was adduced as a reason for the delay in appointing a coordinator to organise and implement the programme. The extramural department of the UWI will also participate in the Challenge Programme leading to the Certificate in Introductory Legal Studies and part 5 of the I.L.B Examinations.

### RECOMMENDATIONS

1. In determining the structure of the syllabus for the paralegal programme careful consideration should be given to the choice of emphasis namely, academic or practical, based on an analysis of Grenada's needs.
2. In determining the hours of instruction, careful consideration should be given to the times most convenient to participants and students alike. In this connection the advantages and drawbacks of scheduling some classes for the weekends should be canvassed.
3. From the outset participants should be required to pay a fee in order to establish their financial interest in the programme. However, consideration should be given to awarding scholarships to needy and deserving candidates.
4. The Government of Grenada should employ its best endeavours to ensure that its nationals benefit from the regional training programmes sponsored by the UWI under the CJIP.
5. Training programmes to be organised in Grenada under the auspices of the CJIP should involve the active participation of the competent authorities in the Ministry of Education, the Ministry responsible for Legal Affairs, the Grenada National College and the Grenada Bar Association.
6. Consideration should be given to incorporating a self-evaluating component into the programme.

## ANNEX FIVE - ST. KITTS AND NEVIS

### 5.1 FACILITIES RENOVATION

Apart from a small amount programmed for equipment and refurbishing of magistrates courts under the "Quick Impact Activity", all St Kitts and Nevis funds available for construction have been programmed for a new courthouse and registry building in Basseterre. Indeed a project amendment is pending to provide an additional \$1.4 million for that construction.

Having secured financing for the new courthouse the spokesman for the St. Kitts and Nevis justice system now expresses deep concern for the rural magistrates courts. We found it ironic that the microstate programmed for the most funds by far under the CJIP should be the country which made the loudest request for more. This is especially ironic since the finest courtroom seen in the course of our evaluation is the existing magistrate court in Basseterre, St. Kitts, which the Government of St. Kitts and Nevis proposes to turn over to the police once the new courthouse has been completed.

Although the Basseterre Magistrate Court does back up to the Police Headquarters, it has its own separate front facing a different street and is not at all obvious in its physical connection to the Police Headquarters. Accordingly it presents no particular image problem in relation to the police system, nor otherwise do we see any particular advantage to be gained by incorporating the Magistrate Court into the new High Court and Registry complex.

Therefore we suggest there is a real issue as to whether AID should be financing a new magistrate courtroom to replace an eminently satisfactory existing magistrate court with the principal result being to add to building space available for the police.

#### 5.2.1 LAW LIBRARY DEVELOPMENT

##### A. The Problem:

The Law Library was totally destroyed by the fire in 1982 which consumed the St. Kitts Court House. Since then, judges of the Supreme Court and the Court of Appeal have had to rely on the inadequate facilities of the Attorney General's Chambers and this has been a constant irritant and ground for complaint. The inconvenience suffered by the legal officers of the Government has been aggravated by the fact that the books in the Attorney

General's Chambers are not catalogued thereby requiring a physical search to locate them. The situation in the specialist legal library services of other departments of Government is the same. Despite this, there is no evidence of loss of legal materials through pilferage. The ad hoc arrangements in place for law library services have not inspired the elaboration of a regime to govern the use and security of legal materials and the question of a user fee system did not yet arise.

B. Project Design:

The Government of St. Kitts proposed to strengthen the law library service by establishing a Central Law Library for the legal community and to upgrade the specialist libraries in the Attorney General's office, the judges' chambers and the office of the legal draftsmen. The legal materials to be acquired are based on an assessment of needs and recommendations submitted by a law library expert provided by UWI. In order to establish its interest in sustaining adequate and efficient library services for the legal community, the Government of St. Kitts has given the usual undertakings, namely, to designate and appoint a suitable area for the Central Law Library service; establish a national budget line item for library upkeep and maintenance and enforce a reasonable user fee system for the practising bar; work with UWI on a timely basis to design and develop a collection of law reference materials, a materials security system and regime governing library use; designate two candidates for training as paraprofessional librarians and to budget for these positions; and establish a national budget line item for maintaining the currentness of the legal materials in the library.

C. Implementation:

Judging from attempts made in other areas to improve the administration of justice in St Kitts, the evaluators believe that the Government will employ its best endeavours to discharge in good faith the undertakings mentioned above. Progress in this area, however, has been hampered by the decision to house the Central Library in the new judicial and legal complex to be constructed. Construction has not yet begun and the Government is reluctant to order the books until they can adequately be accommodated. The Attorney General assured the evaluating team that adequate controls are being addressed to safeguard the integrity of the library and that adequate budgetary provision will be made for its maintenance and the updating of legal materials. In the meantime, two persons have been trained as paraprofessional law librarians and are otherwise employed in the Government service.

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## RECOMMENDATIONS

1. The Government should expedite arrangements for the construction of the judicial and legal complex so that accommodation can be made available for the legal materials to be supplied for the Library.
2. The Government should determine from the Librarian of the Supreme Court in Jamaica whether any of the unordered or over-supplied legal materials are required for the Supreme Court Library in St. Kitts and make suitable arrangements for their acquisition in due course.
3. The Government should give favourable consideration to implementing into law the draft statutes governing law library operation circulated by the UWI Faculty of Law and elaborate a security regime for the legal materials to be acquired. In the latter connection the Government should consider making the Law Library a reference facility only and for providing a heavy duty photocopier to facilitate reproduction of legal materials required by practitioners at a reasonable cost.
4. The Government should ensure that the user fee system to be established could contribute adequately to maintaining the currentness of the legal materials to be acquired.

### 5.2.2 LAW REVISION AND REFORM

Despite the expressed willingness of the British Development Division to give favourable consideration to a request from the Government of St. Kitts to provide a law revision commissioner, no such commissioner had been appointed by the time the evaluating team visited the country. The Attorney General indicated that there was some difficulty in identifying a suitable commissioner. The Government of St. Kitts is conscious of the need to revise the Laws since the last revision was done in 1961 and reprinted in 1976. In the meantime, the heavy legislative programme of the Government has underscored the need for revision and the Government has passed the necessary legislation for revision of the laws. The Government of St. Kitts recognised the implausibility of completing the revision and printing of the laws before the PACD and has requested the UWI to consider providing the funds for the revision exercise on condition that funding for the printing of the revised laws be provided by the Government. The evaluators understand that the UWI and USAID are considering this request which would require a departure from the applicable project policy guidelines. This request is, to some extent, similar to one made by the Government of Belize in relation to the revision of that country's statutes and in respect of which UWI/USAID have not yet reached a definite decision. In the case of Belize the Government has not offered to fund the cost of printing the supplement to the revised statutes estimated at US\$6,000.

## RECOMMENDATIONS

1. The Government of St. Kitts should employ its best endeavour to engage the services of an experienced law revision commissioner. In this connection, the Government should consider, among others, an approach to the Antiguan law revision commissioner who appears to have almost completed his assignment for that country.
2. The UWI and USAID should give sympathetic consideration to the request of the Government of St. Kitts to fund the law revision exercise subject to that Government undertaking to have the revised laws printed in a timely manner either at its own expense or with funds provided from another source.

### 5.3 COURT REGISTRY:

There was no full-time registrar, as had been the case at the time of the NCSC Report of December 31, 1987, but it appeared that there was progress in expediting matters before the High Court via the registry.

The registry was still functioning in the temporary High Court building with inadequate staff and facilities. The restoration of title documents and other records damaged by the fire of 1982 was a critical need; and it appeared that this could only be properly undertaken and accomplished under the direction of selected trained personnel whether the registry was housed in temporary or permanent accommodation.

The proposals for registry space and facilities in the proposed legal complex appeared to be adequate for the foreseeable future; but emphasis should now be placed on trained permanent staff, automation and general modernisation of the entire registry system.

The Attorney General was aware of the whole problem, had made significant strides to improve the justice system in other areas according to the priority determined by the Government including ~~expedition on the legal complex and increased budgetary provision~~ for the justice sector; and he appeared to be ready to tackle the urgent needs of the registry.

The recommendations in the NCSC Report applicable to St. Christopher and Nevis should be implemented.

#### 5.4 LEGAL AID

Consultations with the Attorney General revealed that no significant progress had been made in establishing legal aid services in St. Kitts although there was a public defender system in place for capital offences only. Preliminary indications were that the Bar Association would have no objection in principle to the establishment of a legal aid facility in St. Kitts. The Organisation of Commonwealth Caribbean Bar Association (OCCBA) had not done any work in the country in this area and the local Bar was inactive. The evaluators believe that OCCBA does not possess the in-house capability to undertake the necessary needs assessment for the establishment of legal services in the PBCs and that UWI and USAID should canvass other options in this regard.

#### RECOMMENDATIONS

1. UWI and USAID should offer to identify and engage the services of consultants to work under the direction of OCCBA to assess the needs of PBCS in legal aid services and to establish such services as soon as practicable.
2. The legal aid system recommended for implementation should be capable of being sustained over the longer term.
3. The consultants appointed for the purpose should work in close collaboration with the OECS Secretariat.

#### 5.6.2 TRAINING

The Government of St. Kitts has taken advantage of the training provided by the UWI designed to enhance the administration of justice in participating countries. Two persons participated in these workshops for paraprofessional law librarians and others participated in training programmes for marshals and bailiffs. While the evaluators were in St. Kitts, the examinations for law paraprofessionals were in progress. Seven candidates were sitting the examinations even though ten had attended the courses. Originally, fourteen candidates had enrolled for the courses but four had dropped out for one reason or another. The evaluators consulted the coordinator who was very enthusiastic about the paralegal training programme despite the absence of any firm arrangements to remunerate her for the dedicated services she appeared to have performed. The evaluators were impressed with her commitment to the programme which is based on the academically-oriented Barbados model. Classes were conducted three times every week and lasted for three hours from 5:30 - 8:30. The candidates targeted were secretaries working in legal offices of the Government and private sector but the overriding majority was drawn from the public sector. There were

indications that some of the students complained about the long duration of the sessions especially since these were conducted during the week after office work. Other students seemed to prefer a more practical-oriented course. St. Kitts is also participating in the UWIDITE programme and the University Centre is being extended to house the necessary facilities.

#### RECOMMENDATIONS

1. The organisers of the programme should give careful consideration to the orientation of the course in the light of perceived needs of the legal community rather than adopting uncritically either the Barbados or Jamaican model.
2. The UWI should continue its technical assistance to the programme and encourage beneficiaries to introduce a fee structure so as to ensure its sustainability after the PACD.
3. The organisers of the programme should consider the feasibility of rescheduling the times and duration of the courses so as to meet the convenience of both tutors and participants.
4. The organisers of the programme should consider introducing a self-evaluating element into the programme.

## ANNEX SIX - ST. LUCIA

### 6.1 FACILITIES RENOVATION:

Major reconstruction and replacement measures are needed at both the central court complex in Castries and the various magistrate courts spread around the island. Unfortunately the worst of the rural magistrate facilities cannot be addressed under CJIP because they are not worth rehabilitation; they need to be replaced by new buildings, and new construction is not eligible for CJIP financing.

In the capital city of Castries, the central court complex includes one good courtroom, one adequate courtroom and a third miniature courtroom with miniscule judge's chamber which are completely inappropriate. The current library space is too small for the existing stock of books, let alone augmentation thereof under the CJIP. Also the functioning of the registry is substantially hampered by lack of space, which in turn limits attending staff.

Shortly before our arrival, the St. Lucia cabinet had approved plans for extension of the front of the courthouse to provide space to resolve the problems noted above. The cost of such extension was estimated at close to EC\$900,000. Since only EC\$400,000 is available for such purpose under the CJIP, the Government will have to commit from its own funds the remaining EC\$500,000 necessary to complete the structure. Construction is estimated to start in the fall of 1989.

Of three rural courthouses planned for improvement, the magistrate's court in Vieux Fort, the second largest town in St. Lucia, presents the most compelling need. Located on the second floor of the Post Office building, this court meets two days each week and is attended by a full-time clerk. The courtroom is cluttered and badly in need of refurbishing, and the Government also proposes to expand the space available for the clerk's and magistrate's offices.

Soufriere and Chouseul present less compelling need, a magistrate sitting once every two weeks on the average in each of the facilities. The Chouseul courtroom, coupled with a police station, is neat and clean, as is typical of facilities shared with the police. The magistrate now shares office space with the police sergeant. With relatively minor modification, the building could be adapted to provide the magistrate with a separate though small office, and provide the appearance of more independence of the judiciary from the police.

The Soufriere courthouse, like the Vieux Fort courthouse, is over the Post Office and similarly cluttered and in need of general

refurbishing. The court is attended by a full-time clerk, and the plan includes modest investment to provide somewhat expanded office space for the magistrate and the clerk.

### 6.2.1 LAW LIBRARY DEVELOPMENT

#### A. The Problem:

The central law library was housed in one large room of the Supreme court building and measured about 40' x 10'. The room was stocked with legal materials consisting largely of law reports, some of which boasted volumes dating back to the sixteenth century and several of which had fallen prey to dust, worms and fungus. The state of disrepair of several volumes was such that the Government printer has refused to continue binding later volumes since these were being attacked by vermin from the unbound and worm-eaten stocks. No acquisitions of new legal materials were made for the central law library for some considerable time. The absence of current legal materials was particularly acute in the area of the civil code which still governed the law of property in St. Lucia. The law library was managed by a Library Committee established pursuant to the Law Library Act of 1985 which empowered it to make rules for the operation of this facility, including the charging of user fees and the imposition of penalties for non-compliance. The existing rules for management of the law library were made in 1957. The Library Committee was addressing the elaboration of a regime governing the use of the library but was apparently unaware of the draft bill circulated to primary beneficiary countries by the UWI Project Office. The offices of the Attorney General and Director of Public Prosecutions contained some law reports and specialist legal materials but many of these needed to be made current. The Chief Justice's chambers contained legal materials including the more widely used law reports and these were relatively up-to-date. Assistance in assessing the special needs of the library services of the legal community had been provided by the University of the West Indies and the Government had undertaken to implement the relevant recommendations.

#### B. Project Design:

The Government of St. Lucia proposed to extend that part of the Supreme Court building which housed the central law library in order to make considerably more space available for the accommodation of new legal materials and library equipment. In addition, the Government gave the usual undertakings relating to: the training of paraprofessional law librarians; the elaboration and enforcement of regimes for the management, use and security of the law library facilities; development of a collection of law library reference materials and adequate budget provisions for

the upkeep and maintenance of the library and for keeping the legal materials acquired for the law library services on a current basis.

C. Implementation:

Up to the time of the evaluators visit to St. Lucia no significant progress had been made in implementing the commitments undertaken by the Government of St. Lucia in relation to the law library services. Two persons had been trained as paraprofessional law librarians, one of whom was in charge of the central law library while the other had sought greener pastures in the United States. The Library Committee had not yet elaborated a revised body of rules for the management and use of the law library and no regime for the security of legal materials had been established. The Government had ordered and paid for three photocopiers from its QIA allocation but the supplier had failed to deliver on the contract. No order had yet been placed for new current legal materials contemplated under the CJIP and it did not appear that the need for current materials relating to the civil code had been adequately addressed. Plans for the extension of the Supreme Court building had been approved only two months ago, but invitations to tender for the relevant materials and services had not yet been issued. Tardiness in effecting the extension to the Supreme Court building posed a major constraint on the acquisition of new legal materials since no suitable place was available for their temporary accommodation.

**RECOMMENDATIONS:**

1. The Government of St. Lucia should address, as a matter of urgency, the fumigation and treatment of the books in the law library in order to arrest their further deterioration and expedite the binding of those in need of restoration.
2. The list of books and other legal materials identified for acquisition for the law library services should be amended to include relevant current materials on the Canadian Civil code.
3. In determining the revised rules to be adopted for the management of the law library, the Library Committee should take fully into account the provisions of the relevant draft bill circulated by the University of the West Indies Project Office.
4. The Government of St. Lucia should expedite the extension of the Supreme court building in order to augment the space for the library and establish a security regime for the legal materials to be acquired.
5. The University of the West Indies should not accede to a request by the Government of St. Lucia for the supply of legal materials unless it is satisfied that adequate

arrangements have been made for their accommodation, use and security.

#### 6.2.2 LAW REVISION/REFORM:

Law revision and reform pose a peculiar problem in St. Lucia where the common law and civil code co-exist as a matter of Government policy. As a quid pro quo for assistance from the CJIP for the revision of its laws, which were last revised in 1957, the Government of St. Lucia undertook to: make available such logistical support as was necessary for any law revision commissioner to be appointed; appoint a law revision committee to advise the commissioner in the event that an expert other than a local person is appointed for the purpose, and conduct periodic revisions to maintain the currentness of principal statutes and subordinate legislation. An approach had been made by the Government of St. Lucia to the UNDP and CIDA for technical assistance in providing a law revision commissioner, but up to the time of the evaluators' visit no firm commitment had been given. The Government had identified a person capable of undertaking the necessary revision of the laws but was not in a position to provide the estimated \$720,000 for the propose. Given that the revision of the laws would take two or three years to complete, and given further that the PACD was 31st July 1991, the Government had canvassed the idea of requesting the UWI to provide funding for the law revision commissioner. Consideration had also been given to the approach contemplated by the Government of Dominica to the printing of the revised legislation. The revised laws of 1957 had been printed in St. Lucia and from all indications the evaluators determined that the product had been satisfactory.

#### RECOMMENDATIONS:

1. The UWI/USAID should give sympathetic consideration to any request from the Government of St. Lucia for funds to appoint a law revision commissioner from the allocation designated for printing the revised laws, subject to that Government giving an undertaking to print the laws as revised.
2. The Government of St. Lucia should consider the possibility of desktop publishing of the revised laws as well as undertaking the offset printing of such laws.
3. The Government of St. Lucia should employ its best endeavours to benefit from the experience of Dominica in desktop publishing.

### 6.3 COURT REGISTRY:

The facilities of the registry were in the same general condition as outlined in the NCSC Report of December 1987, but there was improvement in three respects:

- (a) more positive management by the chief registrar who had been holding that office for a number of years;
- (b) reasonable air conditioning of the vault; and
- (c) the addition of cabinets and photocopying equipment under the CJIP.

It was not anticipated that the recommendations of the NCSC Report would be implemented in any significant manner until new facilities of space, equipment and additional staff were provided in the proposed extension of the existing Supreme Court building. The Attorney General expected the proposed extension work to begin September 1989. Members of the registry staff were not enthused by their working environment, but were doing their best in the circumstances to maintain what was in effect a survival operation.

The time seemed ripe for the commencement of significant training of staff to implement automation and other means of modernising the registry.

Serious consideration should be given to the creation of two registries, one dealing with matters of civil, criminal, probate and other court actions and vital statistics, and another dealing with companies and other commercial activities.

There was increased budgetary provision in 1989 for the justice sector, including a taxable incentive allowance in lieu of private practice granted to all public service lawyers; and the Attorney General indicated his Government's approval in principle for the provision of additional/matching funds over the forthcoming two budgetary years to meet the cost of the proposed extension work on the Supreme Court building.

### 6.4 LEGAL AID:

The Government of St. Lucia had made a modest provision for legal aid to the deserving in the society but the local Bar Association had not yet benefited from the promised assistance by OCCBA in establishing a legal aid facility. An informal legal aid committee had been established but nothing else had been achieved in this area. In the meantime, the Roman Catholic Church, by way of a response to numerous requests from indigent persons, had established a legal aid facility in April 1989. Other institutions like the Rotary Club and the Social Services

Division of the Ministry of Social Affairs had been involved in extending assistance to indigent persons in one way or another. The Probation Section of the latter institution also offered assistance in rehabilitating juvenile offenders while the Family Section attempted to resolve through dialogue with interested parties disputes concerning custody and maintenance. Where dialogue failed to resolve the issues legal action was taken. The section also prepared reports for the courts as appropriate.

The legal aid facility was housed in the Parish Centre in Castries and was managed by a paralegal professional who was under the supervision of a professionally qualified lawyer. Services were available from 9:00 a.m. to 5:00 p.m. from Monday through Friday. The facility was in need of basic equipment like desks, chairs, typewriters and filing cabinets, some of which had been borrowed from other sources. Prospective beneficiaries of legal aid were required to pass a means test and to pay a registration fee of \$20. Persons benefiting from the services were also required to pay a consultation fee and a minimum tariff according to their perceived means. The range of services contemplated at the outset encompassed both civil and criminal matters, but consideration would be given to restructuring them in the light of experience and, in particular, by reference to the perceived requirements of sustaining the service over the longer term. A panel of practising attorneys had been established for the purpose of legal representation in the courts. The evaluators were apprised of the need for financial assistance in the form of seed money and for information on the operation of similar services in the Commonwealth Caribbean.

#### RECOMMENDATIONS

1. The UWI/USAID should engage the services of consultants who, under the direction of OCCBA and in consultation with competent local authorities, should determine the legal aid requirements of St. Lucia.
2. In determining the legal aid requirements of St. Lucia, the consultants should bear in mind that the scope of services to be offered should be such as to allow them to be sustainable over the longer term.

#### 6.6.2 TRAINING

The evaluators were informed that enthusiasm among prospective candidates for the paralegal programme conducted in St. Lucia was very high. The programme coordinator was employed on a part time basis and her substantive position was that of deputy registrar. Several participants in the programme had been looking beyond it for opportunities to be trained as attorneys-at-law. Of the twelve students enrolled in the programme, eleven had taken the

examination. The UWI had provided assistance in the form of funds to purchase reference books for the course; some prescribed texts were out of print. The programme was based on that offered at the Barbados Community College which accredited its courses. Courses were offered at different times of the day on two afternoons from 3:00 p.m. to 4:30 p.m. and on three evenings from 5:30 p.m. to 7:00 p.m. Students were required to pay an annual fee of \$200, well below the economic fee of an estimated \$600 per annum. Tutors received a stipend of \$35 per hour but this was not attractive to legal practitioners thereby creating problems in the recruitment of qualified tutors. Despite this difficulty the programme appeared to be efficiently managed.

The other training programmes of relevance to the CJIP were the Challenge Programme and the programme leading to the the Certificate in Introductory Legal Studies, both of which were sponsored by the Department of Extra Mural Studies of the UWI. The Challenge Programme benefited from a small contribution from the UWI and catered at the time of the evaluators' visit to four law students who were enrolled for the courses. The courses leading to the Certificate in Introductory Legal Studies had attracted only one student. Students were sceptical about the usefulness of this latter programme which was not perceived to assist in professional advancement and did not earn credits towards the first part of the LLB examination. The UWIDITE programme was not an established component of any of the law programmes and was of marginal significance to students seeking opportunities in the legal services.

#### RECOMMENDATIONS:

1. The UWI should continue to offer technical assistance to the paralegal training programme in St. Lucia.
2. The competent authorities should incorporate a self-evaluation element in the programme in order to measure participants' reaction and to determine its future direction and development to accord with perceived needs.
3. The Government of St. Lucia should award scholarships to deserving employees to allow them to participate in the programme thereby stimulating interest in professional advancement and promoting loyalty to the Government Service.

## ANNEX SEVEN - ST. VINCENT AND THE GRENADINES

### 7.1 FACILITIES RENOVATION

From funds available for discretionary programming among country specific activities, St. Vincent gives high priority to refurbishing of court facilities. To prevent heat and noise from impairing efficiency of the system and the actors therein, the Government has already airconditioned the judges' chambers and the handsome principal courtroom within the historic courthouse. Computer/wordprocessing equipment, typewriters and furniture have also been acquired under the Quick Impact Activity.

Like other primary beneficiaries, St. Vincent has been prevented by lack of adequate space from expanding its library under the CJIP. Registry facilities are woefully cramped, and the magistrates' courtroom in Kingstown is a makeshift arrangement within the Parliament assembly hall. Such improvisation requires suspension of magistrate sessions whenever Parliament is in session.

With CJIP funds the Government plans to construct an extension of the existing Supreme Court/Parliament building. Implementation of such plan has suffered various delays. First the authority for preservation of historic buildings refused to accede to the proposed expansion of the existing structure. Then, after the Government had proceeded with plans for construction of a nearby separate building to house the library and registry facilities, it became apparent that such separate building would not be eligible for financing under the CJIP. Now, after the passage of considerable time, the Government is back to the original plan for an addition to the existing courtroom. The Government expects to gain approval of the historic buildings authority by applying appropriate selection criteria for certain pending appointments to the authority.

Even for proposed expansion of the existing facility, substantially more funds are required than are available under the CJIP. The Attorney General informed us that the Government will make up any deficiency for construction of an addition. The addition would be so designed as to meet the requirements of the system over the medium term, anticipating that the construction of a new jail would release substantial space in the nearby existing jail building for additional registry and courtroom needs over the long term.

The Government also proposes to expand three rural magistrate courts around the island, there being little provision now for office space for the clerks and magistrates, the lawyers and their clients. We examined two of the three at Georgetown and Colonaire and reviewed the plans for the third at Barrouallie.

All were joint facilities with local police headquarters. Additional space for the magistrates court was to be provided by acquiring space now used by the police in exchange for construction of additional space for use by the police.

Upon review of the facilities and the plans it was obvious that the present proposals would not be eligible for USAID financing. The plans provide for construction of substantially more space for the police than would be freed for use by the magistrate court, the disproportions ranging from 3:1 to 6:1. We brought this problem to the attention of the National Advisory Committee, which concurred in the need for modification. It will be some time, however, before alternative proposals can be developed and designed whereby the space constructed for the police would not exceed the space now used by the police to be freed for use by the court.

#### RECOMMENDATIONS:

1. That the GOSL expedite arrangements for courthouse expansion.
2. That GOSL expedite revision of magistrate court construction plans to accord with project criteria.
3. That AID/UWI be watchful concerning ratio of court space to police space in proposed swap arrangements.

#### 7.2.1 LAW LIBRARY DEVELOPMENT

##### A. The Problem:

St. Vincent was the only primary beneficiary country which categorically accorded the highest priority to the establishment and organization of the central law library. Practitioners both in the public and private sector of the legal community agonised over the absence of adequate law library facilities and the need to set them up as expeditiously as possible. In this connection, the most critical constraint was the absence of a suitable location to accommodate a modern law library. In an attempt to resolve the problem, the Government had canvassed several options each of which was plagued by its own peculiar difficulties. Expansion of the existing Supreme Court building was bitterly opposed by the trustees of the National Trust; the proposed removal of the prison from nearby quarters in order to make suitable space available for the purpose was in danger of arousing politically unacceptable sensitivities; construction of a new building in the compound of the Supreme Court for the purpose would compromise relevant policy guidelines for disbursements from CJIP funds. In the absence of suitable and adequate accommodation for the Supreme Court library, such legal materials as were in stock had been scattered over various parts

of the Supreme Court building, including the Supreme Court, the Registrar's office, the corridors outside the civil registry and the typists' pool room. The collection in the Supreme Court consisted of several very old volumes of law reports some of which dated back to the seventeenth century, other rare legal texts and several outdated sets of laws of some CARICOM countries. These materials were of little or no use to the practising bar and the resident judge was constrained to borrow legal texts from private practitioners to perform his duties. Legal materials of a more current nature, however, were to be found in the Attorney General's Chambers and the office of the Solicitor General who was temporarily performing the functions of Director of Public Prosecutions.

**B. Project Design:**

As a condition of access to funds made available under the CJIP, the Government of St. Vincent had agreed to provide the necessary logistical support for a library expert designated by the UWI to assess the country's law library needs and to accept the recommendations submitted in this context. In addition, the Government undertook to: nominate two candidates for training as paraprofessional law librarians; identify an adequate facility for location of the law library; establish and enforce a reasonable user fee system for members of the practising bar, design and develop a collection of law library reference materials, a materials security system and a regime for the use of the library; and establish a national budget line item for maintaining the currentness of the printed materials in the law library.

**C. Implementation:**

The Government of St. Vincent has made no significant headway in the discharge of the commitments undertaken above. Two candidates have been trained as paraprofessional law librarians, but since the other commitments are to a greater or lesser extent dependent on the establishment of the library which has been hampered by the lack of available space, nothing has been achieved in this area. The books and other legal materials for the central law library have been identified but could not be ordered until suitable accommodation had been secured. In the meantime, the Government has completed plans and secured estimates in the amount of \$1.2 million for a new building in the compound of the Supreme Court. This amount was estimated to be twice as large as would be required for an extension to the Supreme Court building. Funds were not then available to finance a new building, but a token allocation of \$10 has been provided in the 1989 estimates of expenditure by way of committing the Government to appropriate the required amount as funds become

available. Despite the incursion on the time of competent authorities to designate and appoint a suitable location for the law library, the evaluators believe that much more progress could have been made in elaborating a regime for library use and materials security and in establishing a user fee system, pending the acquisition of the required legal materials.

#### RECOMMENDATIONS

1. The Government of St. Vincent should expeditiously resolve the issue of constructing a new building or extending the Supreme Court building to accommodate the law library and appropriate the funds required for either purpose.
2. The Government of St. Vincent should proceed to elaborate a regime for the management, use and security of the central law library and, in this connection, should examine the advantages to be derived from making this institution a reference facility.
3. In order to expedite elaboration of a regime governing library use, the Government should consider enacting the draft library bill made available by the UWI Project Department.

#### 7.2.2 LAW REVISION/REFORM:

Through technical assistance offered by the British Development Division a law revision commissioner was made available to the Government of St. Vincent whose national legislation had last been revised in 1966 even though the revised laws were never adopted. In order to avail itself of the allocation identified for the printing of its revised laws, the Government of St. Vincent undertook to: provide sufficient budget and other resources for an effective law revision/reform exercise, make available suitable work space and logistic support for the law revision commissioner, appoint a local law reform committee to review and make recommendations on any law reform proposals submitted by the law revision commissioner prior to their introduction into Parliament, and conduct periodic revisions to maintain the currentness of its laws and subsidiary legislation.

The evaluators were informed that the progress of the law revision exercise had been hampered by several factors not the least of which was the frequent changes of Attorneys General during the life of the project. The procedure adopted was to send revised laws submitted by the commissioner to the Attorney-General's office and the local Bar Association for comment before transmitting them to Cabinet for consideration and approval. Several bits of legislation including a revised criminal code had been enacted but twenty-two pieces of legislation still awaited enactment. These were to be passed by

the Parliament before the end of 1989 and the legislative programme for the year accorded the highest priority to this effort. Progress in the law revision exercise appeared to be well behind schedule. The cut off date set by the British Development Division had to be deferred on three occasions and has now been fixed for December, 1989. Other factors impeding progress of the exercise were the shortage of professional staff in the Attorney General's office, the omission of competent authorities to respond to relevant queries of the revision commissioner and the lethargy of bureaucrats.

In the meantime active consideration was being given to the printing of the revised laws and prospective publishers had been courting the Government. Temporary bids were well within the US\$270,000 allocated for the purpose, but the Government was considering the desktop publishing approach contemplated by Dominica. Adoption of this approach would require the acquisition of a more advanced word processor but the secretarial staff available to the Government were capable of adapting to the new equipment. Preliminary estimates of the cost of printing the revised laws, either by desktop publishing or by contracting the entire range of services from external sources, had to await the completion of the revision exercise in order to determine the total number of pages involved.

#### **RECOMMENDATIONS:**

1. The Government of St. Vincent should use its best efforts to facilitate the work of the law revision commissioner and to expedite the passage of the revised legislation submitted for its examination and approval.
2. Before contracting the services of one or another publisher to print and publish the revised laws, the Government of St. Vincent should examine the feasibility of desktop publishing in order to reduce the cost of printing.
3. UWI/USAID should monitor the progress of the approach contemplated by Dominica for the printing and publishing of its revised laws and inform the Government of St. Vincent of developments relevant for an informed determination on this issue.

#### **7.3 COURT REGISTRY:**

The portion of the Supreme Court building which was occupied by the registry was far too small to accommodate the required staff, equipment and records; but the relatively new registrar, the experienced non-professional deputy registrar and other members of staff were performing their duties with zeal and in a businesslike manner, and had improved the situation outlined in the NCSC Report in the St. Vincent registry.

The situation could be more speedily improved if:

- (a) that portion of the library which was housed in the registry could be transferred to an appropriate place e.g. the Attorney General's department which housed the greater portion of the law library;
- (b) deeds and other records from the late eighteenth century to the late 1920's could be transferred from the over-crowded vault to some safe storage place, as they were only very infrequently referred to;
- (c) The best use could be made of storage and computer equipment which had been furnished to the registry under the CJIP.

Documents kept in the airconditioned vault were stacked in a manner which allowed relatively quick identification and recovery; but the new deeds and other records from the 1940s to the 1980s should be made more accessible than the older documents.

The general office and the public counter office were cramped with staff, tables and filing cabinets, and there was no available space in the registry for more comfortable accommodation.

The registrar paid tribute to the support he usually received from the deputy registrar who in turn attributed her improved efficiency to the paralegal course she had recently undertaken under the CJIP.

The waiting public could not be accommodated within the inadequate space of the public counter office and the general office.

The Government had decided to transfer the prison from its site near the Supreme Court building; to convert the site into a registry for births, deaths, marriages, companies and other commercial activities, and to reserve the existing registry for civil and criminal actions and other court related activities.

Increased budgetary provision in the 1989 General Estimates for the justice sector as a whole was indicated by the Attorney General, consistent with his firm belief that this sector deserved a higher priority in the scheme of total government.

#### **RECOMMENDATION:**

1. Every effort should be made to implement the recommendations of the NCSC Report dated December 31, 1987 applicable to St. Vincent and the Grenadines.

#### **7.4 LEGAL AID:**

The Government of St. Vincent is committed to establishing a system of legal aid for needy persons in the community. The intention was to restrict legal aid services initially to family law matters like paternity and maintenance and to administer those services in connection with the Family Court which was to be established. On the basis of experience gained in this area, a determination would be made whether or not to enlarge the scope of such services. It was not contemplated at the present time to extend the service to probate and administration matters since what has been expressed to be required in these areas was not so much legal aid in establishing claims as relief from oppressive duties and taxes and such relief had already been accorded. Legal aid was not contemplated for divorce since this was politically unacceptable. At present, assistance was offered to persons accused of capital offences only but consideration was being given to extending such assistance to manslaughter and to have it commence from the stage of preliminary inquiries rather than from the trial. Some practicing attorneys, however, appeared to favour the provision of legal aid for all criminal offences based on the system which obtained in the United Kingdom.

#### **RECOMMENDATIONS**

1. UWI/USAID should engage the services of consultants to work under the direction of OCCBA and in consultation with relevant local interests to determine the legal aid requirements of St. Vincent.
2. In making the determination referred to in paragraph 1 above, the consultants should bear in mind the need for any legal aid service to be established to be sustainable over the long-term.

#### **7.6.2 TRAINING:**

Discussions with the coordinator of the paralegal training programme revealed that the response to the programme from both prospective candidates and tutors was very encouraging. Twenty-two students were originally enrolled in the programme, three dropped out and thirteen took the examination at the end of the first year. Aggregate lecture hours per week were twelve consisting of two sessions of one and a half hours per day for four days each week. Targeted candidates were police, magistrates' clerks, court registry personnel, legal secretaries from the private sector and the like. Students were required to provide their own books and to pay an administration fee of EC\$15

per term. Tutors for the programme were secured through the Bar Association which assigned legal practitioners to different subject areas. Five such tutors were on the regular roster and five were on standby. The programme was based on that offered by the Barbados Community College which accredited it and set and second marked the examination scripts.

The Extra Mural Department of the UWI also conducted the Challenge Programme in St. Vincent and this had attracted three students in 1989. No students were registered for the Certificate in Introductory Legal Studies. Students enrolled in the Challenge Programme were required to pay a fee of EC\$25 per month for each course and tutors received a stipend of EC\$25 per hour. Aggregate lecture hours were six hours per week. Through technical assistance extended by the UWI, St. Vincent had been able to participate in the UWIDITE programme. Necessary equipment for the programme was in place but the room identified for their accommodation was not yet ready.

The evaluators were encouraged by the response to the paralegal training programme which contained deficiencies similar to those identified in the programme of other primary beneficiary countries.

#### **RECOMMENDATIONS:**

1. The UWI should continue to extend technical assistance to the paralegal training programme.
2. Consideration should be given to requiring participants in the programme to pay a reasonable fee for the courses offered in order to establish their financial interest in the programme and to enable it to continue on a self-sustaining basis after the PACD.
3. The competent authorities should incorporate a self-evaluating element in the programme to measure participants' reactions and to determine its future direction and development in a manner responsive expressed needs.
4. Where fees are charged for participation in the programme, Governments of interested countries should grant scholarships to deserving employees in order to stimulate interest in professional advancement and promote loyalty to the Government service.

## ANNEX EIGHT - METHODOLOGY

This evaluation was conducted over a period in excess of a month of which twenty-six days were in the field. The evaluation team consisted of three members. The team leader was a U.S. lawyer from private practice with previous AID legal experience as an assistant general counsel and regional legal adviser and AID project/program management experience including several assignments as mission director. The other team members included a Guyanese lawyer practicing in Jamaica with extensive experience with regional organizations, including service as General Counsel of the International Bauxite Association. He is also a published author of works on regional and legal subjects. The other member of the team was also a practicing lawyer, a native of St. Kitts living and working in the British West Indies. He brought special experience and expertise derived from many years as practicing lawyer and circuit riding judge throughout the OECS states.

To carry out the evaluation, the members of the team reviewed thoroughly the basic project documentation: the project identification document, the project paper and project agreement. Beyond this the team members reviewed extensively the documentary files of the project, including periodic reports and project implementation correspondence.

The team members used most of their time, however, to conduct extensive interviews in all primary beneficiary countries with participants in and beneficiaries of the project, including judges, registrars, prosecuting attorneys, legal aid and public defender attorneys, law students, law librarians, attorneys general, clerks of court and their deputies and assistants, and many taxi drivers. Among the implementing agencies the team members interviewed all members of the UWI project committee and AID mission project committee. In addition, one or more members of the team interviewed officers of the AID/Washington Latin America Bureau office for Administration of Justice office, and various representatives of other donors based in Barbados.

Before leaving the USAID Mission, the team prepared a draft of the evaluation report which was discussed with members of the AID project committee, and then passed on to the UWI project team for comment. ~~The UWI and AID Mission then sent written comments on the evaluation report to the team members for consideration for incorporation into the final report.~~

ANNEX NINE - REASSESSMENT OF LOGICAL FRAMEWORK ASSUMPTION

The scope of work for the CJIP evaluation includes a request that the evaluation team review the assumptions within the logical framework of the project and comment on the continuing validity of those assumptions.

Upon reviewing said assumptions at Annex J of the CJIP Project Paper, we consider them to continue valid subject to the following observations.

As discussed in Section V of the evaluation, we have to question the political will of participating governments to provide substantially increased portions of national resources for the justice system. We see a question here beyond political will, however, and that relates to the extent to which most of the participating governments could realistically be expected to increase the portions of their national budgets for the justice system. For most participating governments, there are no realistic prospects for substantial growth of their economies over the near term; and the needs of other sectors such as public health, education and developmental infrastructure are as compelling as those of the justice system. Therefore we have recommended that the project emphasize savings and efficiency within the justice system to permit adequate maintenance of the system without substantial increases in budgetary share.

Relative to UWI's implementation capability, as indicated in Section VIII of the evaluation, we find UWI's performance to be adequate in all aspects of implementation other than construction. We have suggested that construction elements of the project be reassigned to the USAID mission for implementation.

Relative to assumptions for the case reports/textbook revolving fund, we believe there is sufficient interest on the part of prospective authors and sufficient interest in the market to make support for publishing worthwhile, provided the project concept is revised as suggested in Section VII of the evaluation report.

Otherwise we find the assumptions of the project logical framework to continue to be generally valid.